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# A History of Academic Freedom in America

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A HISTORY OF ACADEMIC FREEDOM  
IN AMERICA

John K. Wilson

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This study explores the history of academic freedom in America through the focus of three interpretive models--the Gentleman Scientist Model, the Liberty Model, and the Professional Model—to show how the concept evolved over the past century. It examines violations of academic freedom, AAUP statements, and debates about the meaning of academic freedom to show how it remains a contested concept. It concludes that by studying the origins and changes in the idea of academic freedom in America, current controversies can be better understood.

A HISTORY OF ACADEMIC FREEDOM  
IN AMERICA

JOHN K. WILSON

A Dissertation Submitted in Partial  
Fulfillment of the Requirements  
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2014

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A HISTORY OF ACADEMIC FREEDOM  
IN AMERICA

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J.K.W.

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CHAPTER I  
INTRODUCTION AND BACKGROUND OF THE STUDY

Perhaps no value is so fundamental to universities as academic freedom. As O’Neil (2000) observed, “The subject of academic freedom has been a central theme throughout the history of American higher education” (19). In a similar vein, Menand (1996) called academic freedom “the key legitimizing concept of the entire enterprise” of higher education (4). Yet the phrase “academic freedom” is more often invoked ceremonially than deeply understood.

There is a sharp difference between the ideal of academic freedom and its practical application. In contrast to the first half of the 20<sup>th</sup> century, today academic freedom as a concept is almost universally praised and endorsed. Yet disagreements about the meaning and practice of academic freedom are more intense than ever (Rothman, Woessner, and Kelly-Woessner, 2010, 172).

The evolution of academic freedom in America during the past century, from a virtually unknown concept to a widely embraced principle of higher education, has never been fully examined. It is only by exploring the changes in higher education, and the fight of professors for their rights, that the rise of academic freedom to its preeminent position can be understood fully. Academic freedom “has become its own myth: an icon to be revered above all else, an article of faith, an essentialist doctrine bearing pontifical

force” (Pavlich & Kahn, 2000, ix). However, academic freedom is a pontifical force without a pontiff; the only widely-accepted, authoritative definer of academic freedom is the American Association of University Professors (AAUP). Yet, even the AAUP depends upon social sanction to enforce academic freedom rules. And the AAUP maintains a precarious balance between being a faculty union and a defender of academic freedom.

There have always been critics of the idea of academic freedom. In the first legal decision to mention the term, a New York court in 1940 ordered the firing of philosopher Bertrand Russell from City College of New York. The judge declared: “Academic freedom cannot teach that abduction is lawful nor that adultery is attractive and good for the community” (*Kay v. Board of Higher Education*, 1940). William F. Buckley (1951) denounced academic freedom for professors in his classic, McCarthy Era tract, *God and Man at Yale*. Buckley wrote, “academic freedom must mean the freedom of men and women to supervise the educational activities and aims of the schools they oversee and support” (190).

Herbert London, leader of the National Association of Scholars (NAS) in 1987, declared that “Academic freedom has become a refuge for radicals” (London, 1987). Les Csorba of Accuracy in Academia claimed, “academic freedom on college campuses is nothing more than a useful device which gives license to some people and silences others” (Csorba, 1988). Economist Thomas Sowell noted, “Tenure and academic freedom have not protected individual diversity of thought on campus but instead have protected those who choose to impose the prevailing ideology through classroom brainwashing of students and storm trooper tactics against outside speakers who might challenge this

ideology” (Sowell, 1993, 229). Thomas Short (1993) of the NAS wrote, “We need to explain that academic freedom, which ordinarily requires independence from outside interference, calls for just such interference when that freedom is being subverted from within” (60).

Conservatives like Short (1993) depicted the past as a golden age of free speech: "Having enjoyed almost untrammelled freedom of thought and expression for three and a half centuries...American colleges and universities are now muzzling themselves." But the history of academic freedom in American higher education reflects a much different story, where colleges and universities did not "successfully fend off efforts by outsiders" to "constrain that freedom"(Short, 1993), but often failed to resist the influences of state legislators, alumni, and the general public, and also restrained freedom on their own initiative. Rather than a sharp decline from the "good old days," colleges and universities today have more freedom of thought today than at any other point in their history (Wilson, 1995, Gerber, 2014).

Leftist critics have also questioned academic freedom. Jennie Hornosty (2000) observed: “Academic freedom is an important ideal, but what does it really mean when universities have been dominated by white male elites who define knowledge, curriculum, ways of being, and the organizational culture in their image?” (41). The leftist critique of academic freedom sees the term as compromised by its origins in a narrow view of education that reflected the dominant forces within the academy. Yet such a view ignores the potential for academic freedom to evolve to mean something different from what its flawed history may convey.

However, despite these critiques of the term, the greatest challenge made to academic freedom is the charge of hypocrisy: namely, that American colleges do not live up to the ideal of academic freedom.

Most scholars would agree that academic freedom is a good thing, but there is little agreement about what academic freedom means. Even the opponents of academic freedom endorse its name, as when a Louisiana law claiming to “protect academic freedom” tried to compel public school teachers to teach “creation science” (*Edwards v. Aguillard*, 1987).

Censorship in higher education is as old as the colleges themselves. In the colonial college and during most of the 19th century, academic freedom did not exist at all. The faculty were there as employees to inculcate students in the traditions of the West and prepare for the ministry (Veysey, 1965). Expression of original or controversial ideas was frowned upon, whether inside or outside the classroom.

Even as academic freedom developed to help resist infringements of faculty and students rights, censorship has continued. The problem is that few definitions of academic freedom detail precisely what can and cannot be tolerated. Albert Einstein (1954) explained his meaning of academic freedom: "By academic freedom, I understand the right to search for the truth and to publish and teach what one holds to be true. This right also implies a duty; one must not conceal any part of what one has recognized to be true. It is evident that any restriction of academic freedom serves to restrain the dissemination of knowledge, thereby impeding rational judgment and action." But within these broad parameters of the freedom to teach and research, the meaning of academic freedom is constantly disputed (Schrecker, 2010).

## Statement of the Problem

Definitions of academic freedom reflect different interpretations of the meaning of academic freedom. Understanding the history of academic freedom is critical to the development of policies and institutions which can protect the intellectual inquiry that is the core purpose of higher education.

## Purpose of the Study

The purpose of this historical study of academic freedom in American higher education is threefold:

- 1) to explore the ideal and practice of academic freedom and how they changed during the past century;
- 2) to define academic freedom in a way that can protect the values of intellectual inquiry that undergird the concept of academic freedom; and
- 3) to suggest how conflicts within higher education over academic freedom can be resolved.

## Research Questions

This study was guided by the following research questions:

1. What were the origins of the concept of academic freedom in America?
2. How has the idea of academic freedom reflected changing circumstances in American colleges and universities during the 20<sup>th</sup> Century?
3. How has the definition of academic freedom, both in its ideal and its practical application, evolved over the past century, and what are the implications of this change?

## Conceptual Framework

In this study, I created three conceptual frameworks of academic freedom models—the Gentleman Scientist Model, the Liberty Model, and the Professional Model—in order to clarify the meaning of an ambiguous phrase like “academic freedom.”

The Gentleman Scientist Model is the belief that academic freedom protects faculty so as they act in gentlemanly ways using scientific methods. The gentlemanly notion is the belief that faculty must act as gentlemen in the classroom by never engaging in indoctrination of students, and as gentlemen in their scholarship. Controversy is always avoided under the Gentleman Scientist Model, especially in public. Anything that might embarrass or harm the institution is a violation of these standards. Faculty are trusted to follow these gentlemanly and scientific traditions, but if a violation of these standards is publicly exposed, a professor is expected to offer a resignation and trust the college to provide fair treatment. The scientific half is the belief that faculty must follow scientific standards in their research and public speech. Faculty must strive to avoid bias and speculation. Under the Gentleman Scientist Model, academic freedom protects faculty only in their scientific work and when they behave properly (AAUP, 1915a).

The Gentleman Scientist Model was the dominant theory of academic freedom among the AAUP and other advocates for much of the 20<sup>th</sup> century, and it continues to influence the idea of academic freedom today. But it has largely been superseded by two competing models of academic freedom: The Professional Model and the Liberty Model.

The Professional Model developed as an update of the Gentleman Scientist Model, and a correction of some of its flaws. The Professional Model abandons much of

the gentlemanly part of the Gentleman Scientist Model. Polite conduct is not a requirement for academics under the Professional Model. Trust between faculty and administrators is replaced by rules and procedures to protect academic freedom. The scientific traditions are maintained, but with the caveat that the Professional Model recognizes that not all academic disciplines fit the scientific model. Instead, professionalism is the core value. Controversial academic views are protected under the Professional Model, but faculty must be careful to avoid controversial non-academic statements while engaging in their professional work. Under the Professional Model, academic freedom is the collective right of the faculty to engage in academic work without outside control.

The Liberty Model developed in the 1960s as a reaction to the perceived flaws of the Gentleman Scientist Model. The Liberty Model espouses political freedom as a core value. Political speech must be protected under this model, and never punished. Controversy is to be encouraged and defended, even if a public backlash harms the institution. Under the Liberty Model, gentlemanly traditions are tossed aside, and scientific traditions are questioned. The Liberty Model emphasizes individual rights over the collective decision-making of faculty as the core value of academic freedom. Trust is replaced by policies, rules, due process, and unions to protect academic freedom.

### Significance of the Study

The attacks on tenure, the growing use of adjunct faculty who lack due process protections, and the increasing corporatization of higher education all indicate the importance of a deeper understanding of academic freedom (Wilson, 2008). Although academic freedom is seen as fundamental to academia, no comprehensive history of



academic freedom in America exists. The standard historical works on the history of academic freedom were written in the early 1950s by Metzger (1955) and Hofstadter (1955), addressed few specific cases, and told the story of the development of academic freedom up through World War I. Only a few historical works on academic freedom (mostly case studies dealing with the McCarthy Era) have been published since mid-century. Understanding the full scope of the history of academic freedom in America is critical to current and future controversies in higher education. This work contributes to the literature about academic freedom and higher education by providing a historical and theoretical analysis of the changes in the past century in what academic freedom means.

### Methodology

My goal in this dissertation is to analyze the idea of academic freedom and how it has evolved in the past century, by doing an intellectual history of the concept as well as a historical analysis of how academic freedom existed in practice and the key threats to it. This study of academic freedom will be historical as well as an analysis of theoretical approaches to academic freedom (or the intellectual history of the idea of academic freedom).

Historical method is appropriate for this study for the following reasons:

1. Historical research is designed to describe clearly and accurately the past as it relates to education. However, historical researchers also aim to do more than just describe, they want to go beyond description to clarify and explain and sometime correct (as when a researcher finds previous accounts of an action or event to be in error) (Fraenkel and Wallen, 2009, 536). In other words, historical research method "attempts to systematically recapture the

complex nuances, the people, meanings, events, and even ideas of the past that have influenced and shaped the present” (Berg and Lune, 2012, 305).

2. To make people be aware of what has happened in the past so they learn from past failures and successes (Fraenkel and Wallen, 2009, 534).

3. To learn how things were done in the past to see if they might be applicable to present-day problems (Fraenkel and Wallen, 2009, 535).

4. To help with future prediction. If a particular idea (academic freedom) or approach has been tried before, even under some circumstance, past results may offer higher education policy makers some ideas about how present plans may turn out (Fraenkel and Wallen, 2009, 535).

There are four major steps in conducting historical study in education. These include the definition of the problem or question(s) to be investigated, conducting background literature review and locating relevant historical information (i.e. identifying primary and secondary data sources), summarizing and evaluating the information obtained from these sources, and then interpreting the evidence (Fraenkel and Wallen, 2009, 536; Berg and Lune, 2012).

Historical method is also the most feasible choice for studying the history and development of academic freedom. By analyzing the official meaning of academic freedom in key documents, the leading theoretical claims about academic freedom, and the actual historical events that shaped the development of academic freedom, a clearer picture of what academic freedom means, and how that meaning has changed over time, can be developed.

As a powerful idea, academic freedom cannot be understood without the intellectual history that underlies it. But as an important practice in higher education, academic freedom cannot be fully understood without analysis of the historical reality in how it was utilized. Academic freedom is more than an idea, and more than a description of historical reality. Therefore, neither a traditional historical analysis, nor an intellectual history, is adequate to describe the influence and evolution of academic freedom. This dissertation is an attempt to combine the intellectual history of academic freedom with the historical analysis of its impact on higher education.

The study of intellectual culture requires historical analysis (Bevir, 2002). Actual historical practice and the implementation of ideas are crucial to understanding any intellectual history, but they are especially important to the idea of academic freedom. There are surprisingly few theoretical treatises about academic freedom. There has been (until very recently) no recognizable academic field where scholars hold conferences, create academic journals, and teach classes in the subject of academic freedom. The AAUP was not established to gain theoretical acceptance of a particular theory of academic freedom among scholars; it was created with the goal of getting the academic system to implement practical policies and procedures to protect academic freedom. For that reason, the intellectual history of academic freedom can never be disconnected from the actual history of academic freedom.

As Gerald Graff noted, one of the challenges in writing intellectual history mixed with historical analysis is “to keep the argument from overwhelming the history” and allow readers who disagree with the intellectual history to gain the benefit of a fair-minded examination of the historical facts (Graff, 2008, vii). Graff (2008) argued for

“history told from a point of view,” but one that illuminates the past by shining the light of present-day controversies upon it, rather than attempting to impose an ideology upon every aspect of the past.

Berg and Lune (2012) noted that “methods impose certain perspectives on reality” (5). A multiple-methods approach can broaden the viewpoints available (6). Novick (1988) compared attempting to write intellectual history to “nailing jelly to the wall” (7). Novick argued that “historical objectivity” is “not a single idea, but rather a sprawling collection of assumptions, attitudes, aspirations, and antipathies” (Novick, 1988, 1). The same might be said of academic freedom. By examining both the intellectual history of academic freedom, and the historical analysis of academic freedom, a clearer picture emerges of what academic freedom meant a century ago, what it means today, and how the idea of academic freedom has changed. This work argues that recognizing the divisions in different interpretations of academic freedom, and the historical origins of these differences, allows us to see the contested territory of academic freedom more clearly.

Three different aspects of academic freedom will be explored using various primary (AAUP) and secondary sources of data:

1. A systematic analysis was conducted of AAUP statements, policies, and investigations since 1915, which revealed how the idea of academic freedom developed. The growing acceptance of the AAUP definition of academic freedom by colleges as official policies, and the incorporation of this definition into faculty contracts, showed how it became part of the dominant culture of the professoriate.

2. Theoretical: The theory of academic freedom in the 20<sup>th</sup> Century is comprehensively examined in essays, articles, monographs, and books about intellectual freedom in higher education. Although the literature on academic freedom is too vast to summarize completely, the most influential and widely cited expressions about academic freedom will be studied in detail. This historical analysis also shows how the ideal of academic freedom, as expressed by its leading advocates and its opponents, was altered with the changing landscape of higher education in America.

3. Historical: Most examples of academic freedom are based on anecdotal reports from a variety of sources. By examining the literature on academic freedom and other information, the theories and official definitions of academic freedom can be compared with how it has really operated in higher education. Although this aspect of academic freedom is necessarily limited to the incidents that were publicly reported, it provides an additional analysis beyond the theories about academic freedom.

Hofstadter and Metzger (1955) argued that “to write only about the outstanding violations of freedom would be to treat the story of academic freedom as though it were nothing but the story of academic suppression” (v). As Hofstadter and Metzger (1955) pointed out, the goal of a history of academic freedom must be “to know what freedom has meant to successive generations of academic men, to what extent they have achieved it, and what factors in academic life itself, as well as in American culture at large, have created and sustained it” (v).

Hofstadter and Metzger (1955) wrote the most comprehensive historical analysis of academic freedom, but it is now more than a half-century out of date. More importantly, the idea of academic freedom underwent dramatic changes during the turmoil of the 1960s, changes that Hofstadter and Metzger could never have anticipated. To understand academic freedom today requires seeing how its meaning changed over the past century.

A quantitative analysis of the history of academic freedom was not feasible due to the lack of available data. The historical record is simply too incomplete to allow for a useful quantitative analysis, and no truly reliable surveys about the state of academic freedom have been done.

This is not an objective study of the history of academic freedom. Novick (1988) noted that pure objective history cannot be achieved, and that it is a “myth.” However, this study does attempt to achieve a better understanding of the history of academic freedom by presenting some of the different theories of academic freedom, and the key moments in the history of higher education when these theories were challenged and shaped.

#### Limitations of the Study

It is virtually impossible to undertake a complete and thorough study of academic freedom due to the vast literature on the subject. This study focused exclusively on American colleges, and looked closely only at the 20<sup>th</sup> Century history. By excluding the global understanding of academic freedom and its early cases in America, a certain amount of context will be lost, but it is necessary to reduce the scope of the study. This

study relied primarily upon secondary sources and AAUP reports of academic freedom. An in-depth analysis using primary sources was possible only for selected key examples.

Because this study suggested a broader definition of academic freedom than what was imagined during much of the 20<sup>th</sup> Century, no comprehensive historical analysis was possible. Much of the evidence of racism and sexism in American colleges, as well as cases of political intimidation, has been buried in the historical record.

### Organization of the Study

The history of academic freedom in America can be broken up into four main chronological areas. For each period, key cases were examined in depth to show how they affected the concept of academic freedom.

#### Chapter II: Literature Review of Models of Academic Freedom

The literature review examined the three core approaches to the idea of academic freedom, the Gentleman Scientist Model, the Professional Model, and the Liberty Model, and scrutinized some of the key philosophical advocates of each approach to reveal the similarities and differences between these models of academic freedom.

#### Chapter III: The College in America, and the Rise of the University (1663-1915)

The study of this period examined how the early college in America was often an authoritarian place, run fully by a president appointed by a board of governors. The creation of the land-grant university and public colleges established new institutions with different constraints, but the idea of academic freedom was barely emerging. The rise of the university, and the professor as researcher, accelerated the push toward academic freedom, and the idea of research as the highest achievement of higher education, and the

necessity of freedom for its success, began to dominate. The Gentleman Scientist Model was developed to provide greater intellectual freedom for faculty

#### Chapter IV: Wartime Repression and Radicalism (1915-1940)

The creation of the AAUP, along with world wars and depression, shaped the meaning of academic freedom in American higher education. The 1940 Statement of Principles by the AAUP, in conjunction with the Association of American Colleges, marked one of the key moments for the establishment of policies protecting academic freedom.

#### Chapter V: The McCarthy Era and the Sixties (1940-1970)

The McCarthy Era is the most studied period of academic freedom in American colleges, but often without the historical context of how it changed the idea of academic freedom. The 1960s marked the most dramatic changes in the AAUP's approach to academic freedom, and brought the rise of the Liberty Model and the Professional Model as alternatives to replace the outmoded Gentleman Scientist Model, culminating in the 1970 Interpretive Comments.

This approach to academic freedom is both historical and theoretical, exploring not only the ideal of academic freedom, but also the actual practice on college campuses. By combining historical and theoretical analysis, this study tries to go beyond the traditional understandings of academic freedom to show how the idea of academic freedom was not a fixed concept, but an ongoing struggle during the 20th Century over its definition and enforcement.

#### Chapter VI: Conclusion



Chapter six summarizes an overview of the present study including brief statement of the problem, purpose of the study, research questions, and summary, and it presents implications for the study and recommendations for future research.

## CHAPTER II

### REVIEW OF LITERATURE

In this study, three major models of academic freedom that I developed were employed to explain the primary conceptualizations of this idea: the Gentleman Scientist Model, the Professional Model, and the Liberty Model.

It was useful to describe these broad models for several reasons. First, the different models roughly described the actual historical development of academic freedom in practice, as reflected in AAUP policies and the state of intellectual liberty on campus. Second, these three models provided a summary of the theories of academic freedom offered by many (albeit not all) commentators over the years. Third, these historical models shined a spotlight on current disputes about academic freedom, and illuminated the contemporary disagreements over the meaning of the term.

Providing a theoretical understanding of how academic freedom has been interpreted was important because the subject of academic freedom is often written about in ways that downplay interpretive theories, and confuse the subject. The use of these three models helped to clarify how academic freedom was created and established, and how academic freedom has changed over the past century. Of course, these three theories do not describe the entire debate over the meaning of academic freedom. There have been

far too many theories written about academic freedom to summarize them all fairly. And even advocates who are grouped within the same model of academic freedom often have strong disagreements about the nuances of the model, as well as profoundly different approaches about applying academic freedom in practice.

This is particularly true of the Gentleman Scientist Model, which was dominant until after the McCarthy Era of the 1950s. The fact that virtually all commentators and advocates of academic freedom shared the Gentleman Scientist Model during most of the 20<sup>th</sup> Century does not indicate a complete consensus about academic freedom. There were strong disputes about the meaning of academic freedom, and the AAUP and others struggled for many years to gain any broad recognition of academic freedom. And probably some advocates of the Gentleman Scientist Model personally believed in the Liberty Model approach and would have applauded its rise. However, the central debate about academic freedom in the first half of the 20<sup>th</sup> Century was held within the limits of the Gentleman Scientist Model and rarely strayed beyond its boundaries; it was a debate about whether or not academic freedom should exist, and the Gentleman Scientist Model defined the limits to its meaning.

In part, this reflects the essential fact that academic freedom arose as a practical defense for faculty freedom on campus, rather than as a purely theoretical idea about higher education that was eventually brought into reality. As such, there were few theorists writing about an imaginary ideal of academic freedom, and far more pragmatic academics writing about the real harms caused by violations of academic freedom that needed to be redressed and prevented. Nevertheless, there were theoretical ideals

buttressing these practical defenses of academic freedom, and it is important to analyze the underlying theories.

### The Gentleman Scientist Model

The best theoretical exponent of the Gentleman Scientist Model was University of Chicago sociologist Edward Shils. Shils, writing long after the Professional and Liberty Models became dominant, harkened back to the Gentleman Scientist Model as the old, true meaning of academic freedom which had been abandoned by many academics (including the AAUP). Analyzing Shils is useful because he advocated the Gentleman Scientist Model with a theoretical precision and ideological consistency that the AAUP never really had.

Shils offered a classic Gentleman Scientist definition of academic freedom: “Academic freedom is a qualified right; it is a privilege enjoyed in consequence of incumbency in a special role, an academic role, and it is enjoyed conditionally on conformity with certain obligations to the academic institution and its rules and standards” (Shils, 1997, 155). Shils identified the two core beliefs of the Gentleman Scientist Model: it protects only the academic (scientific) work of academics, and it requires faculty to be gentlemen, that is, to conform to the behavioral rules and moral standards of their college.

Shils critiqued the expanded meaning of academic freedom under the Liberty Model: “It is no longer that it has any close relationship to the search for or the affirmation of truths discovered by study and reflection. It has become part of the more general right of the freedom of expression” (Shils, 1997, 154).

Shils also attacked a core idea of the Liberty Model, freedom of political speech: “There was, I think, general consensus between university administrators and trustees, most academics and the American Association of University Professors that teachers were not entitled to claim the protection of academic freedom for the attempt to persuade students in classrooms to accept the teacher’s own points of view on political or parochial religious topics which were not germane to the subject matter of the courses being taught” (Shils, 1997, 161).

Many of Shils’ ideas bear some similarity to the Professional Model, in the critique of the Liberty Model’s focus on free expression and political speech. What makes the Gentleman Scientist Model different is its focus on propriety and obligations. Sexual propriety was a particular emphasis of the Gentleman Scientist Model. Shils noted, “Adultery, for example, if exposed, was often followed by dismissal; homosexuality likewise. Unmarried cohabitation, the same. ‘Keeping bad company,’ giving or attending ‘wild parties’ at which alcohol was consumed and women smoked cigarettes might not alone be grounds for dismissal but, coupled with other infringements on conventional rules of conduct, could be grounds for dismissal or at least for the withholding of promotion or raises in salary. Nevertheless, those restraints on the freedom of conduct of academics were not regarded as infringements on academic freedom. The American Association of University Professors did not enter the lists on behalf of their victims....they have never been seriously regarded as falling under the protection of the right to academic freedom” (Shils, 1997, 158-9). The Professional Model would never accept the idea that a professor could be fired for adultery, or

homosexuality. Misconduct, if proven, had to be a violation of professional ethics, not personal moral standards.

Shils admitted to some of the failings of the Gentleman Scientist Model during the McCarthy Era: “There is no evidence that academic freedom in the more exact sense—freedom in teaching and research—was affected by the harassment conducted by the investigative committees. Nevertheless, their consequences were very significant” (Shils, 1997, 169-170). The fact that the dominant theory of academic freedom could not protect academics against the anti-communist crusades of the late 1940s and 1950s, despite the significant consequences of those investigations, created much of the pressure on academics and the AAUP to alter that model, which led to the rise of the Professional and Liberty Models. But for Shils, even these problems should not have led to the abandonment of this older model, because the Gentleman Scientist Model existed only to protect the narrow boundaries of academic freedom, not to resolve every possible injustice against professors.

Shils claimed since the AAUP became a trade union beginning in the late 1960s, “This was an acknowledgement—unacknowledged in any explicit statement—that the civil freedom of academics, and of course the more specific substantive academic freedom, was now so well established that the academic profession and the officers of the American Association of University Professors could cease to be anxious about its protection” (Shils, 1997, 165). Of course, it’s ridiculous to imagine that the AAUP simply ceased to be concerned with academic freedom in the late 1960s, and turned its attention to unionizing and economic issues. After all, in the 1970s and beyond, the AAUP continued (and even accelerated) its statements on academic freedom,

investigated campuses for violations, and placed more institutions on the censure list than ever before. In fact, unionization became one of the techniques used by the AAUP to help protect academic freedom and, in an era of declining membership, sustain the funding needed to continue its work on behalf of academic freedom.

So why would Shils make such a grand, sweeping statement about the AAUP that was so factually wrong? The answer is that Shils was so caught up in the old Gentlemen Scientist approach to academic freedom that he could not imagine any other model defining it. When the AAUP in the 1960s shifted toward the Professional Model and the Liberty Model, effectively abandoning the Gentleman Scientist Model favored by Shils, to the advocates of the Gentleman Scientist Model this amounted to an abandonment of any interest in academic freedom itself, since they could not imagine any other model defining the concept.

Shils argued that the concern about unions, tenure, and salaries reflected a shift in the perception of “academic appointments as ‘jobs’ for which they were ‘hired’ and from which they could be ‘fired,’ rather than as a calling or profession with its own proper moral and intellectual dignities and obligations” (Shils, 1997, 166). The language Shils invoked about “proper” “dignities and obligations” reflected the gentlemanly (“moral”) and scientific (“intellectual”) traditions embodied in the Gentleman Scientist Model, which was all about dignity and obligations. Although Shils never used the term “Gentleman Scientist,” his rhetoric reflected its concern with proper behavior by academics.

From Shils’ point of view, the AAUP was a victim of its own success at establishing and institutionalizing the ideal of academic freedom: “the founders of the

American Association of University Professors have been nearly completely successful. Seldom has an ideal been so nearly attained as that of academic freedom” (Shils, 1997, 173). As Shils correctly put it, “Academics in the United States enjoy unprecedented freedom to say and do things which fifty and seventy-five years ago were the objects of severe sanctions by academic administrators...” (Shils, 1997, 173).

As a sociologist, Shils understood the power of institutions to sustain themselves over time. Shils believed that the AAUP in the 1960s should have declared victory and dissolved itself, having attained full recognition within courts and colleges of the Gentleman Scientist Model’s protections for academic freedom. Instead, like many institutions, the AAUP adapted and expanded, altering its own conception of academic freedom beyond the boundaries of the Gentleman Scientist Model to meet the demands of a different time.

For Shils, this was a betrayal of the AAUP’s purpose, because he saw no meaning to academic freedom beyond the Gentleman Scientist Model: “What is there for academic freedom to protect except security of tenure and the prerogative of frivolity? That is not what the founders of the American Association of University Professors had in mind when they took in hand the strengthening of academic freedom in American colleges and universities” (Shils, 1997, 176).

The Gentleman Scientist Model was a product of its time in the early 20<sup>th</sup> Century, when the idea of academic freedom was being institutionalized and the broader culture did not recognize extensive rights to freedom of speech. The turmoil in academia in the wake of the McCarthy Era led to the development of two competing models, the Professional Model and the Liberty Model. But as Shils showed, the Gentleman Scientist



Model continued to be an influential model for academic freedom, particularly among critics of newer trends in academia.

### The Professional Model

Matthew Finkin and Robert Post are the most eloquent defenders today of the Professional Model, and their approach to academic freedom must be understood and grappled with. Finkin and Post (2009) define academic freedom as this: “academic freedom consists of the freedom to pursue the scholarly profession according to the standards of that profession” (7). This is the essence of the Professional Model of academic freedom. Finkin and Post argue that academic freedom is only “the freedom to pursue the 'scholar's profession.'” (Finkin and Post, 2009, 38). The Professional Model is, to a great extent, the Gentleman Scientist Model’s focus on scientific (or, more broadly, academic) standards with many of the archaic gentlemanly traditions removed.

Finkin and Post reject the Liberty Model as dangerous to free speech: “The conception of academic freedom as an individual right seems superficially attractive because it appears to promise greater security for academic dissent, but in the long run it undercuts the professional norms necessary for the external defense of academic freedom” (Finkin and Post, 2009, 63). Finkin and Post are correct to point to the popularity of the Liberty Model of academic freedom, which defines it as an individual right, in academic circles.

Finkin and Post embody the Professional Model's distrust of individual rights: “no university currently deals with its faculty as if academic freedom of research and publication were an individual right to be fully free from all institutional restraint” (Finkin and Post, 2009, 59). Therefore, they conclude, academic freedom depends on

“professional norms” (Finkin and Post, 2009, 59). But no theory of free speech adopts a completely absolute freedom from any restraint. Indeed, the individual right of free speech requires some limits on free speech (such as death threats and shouting down speakers), and it does not remove all kinds of restraints on free speech.

Moreover, universities rarely put any institutional restraints on research and publication, beyond a widely-accepted prohibition on fraud and plagiarism. The most significant academic restraint on research, Institutional Review Boards (IRBs), were largely created to fulfill government requirements and to protect human subjects. Although IRBs have expanded their reach in ways that are sometimes troubling for academic freedom, their existence does not negate the theoretical protections of academic freedom. Indeed, IRBs have at times shown the dangers of the Professional Model, when they are misused to try to restrain a particular style of research rather than to protect human subjects. As for publication, it would be unthinkable for a university to place prior review or other restraints on any professor's choice of publication. For the most part, research and publication are indeed treated by universities as an individual academic freedom right that cannot be limited.

What Finkin and Post see as one of the great virtues of the Professional Model is, in fact, a reflection of the weaknesses of academic freedom in 1915. Finkin and Post (2009) argue that the 1915 AAUP Declaration “differs fundamentally from the individual First Amendment rights that present themselves so vividly to the contemporary mind” (7). The Professional Model embodies academic freedom as a collective right of the faculty to determine professional standards, rather than the individual right of a professor to express dissenting views. But this reflected how weak the protections were for

academic freedom, not the ideal limits. Collective faculty self-determination was a defense mechanism at a time when individual rights had few protections. The AAUP was formed in 1915 to try to provide this self-defense through collective action. In these early days of academic freedom, there were even mass resignations by faculty in response to violations of academic freedom.

A second assumption of Finkin and Post's argument is that professional norms are “necessary for the external defense of academic freedom” (Finkin and Post, 2009, 42). According to Finkin and Post (2009), “In the long run, public support for academic freedom will endure as long as the public need for the creation of such knowledge. Such support would vanish, however, if academic freedom were reconceptualized as an individual right authorizing faculty to research and publish in any manner they personally see fit” (42). This assertion is far from proven. It is possible, of course, that if the public ceases to respect scholars as professional experts, they will endorse restrictions on academic freedom. But it is also possible that if the public regards academic freedom as belonging to a small group of professionals rather than to everyone, then they will tend to express less support for it. So far, the answer is unknown. There have been no truly reliable surveys of the public about academic freedom and what might cause them to increase their support for it. But in any case, the most legitimate theory of academic freedom should not be determined by a poll of the general public.

Of course, it is always easier to defend academic freedom if some of the most unpopular victims are abandoned on grounds of unprofessionalism. But that simply amounts to an argument that academic freedom is better protected when we seek to defend less of it. Certainly, under the Liberty Model, more cases to defend academic

freedom will be fought and lost than with the more limited Professional Model. But a lower percentage of victories does not make the Liberty Model less effective, if it increases academic freedom overall.

However, it is possible that the individualist approach of the Liberty Model would be less popular with the public because it is a more powerful form of academic freedom than the Professional or Gentleman Scientist Models. If the public wants to see controversial scholars fired, then the system most likely to do this will be the most popular. Yet, it is doubtful that any theory of academic freedom should be embraced based upon what approach receives the highest ratings in public opinion polls. Even if a theory of academic freedom caused the majority of the public to demand for all universities should be shut down, that could easily mean that the majority is wrong, not the theory. Defending academic freedom in even democratically-elected Nazi Germany would have been dangerous and perhaps foolish, but not philosophically incorrect. Pragmatic theories of academic freedom are inevitably flawed by this compromise with public opinion. The whole purpose of academic freedom is to provide protection for unpopular opinions, so any approach that obeys the whim of the majority will fall short in practice.

#### Extramural Utterances and the Professional Model

Perhaps the greatest vulnerability of the Professional Model is its inability to offer a coherent defense of extramural utterances. The 1915 AAUP Declaration of Principles identified the three categories of academic freedom: research, teaching, and extramural utterances. In the century since that document was written, cases adjudicated by the AAUP involving extramural utterances far outnumber those where freedom of research

or teaching was involved (Metzger, 2000, 79). While teaching and research have occasionally sparked controversy, the history of academic freedom cases is overwhelmingly a record of extramural utterances, where professors speak on controversial issues outside of their academic work. Therefore, any theory of academic freedom must make extramural utterances a priority.

Finkin and Post admit, “The most theoretically problematic aspect of academic freedom is extramural expression” because it has no connection to “faculty expertise” or shared governance (Finkin and Post, 2009, 127). Finkin and Post claimed that the AAUP's 1915 Declaration of Principles was “genuinely diffident” on extramural freedom (Finkin and Post, 2009, 129). It's true that the 1915 Declaration does not emphasize extramural utterances, but that was only because the AAUP didn't seek to focus attention on it.

Yet the Professional Model can scarcely offer a coherent defense of extramural utterances. In fact, Finkin and Post are forced to divide up the category of extramural utterances by creating an entirely new fourth category, one never separately embraced by the AAUP: intramural utterances. The intramural utterance refers to a professor's criticism of the internal workings of a university.

The intramural utterance category of academic freedom owes its existence to the success of the AAUP in the past century at making shared governance a fundamental value of American higher education. It is only when the key duty of faculty is to help run the institution that intramural utterances become essential to protect that professional duty of internal critique.

Finkin and Post understand the importance of shared governance and the critical need to protect intramural utterances so that faculty are allowed to have a functional role in the university. If faculty could never criticize the administration of a university without fearing retaliation, then it would be very difficult for them to maintain any functional role in governing the university.

Still, intramural utterances—and even the concept of shared governance—are difficult to justify under the Professional Model. After all, faculty are not experts at running universities, and they usually cannot claim a scholarly expertise in the subject. So if academic freedom requires expertise, how can faculty claim the right to comment on their university and its actions?

On this issue, as with extramural utterances, Finkin and Post seem to violate their theoretical stand and instead make a pragmatic adaptation. Recognizing the practical need for faculty to speak out freely about their institution if they are to help manage it, Finkin and Post see intramural utterances simply as essential to the work of faculty as professionals helping to run a university.

A key objection to the Professional Model is its failure to create a workable theory of academic freedom that actually can protect scholars in the overwhelming majority of cases where academic freedom is threatened. By making academic freedom a “privilege of expertise”(Finkin and Post, 2009, 40), Finkin and Post put the concept in danger of becoming a privilege that can only be rarely exercised.

According to Finkin and Post, “the production of knowledge requires not merely the negative liberty to speculate free from censorship but also an affirmative commitment to the virtues of reason, fairness, and accuracy” (Finkin and Post, 2009, 43). No one

doubts that reason, fairness, and accuracy are important. And few academics can succeed for long in any field of study if their arguments are irrational and their facts are inaccurate.

But academic freedom was never intended to provide all of the requirements for the production of academic knowledge. And when reason, fairness, and accuracy become requirements for faculty, academic freedom can be imperiled. That's particularly true of fairness, which has never been seen as essential to scholarly work. Even reason and accuracy can threaten academic freedom when they are used selectively to target controversial faculty.

### Stanley Fish and the Professional Model

Stanley Fish has proposed a more radical version of the Professional Model, one that takes a partial step back toward the Gentleman Scientist approach in its aversion to political speech. Fish argued, “While there are no limits to the subjects academics can investigate—the truth of anything can be inquired into—there are limits to the controlling motives within which investigation is to be conducted. It must be conducted (to return to the 1915 Declaration) 'in a scholar's spirit', that is with a view to determining what is in fact the case and not with a view to affirming a favored or convenient conclusion” (Fish, 2014).

By invoking the AAUP's 1915 Declaration and its vague language about “a scholar's spirit,” Fish seems to be utilizing the old Gentleman Scientist Model. But Fish's language about academic work being “just a job” rejects the Gentleman Scientist view of academia as a higher calling. Fish's approach matches the Professional Model more closely because he hews to the Scientist part rather than the Gentleman one. In Fish's

view, gentlemanly behavior is irrelevant to academic work. To Fish, a scholar has no obligation to avoid controversy; in fact, a scholar may be obligated to raise controversial issues if they are relevant to the academic work. The key for Fish is that the controversy must be academic, not political.

To roughly summarize the three models on this point, the Gentleman Scientist Model decries controversy and puts the burden on professors to, as the 1940 AAUP Statement put it, “be careful not to introduce into their teaching controversial matter.” The Liberty Model (seen in the 1970 Interpretive Comments) embraces controversy as “at the heart of the free academic inquiry.” The Professional Model embraced by Fish distinguishes between academic controversy (which is good) and political controversy (which is bad).

A notable distinction between Fish’s Professional Model and the Gentleman Scientist Model is Fish’s support of controversy: “This does not mean that you must stay away from highly-charged political topics; only that when you introduce them in the classroom, you ask your students to analyze, describe and (if appropriate) compare them rather than asking them to take a stand on the issues the topics raise” (Fish, 2014, 23). Fish wants professors to discuss controversial political issues, and he wants them to take controversial academic stands. But he thinks political stands must be prohibited.

The deep-seated connections between Fish and Post and Finkin’s approach can be seen in the fact that Fish praised Post and Finkin’s book as “right on target” with only one exception. Fish wrote about professors who “sneak in their partisan preferences under the cover of providing students with supplementary materials. That, I think, is a genuine concern, and one Finkin and Post do not take seriously enough” (Fish, 2014). This “risk”



that “intellectual inquiry will give way to partisan venting” is one that Fish gives greater weight to than Post and Finkin, but otherwise they share the basic values of the Professional Model (Fish, 2014).

#### Fish’s Five Schools of Academic Freedom

In his latest work, Fish (2014) defined “Academic Freedom Studies” and identified five different schools of thought about academic freedom:

(1)—the “It’s just a job” school, where “academics are not free in any special sense to do anything but their jobs.”

(2)—the “For the common good” school, in which “professional values are subordinated to the higher values of democracy or justice or freedom, that is, to the common good.”

(3)—the “Academic exceptionalism or uncommon beings” school, where faculty “are not to be held accountable to the same laws and restrictions that constrain ordinary citizens.”

(4)—the “Academic freedom as critique” school, in which “academic freedom is understood by this school as a protection for dissent and the scope of dissent must extend to the very distinctions and boundaries the academy presently enforces.”

(5)—the school of academic freedom as training for revolution, which treats academic freedom as a tool to be used rather than a principle applied to all.

Fish argued for the first school, declaring that “the defense of academic freedom flows from a description of the good academics offer—the good of disinterested inquiry” (Fish, 2014). This ideal of being “disinterested” was a classic part of the Professional Model. According to Fish, “Academic freedom, in this picture, is a subset not of morality

or philosophy, but of professionalism” (Fish, 2014). For Fish’s Professional Model, academic freedom was just a mundane work requirement: “While academic freedom is often celebrated in grand, indeed grandiose, terms, it is at base a guild slogan that speaks to the desire of the academic profession to run its own shop” (Fish, 2014). Unlike Post and Finkin (who represented the second school of thought in Fish’s model), Fish did not see academia as a grand profession at all, and regarded academic freedom as a tool for workers rather than serving any noble goal.

But Fish’s analysis of the remaining three schools, which he condemned, did not offer much analysis of the meaning of academic freedom. Fish attacked the “academic exceptionalism” school, but the notion that there is something special about academic work was certainly part of his own approach (as well as Post and Finkin’s second school). Arguing about whether academics are exceptional or not does little to define the meaning of academic freedom itself.

The fourth school, “academic freedom as critique,” was Fish’s attack on leftist critics such as Judith Butler who argued that academic freedom must include the right of professors to challenge the foundations of their disciplines, a focus on individual rights that is part of the Liberty Model.

The fifth school, “training for revolution,” was actually a pedagogical model rather than a model of academic freedom. Fish argued, “The view of education that lies behind and informs this most expansive version of academic freedom is articulated by Henry Giroux. The ‘responsibilities that come along with teaching,’ he says, include fighting ‘for an inclusive and radical democracy by recognizing that education in the broadest sense is not just about understanding ,...but also about providing the conditions

for assuming the responsibilities we have as citizens to expose human misery and to eliminate the conditions that produce it' (*Against The Terror of Neoliberalism*, 2008). In this statement the line between the teacher as a professional and the teacher as a citizen disappears" (Fish, 2014). Fish believed that Giroux's pedagogical theories went beyond Fish's dictated limits of academic freedom, but Giroux did not propose a theory of academic freedom that only protects those who share his pedagogical theories. What Fish called "academic freedom as revolution" is actually a theory of pedagogy as revolution, and a belief that this pedagogy is protected by academic freedom.

Fish's five theories of academic freedom were, as Fish put it, "plotted on a continuum that goes from right to left. The continuum is obviously a political one, but the politics are the politics of the academy" (Fish, 2014).

However, Fish's five schools of thought are not a useful analysis of academic freedom theories precisely because of Fish's focus on politics. Theories of academic freedom do not always neatly conform to the political views of their advocates. More importantly, Fish's five schools do not adequately explain what academic freedom means in these different approaches.

It is notable that Fish also argued for "two views of academic freedom. In one freedom is a general, overriding, and ever-expanding value and the academy is just one of the places that house it. In the other, the freedom in question is peculiar to the academic profession and limited to the performance of its core duties" (Fish, 2014). This describes roughly the contrast between the Professional Model and the Liberty Model, which is a more coherent way to examine theories of academic freedom than Fish's five schools.

But Fish's approach to the Professional Model is a particularly extreme version of it. The theory Fish has espoused against allowing politics in academe is a deeply political theory; by contrast, the Liberty Model that advocates freedom for political views in academia is actually apolitical, because it does not judge statements based on their political content.

What distinguishes Fish's version of the Professional Model from the old Gentleman Scientist approach is that Fish argued for a distinctly profession-based analysis: "it is important for the 'It's just a job' school to be able to justify a firm distinction between academic work and politics (understood as partisan politics) without resorting to metaphysical doctrines of truth, objectivity, etc;"(Fish, 2014). Fish's rejection of a core scientific concept like "objectivity" shows how his model is truly modern despite some of its eccentricities.

Fish argued, "If you know (in your disciplinary bones) that what you're supposed to be doing is putting theses, including your own, to the test of rigorous documentation and techniques of falsification, you also and already know that you're not supposed to allow your efforts to be guided or influenced by your partisan ideological desires" (Fish, 2014). A proof by citing one's "disciplinary bones" hardly seems to pass the test of rigorous documentation that Fish himself demands. But the bigger problem is that "partisan ideological desires" are often in the eye of the beholder. Theories of academic freedom are not about the ethical desires of individuals. They are all about the machinery of academic regulation imposed on individuals.

Fish's proposal to prohibit the use of "methods either direct or indirect" to lead students toward a particular viewpoint is an example of an extraordinarily vague

prohibition on “political” speech. The mere choice of readings or the discussion of certain facts is always subject to bias that certainly must influence students. And many professors, including Fish, want to lead their students in subtle or not-so-subtle ways toward what they see as the truth.

Whatever the philosophical debate involved in the prohibition of politics, Fish's approach presents a number of serious practical dangers. After all, it is hard to imagine who can be trusted to properly interpret when a professor is indirectly leading students toward a particular viewpoint. Fish himself has shown poor judgment about what should be a prohibited political viewpoint. In 1990, as chair of Duke University's English department, Fish wrote to the provost that members of the conservative National Association of Scholars “should not be appointed to key university committees” because they were “racist, sexist, and homophobic,” and “had already decided, in terms of fixed political categories, what is or is not meritorious” (Wilson, 1995, 54). Fish's misguided attempt to punish those he thought had allowed their political judgments to overcome academic judgments was an example of how easy it is for an academic administrator to interpret academic views he opposes as “political” and therefore deserving of punishment.

Fish called his approach a “non-philosophical version of academic freedom” (Fish, 2014). But, of course, it is deeply philosophical, and deeply political, too, in its rejection of politics. What Fish proposes for academic freedom is not the absence of politics, but a constant awareness of it. After all, without such vigilance, politics could creep in almost anywhere, as Fish fears that it has.

Fish (2014) worried that “the boundaries of freedom will expand with the desires and ambitions of the academic who invokes it.” Fish was absolutely right—without boundaries on freedom, academic freedom could expand with the desires of any academic invoking it. His mistake was imagining that politics is the only important boundary, and that a ban on political speech was the only way to impose boundaries.

In the attempt to ban politics from the classroom, Fish’s Professional Model ends up making the politically-based choices he says are illegitimate. Rather than removing politics from academic decision-making, Fish’s Professional Model puts politics at the forefront of every analysis by making it a forbidden subject.

Fish, in his radical form of the Professional Model, rejected the idea of an individual right to academic freedom so intensely that he sees institutional academic freedom as the only proper claim to the term: “If you begin by assuming that academic freedom attaches to the individual professor (and student) rather than to the institution, the exercise of your freedom might well involve flouting the institution’s protocols in the name of a higher obligation; and once you reach that conclusion, you are more than half-way to deciding that what academics are free (and obligated) to do is critique and oppose arrangements that impede the advancement of social progress by protecting the status quo” (Fish, 2014). While Fish regarded such a conclusion as a great political evil, the Liberty Model does indeed argue that all professors should be free to advocate their own particular political view, whether it is the belief that political action is good or the belief (as Fish holds) that political action is evil. Under the Liberty Model, academics are indeed free to critique and oppose arrangements that impede the advancement of social progress. What’s less clear is why Fish imagined that such criticism endangers academia.

Fundamentally, Fish regarded the Professional Model as the only possible understanding of academic freedom: “The professional definition of academic freedom is not merely a rival account of the academy. It *is* the academy. A capacious definition of academic freedom, urged in the name of social justice and human solidarity, undermines both academic freedom and the very idea of academic life” (Fish, 2014).

The Liberty Model (which Fish called the “capacious definition”) was attacked by Fish in both its purpose and its effects. Fish imagined that the Liberty Model is urged only for “social justice” purposes. Although advocates of social justice naturally embrace a theory of academic freedom that protects what they advocate, this is not the basis of the Liberty Model. In fact, the Liberty Model also protects faculty who advocate against a leftist vision of social justice.

The problem Fish never really confronted is the difficulty in escaping politics. What to one person might seem like an indisputable fact is a political prejudice to someone else. As Cary Nelson noted about Fish's advocacy for political disengagement in academia, “It is itself a political position” (Nelson, 2010, 181). The Liberty Model was born out of this belief that everyone has political positions, whether they recognize them or not.

#### Defining the Liberty Model

Former AAUP president Cary Nelson is a leading advocate of the Liberty Model. The core distinction of the Liberty Model from the Professional Model and the Gentleman Scientist Model is its defense of political speech in the classroom. Under the Liberty Model, political speech is no different from any other kind of speech. A key tenet of the Liberty Model is that political speech is not treated any differently from other

speech. If the political speech is relevant to the classroom, then it is fully protected like any other classroom speech. If the political speech is not relevant to the classroom, then it is still protected from arbitrary penalties. A college can punish a professor who constantly spouts political theories if that professor is failing to teach the class, but only if the same penalty applies for a professor who devotes a class to non-political distractions. The Liberty Model holds that the math professor who spends every moment of every class railing against (or in favor of) the president can be criticized, but any punishment should be no different than the professor who spends every moment denouncing (or praising) the football team. The key is that the basic failure to do one's job, not the political content or unpopular viewpoint being expressed, must be the basis of any punishment. Expressing controversial political opinions is the same as writing a letter to the editor about vegetables, or discussing the weather in class. The expression of these political views, inside the classroom or out, may be poor pedagogy, but it is essential to protect the freedom to express them.

The Liberty Model also fundamentally differs from the Professional Model in seeing academic freedom as an idea of individual rights at its core. As Nelson put it, "If a faculty committee acts to compromise academic freedom or deny recognition to a deserving faculty member, it should be asked to reconsider and, if necessary, be overruled" (Nelson, 2010, 40). The Professional Model, which defines academic freedom by collective faculty judgments, sharply disagrees with this principle.

The Liberty Model does not remove the faculty or its collective action from the picture. As Nelson noted, "Academic freedom is an empty concept, or at least an effectively diminished one, if the faculty does not control its enforcement through shared



governance” (Nelson, 2010, 32). Faculty are the central defenders of academic freedom, and the leading beneficiaries of the concept. In practice, such violations of individual faculty academic freedom by collective faculty judgments are exceedingly rare, so rare that it might be unwise to allow faculty judgments to be overruled. In practical terms, the Professional Model and the Liberty Model often share common ground in defending academic freedom. But the differences in principles are important to understand how divergent their theoretical approaches are.

Nelson offered a sharp critique of the Gentleman Scientist Model that dominated the early years of the AAUP: “Since the 1915 Declaration, the AAUP has been historically overinvested in quiet rationality and sweet reasonableness as the only ethical models for professional interaction” (Nelson, 2010, 117). Imposed rationality and sweetness, the scientific and gentlemanly approaches, are antithetical to the Liberty Model. From Nelson's perspective, the Professional Model is flawed by its historical connection to the Gentleman Scientist Model. The danger is that the old narrow restrictions of the Gentleman Scientist Model on ungentlemanly behavior and unscientific thinking can be redefined as unprofessional behavior under the Professional Model.

Nelson noted, “The idea that all university dialogue needs to be conducted in calm, dispassionate, unvaryingly respectful way in fact makes the university less useful as a social model, because then the university seems unrealistic and irrelevant” (Nelson, 124). Nelson worried, “Too many campuses enforce a stifling and inflexible imposition of reasonableness on public events...” (Nelson, 124).

The Liberty Model argues that what are called, in varying circumstances, “reasonable,” “calm,” “dispassionate,” “collegial,” “rational,” “objective,”

“disinterested,” “fair-minded,” are often simply code words for imposing a gentlemanly style on professors even when the content of the speech deserves protection. The Liberty Model recognizes that there is a wide range of potentially valid teaching styles.

In practice, such violations of individual faculty academic freedom by collective faculty judgments are exceedingly rare, so rare that it might be unwise to allow faculty judgments to be overruled. In practical terms, the Professional Model and the Liberty Model often share common ground in defending academic freedom. But the differences in principles are important to understand how divergent their theoretical approaches are.

#### The Uniqueness of Academic Freedom

Finkin and Post (2009) criticized the Liberty Model because it does not explain what is special, and academic, about academic freedom: “In a democracy each and every citizen is entitled to enjoy the liberty of free and critical inquiry, and it is therefore unclear why scholars should receive special protections for this liberty, protections that other Americans do not generally possess against their private employers” (44). Finkin and Post (2009) offered a challenge to the Liberty Model: a theory of academic freedom “must explain why scholars ought to enjoy freedoms that other members of the public do not possess” (44). But the Liberty Model rejects the idea that a theory of academic freedom must grant special freedoms to scholars and deny them to others. What makes academic freedom “academic” is the historical traditions of higher education that built it, and the special benefits to universities and the rest of society from having researchers and teachers who are free to think and speak. But the Liberty Model refuses to build a wall of separation between colleges and the rest of society.

Under the Liberty Model, there is no reason at all why the standards of academic freedom could not also be applied to administrators, students, K-12 teachers, journalists, or even “ordinary” workers for corporations and governments. This broad application does not make “academic freedom” meaningless; instead, it makes the core meaning of academic freedom applicable to all institutions, for the simple reason that the ideas that are at the core of the academic world can be found in any workplace, along with the value of encouraging dissenters, dreamers, and contrary thinkers. Academic freedom does not need to be unique in order to exist.

What makes academic freedom “academic” is its special application to academic institutions, not some inherent freedom that no one else should be allowed to possess. American colleges are the leading structures in our society run according to broadly-embraced and institutionalized systems of freedom, but there is no logical necessity for them to be the only ones. Under the Liberty Model, “academic freedom” is just a peculiar subset of “intellectual freedom,” but that lack of exclusivity is not a logical argument against it.

Indeed, the question of uniqueness is much more problematic for the Professional Model. Imagine a university where the president orders the firing of any administrative staffers who criticize a particular politician. Can the Professional Model really claim that a president’s firing based on political reasons does not involve academic freedom, simply because academic freedom only applies to faculty scholars? What about expelling students who express political viewpoints? Is that also unrelated to academic freedom because students are not scholars?

Advocates of the Professional Model would reject such attacks on freedom of expression but not want them to be called “academic freedom.” But under the Liberty Model, academic freedom is the freedom of the academy, and academic freedom must pervade all aspects of the institution. In a corporation, the employees and customers have no rights; in a university, all employees and customers (students) have some rights, and it seems logical to call these rights part of academic freedom rather than invent new terms to describe the special freedoms at academic institutions.

Academic freedom often seems like an elitist concept: a special right reserved for the best and the brightest faculty, to give them particular protection so that they can bequeath to us their brilliant ideas. And there is a great deal of historical truth in that elitism.

Calling the Gentleman Scientist Model or the Professional Model elitist does not, in itself, serve as an effective criticism. Universities themselves are a kind of elitism, institutions originally developed and sustained to provide Americans with ministers and leaders, and then later expanded to include many other fields and many more people. But universities remain, as they always were, the domain of an educated elite.

The problem with the Gentleman Scientist Model lies in the particular kind of elitism it establishes, one that seeks to limit the scope of academic freedom as well as the people permitted to enjoy it. And the Professional Model shares that same commitment to elitism.

The Liberty Model takes a different approach to academic freedom. Instead of seeing academic freedom as a kind of property belonging to an elite academic class of tenured professors, the Liberty Model sees academic freedom as a fundamental principle

of colleges, one that everyone shares in and benefits from. Instead of being the property of an elite class, academic freedom under the Liberty Model is a core principle of higher education. The tenured faculty are the key guardians of academic freedom, but not its owners or sole beneficiaries.

Another advocate of the Professional Model, Louis Menand argued, "Academic freedom is, at a basic level, an expression of self interest: it is a freedom for academics" (Menand, 1996, 9). He noted that "wide freedom of inquiry" exists "only for the specialist" (Menand, 1996, 8). But according to the Liberty Model, the purpose of academic freedom is not to protect the freedom of professors to be specialists. The purpose of academic freedom is to create colleges where freedom flourishes. One absolutely critical mechanism for reaching that goal is to protect professors, but the protection of professors' freedom should not be regarded as the only mechanism and certain not as the sole goal of academic freedom. No one could properly describe a university as having academic freedom if students were prohibited from ever speaking their views publicly, even if the freedom of professors was fully protected. There is a good reason why we call it "academic freedom" rather than "faculty freedom."

Walter Metzger is another advocate for the Professional Model. According to Metzger, "Ever since 1915, when the concept of *Lehrfreiheit* [professor freedom] was decoupled from the concept of *Lernfreiheit* [student freedom], the standard professional answer to the question of 'who is entitled to academic freedom?' has been 'every academic and no one but an academic.'" (Metzger, 2000, 83). Although Metzger is a preeminent historian of academic freedom, his vision of an unaltered singular standard for academic freedom since 1915 is simply inaccurate. *Lehrfreiheit* and *Lernfreiheit* were

always complementary concepts, but never were they regarded as a singular vision of academic freedom that had been divided into two halves. But the mere existence of *Lernfreiheit* suggested that academic freedom always meant more than just the liberty of professors.

The danger of the Liberty Model is that once academic freedom is broadened and expanded, will it lose its essential meaning? The key for the Liberty Model is to understand academic freedom as a principle, not a process; academic freedom is a universal ideal rather than a property controlled by a certain group. As long as the principle of academic freedom is adhered to, there is no danger in expanding it to include everyone.

Expanding academic freedom from its elitist origins always poses the danger that the concept will be abused. But the danger of misinterpretation exists in every model of academic freedom, and it cannot be an argument for preferring one model over another.

#### Professional Norms and the Liberty Model

Finkin and Post are right when they argue that the Liberty Model undercuts professional norms. Professional norms do suffer when academic freedom is an individual right. After all, if individual faculty are allowed to dissent from dogmas established by professional norms, those norms can be subject to questioning and change. But the essence of the Liberty Model is that professional norms always manage to survive well in a state of freedom, while individual rights are far more vulnerable to repression. There is no necessary link between academic freedom and professional norms.

The Liberty Model does not entirely remove professional norms, of course. In any process of hiring, tenure, and promotion, disciplinary norms will be imposed out of

necessity. Judgments of academic quality must be made by every peer review committee, whether it is for a journal article, a job opening, or a tenure decision. And judgments of academic quality will always be affected by ideology. Inevitably, scholars tend to think (albeit with exceptions) that the academic work they agree with is superior to that which they disagree with. The Liberty Model does not overturn professional norms or academic judgment.

The Liberty Model puts the emphasis on individual rights because that idea offers the strongest defense of professional norms. Without an individual right of academic freedom, professional norms are simply too weak to prevail. No one ever successfully sued a college or obtained a censure from the AAUP simply because the administration violated professional norms by overturning a faculty judgment. Professional norms are only meaningful as a buttress for individual rights, not as an alternative to them. And the reality is that the Professional Model alone cannot adequately protect academic freedom.

Under the Liberty Model, academic freedom belongs to everyone, not to the small subset of tenured professors exercising their professional judgment. Professors represent the core of academic freedom, the defenders of it, but not the sole proprietors. The academic freedom of professors is only limited insofar as it is necessary to protect the academic freedom of other faculty and of students.

#### Evaluation and Punishment under the Liberty Model

Finkin and Post (2009) critiqued the Liberty Model's individual rights by invoking an ideal of balance: "The traditional ideal of academic freedom, with its twin commitments to freedom of research and to compliance with professional norms, nicely balances these negative and affirmative dimensions. This balance would be lost if

academic freedom were reformulated as an individual right that insulates scholars from professional regulation” (43). If so, Finkin and Post claimed, “academic freedom would regard the communication of each scholar as equally protected” (43).

However, Finkin and Post presented a caricature of the Liberty Model when they suggested it would demand absolute relativism in evaluating faculty. In the career of a faculty member under long-held AAUP guidelines, there are two different types of review of faculty: evaluation and punishment. The evaluation stage comes when faculty are hired, tenured, or promoted. In the evaluation stage, it is appropriate to give a broad analysis of the faculty member's quality of teaching, research, and service. Although faculty should never be evaluated on viewpoint, the style they use in the classroom can be relevant to their success and the overall quality of their work. A professor who expresses political views in the classroom can be evaluated if that expression affects the quality of their teaching, but not merely for the expression of those views. While there is a threat to academic freedom in the evaluation stage, it is a necessary part of upholding academic standards.

In fact, the limited nature of the evaluation stage is essential to the protection of academic freedom. If professors are constantly working in the evaluation stage, where any mistake in the classroom can lead to dismissal for poor teaching, it will tend to silence experimental ideas and the open expression of them.

In the punishment stage, which is how the great bulk of an academic career under a tenure system is spent, any professor can be punished at any time. But the standards for punishment are much higher than the standards used in evaluation. Punishment requires a violation of other's rights or a fundamental betrayal of professional standards, such as by



failing to teach one's classes or committing severe misconduct, such as plagiarism. But the Professional Model, by declaring that any minor violation of professional norms is punishable and is unprotected by academic freedom, leaves open the possibility of extremely broad violations of liberty.

During the evaluation stage, a professor can face a penalty, including the extreme penalty of losing one's job, for relatively minor academic "crimes" such as mediocre teaching, making factual mistakes, or utilizing poor arguments in research. This is the nature of academic excellence, that mediocrity is punished. But because the evaluation stage is severely limited, and the standards are clear, the threat to academic freedom is minimized. The necessity of limiting the evaluation in order to protect academic freedom also explains why tenure is so critical to academic freedom.

With a system of tenure, the process of evaluation is highly professionalized, largely under the control of faculty members who are obliged to follow professional standards in their decisions, which utilize a comprehensive examination of the professor's quality of work. Without tenure, the system of evaluation is no longer restrained. If every faculty member is evaluated every year on a constant basis, then real peer review is effectively impossible. Evaluation falls in the hands of administrators, who are rarely able to do any comprehensive evaluations on a regular basis, especially since they lack the specialized academic knowledge necessary to evaluate faculty. As a result, without a tenure system, faculty will only face evaluation and penalty if they do something controversial: criticize the administration, offend a student in the classroom, or say something impolitic in public.

The long history of academic freedom proves that controversial faculty will face punishment for their views if they live under a system of constant evaluation. Without a key moment such as tenure to concentrate attention, it is likely that a faculty member will never receive a systematic evaluation of the quality of their work. Instead, faculty who are merely adequate will be passed along every year unless they somehow rock the boat.

Tenure, far from harming the quality of faculty, actually is likely to improve it. Underperforming faculty who don't attract attention are more likely to be forced out in a tenure system than a constant evaluation system. And excellent faculty who express controversial ideas are much more likely to survive in a tenure system.

The great innovation of the tenure system is creating this separation between the evaluation stage and the punishment stage in the academic career. The tenure system protects academic freedom not by giving faculty a job for life, but by limiting the evaluation process to a few key moments. In doing so, peer review is both possible (because the intense review process is limited) and effective (because it identifies the best teachers and scholars, rather than waiting for a complaints and controversy to guide the system of firing faculty). This makes professional standards much stronger than in a hierarchical employment system. Equally important, the tenure process makes it much harder to fire controversial faculty who express unpopular ideas.

According to Finkin and Post, the Professional Model offers the only solution to a paradox created by the Liberty Model: “We are thus led to a paradox. Intellectual standards are required to connect the exercise of academic freedom” (Finkin and Post, 2010, 55). There is no paradox in connecting intellectual standards to the exercise of individual academic freedom, only practical difficulties that must exist in the

enforcement of any kind of liberty. There is no such thing as absolute freedom. But that fact cannot lead us to abandon the concept of academic freedom altogether.

Finkin and Post argued, “it is plainly unacceptable to believe that professors possess 'full freedom' to violate professional norms” (Finkin and Post, 2009, 56). But there is a fundamental difference between having full freedom to do research and having full freedom to be rewarded for that research. No, there is no “full freedom” to do any research you want and get tenure for it. But there is, in general, the freedom to pursue that research without prior review, and without arbitrary punishment. There is a small category of research deemed so unprofessional as to merit punishment (even for tenured professors), such as plagiarism and other forms of academic dishonesty. But these have to do with the methods of research, and not its content.

Finkin and Post argued for their Professional Model as the only possible winner in the battle between “individualist academic freedom” and “professionalist academic freedom.” However, the Liberty Model of academic freedom emphasizes individual rights, but it does not violate professional norms. Instead, it recognizes that individual rights are often how professional norms must be protected. But the individual rights approach also posits an idea of how one aspect of professional norms—the dominant theories in a discipline—must be is constantly in flux and subject to evolving theories. Yesterday's professional ideological norm sometimes is today's nonsense, and vice versa.

Likewise, professional behavioral norms must also be allowed to evolve over time and provide a wide range of acceptable approaches. Academia has always had professors who offended the norms of society in their teaching, research, and extramural utterances. These professors often faced the worst censorship. The Gentleman Scientist Model set a

behavioral standard of politeness that had nothing to do with academic norms. While the Professional Model seems to abandon that archaic approach, it rarely clarifies exactly what professional norms should mean. And because the Liberty Model's ideal of individualist academic freedom has become gradually established as a professional norm, the Professional Model cannot claim exclusive control over what professional norms are.

The Professional Model is not the only model that considers professional norms to be an essential part of academic freedom. The Liberty Model requires professional norms because that's the foundation of academic freedom. The Liberty Model presumes that there are legitimate and illegitimate approaches for faculty hiring and firing, and those are based on professional norms. In fact, the Professional Model, despite the name, is merely espousing a narrower framework of professional norms. And by failing to fully protect academic freedom, the Professional Model falls short on one of the most important professional norms.

Advocates of the Professional Model argue that professionalism is an essential limit on academic freedom. According to Larry Gerber, "Academic freedom, in other words, requires a governance system in which faculty expertise—often residing in an individual, but also expressed at times in a collective fashion—is the determining factor in institutional decisions affecting academic matters" (Gerber, 2010, 13). This is a crucial point: professionalism defines the mechanism for enacting academic freedom in day-to-day academic decisions. The mistake often made is to jump from this to the assumption that the concept of academic freedom is limited solely to professional activities and therefore unprofessionalism can be punished, which is a key idea of the Professional Model.

Professionalization is a necessary part of the Liberty Model of academic freedom because the professional body of faculty must make the key hiring and tenure decisions based on professional criteria. The Liberty Model argues that faculty as professionals must make these decisions, but need to do so while protecting faculty freedom to speak, freedom to research, and freedom within the classroom. The Professional Model of academic freedom, by contrast, seems to allow faculty to punish those who are deemed to violate professional standards. Nothing in the Liberty Model rejects the professional role of faculty decision-making in personnel decisions. The Liberty Model, however, recognizes the need for different criteria in making those decisions, such as to allow faculty freedom to express political views within the classroom.

Under the Gentleman Scientist Model, faculty self-regulation is the dream for which many sacrifices to social norms will be made. Under the Professional Model, faculty self-regulation is the goal of the academic community. Under the Liberty Model, faculty self-regulation is merely the best method for protecting academic freedom. The fundamental differences between these approaches lead to drastically varied realities produced by the models. For the Liberty Model, faculty control of the hiring and dismissal process is a means to the end, and academic freedom is the end. For the Professional Model, academic freedom is redefined within the confines of the faculty self-regulation.

The Liberty Model does not free faculty from professional responsibilities. Faculty are still obligated to do their jobs, to respect the rights of others, and to engage in their work without the kind of dishonesty involved in proven cases of plagiarism and fraud. The difference between the Professional Model and the Liberty Model comes

when attempts are made to punish faculty for the crime of being “unprofessional” in some way, such as the firing of Ward Churchill at the University of Colorado for incorrectly citing scholars who disagreed with him, the firing of John Boyle at Northeastern Illinois University for recruiting students to minor in his program, or the firing of Norman Finkelstein at DePaul University for harsh criticism of other scholars in his research. While advocates of the Professional Model have defended some of these scholars for violations of due process or other reasons, only the Liberty Model provides a clear theoretical objection for why these firings violated academic freedom.

In practice, the AAUP has largely adopted the Liberty Model as a statement of its values and the Professional Model as the guide for its daily activities, while the AAUP’s fundamental statements still include some language from the Gentleman Scientist Model. This may help explain why there is so much confusion and disagreement about the meaning of academic freedom, even within the AAUP.

Most of the AAUP’s documents indicate that the Liberty Model is the primary guide for the meaning of academic freedom, that it is an individual right of all academics to freedom of teaching, freedom of research, and freedom of speech.

But the Professional Model and its focus on faculty self-regulation, remains the core of AAUP activity. A key point at which the Professional Model and the Liberty Model diverge is when an individual professor is punished by colleagues in violation of academic freedom. Under the Professional Model, that sentence might be regarded as nonsensical: when the faculty punish individual members of the guild, it is an exercise of true academic freedom, not a violation of it. And the AAUP has generally held it to

be quite clear, that it will not intervene in cases of faculty acting collectively to violate the academic freedom of other faculty.

The reason for this is quite logical: in order to overturn a faculty decision that violates academic freedom, the AAUP would have to put its trust in the administration or trustees to overrule faculty decisions about academic matters. But the overwhelming majority of violations of academic freedom occur in precisely those circumstances. So, even if the faculty acting collectively might be capable of violating academic freedom (as the AAUP standards accept in theory), the threat of overruling faculty decisions for ideological reasons is so dangerous to academic freedom that the AAUP desires to stop it altogether, even if it might be beneficial in a few cases.

Unlike disciplinary associations, the AAUP lacks the expertise to make an affirmative statement about the qualifications of a professor within a particular field. If there is no faculty body at an individual college making a statement that declares an individual well-qualified, then it is difficult to prove any violation of academic freedom. For that reason, AAUP reports focus overwhelmingly on due process, and rarely address the substance of a complaint.

#### The AAUP and the Three Models

The fact that the AAUP as an organization includes the leading advocates of the Liberty Model (Nelson as a deeply influential former president) and the Professional Model (Finkin and Post as long-standing members of Committee A on Academic Freedom and Tenure) reflects the complexity and contradictions of the AAUP as an organization. The AAUP's practices and written policies are a strange brew of all three models, with the influence of each model reflected in the language and its interpretation.

In discussing politics in the classroom and the archaic AAUP language about it, Nelson wrote, “I take 'persistent' to refer to bringing outside material into the classroom so frequently that the ability to teach the course's advertised content is impaired. Even then, I regard the warning as ethical and professional advice, not the logic for a regime of surveillance” (Nelson, 2010, 171). Under the Liberty Model, the AAUP’s old Gentleman Scientist language is a statement of values rather than an enforceable policy. But this is a fundamental reinterpretation of the language in ways that the AAUP’s founders could never have imagined. The Liberty Model represents a radical shift in perspectives, not merely a small adjustment in interpretations.

Understanding the historical changes in the AAUP’s approach to the theory of academic freedom, as well the different voices within it, is essential not merely to see the contradictions inherent in the AAUP as an organization, but also to comprehend the theoretical debate over the meaning of academic freedom. Rather than being the authoritative voice of a singular vision of academic freedom, the AAUP has served as an institution where the idea of academic freedom has been fiercely debated, and ultimately evolved into its current state.

#### Institutional Academic Freedom

Any discussion of academic freedom must include a mention of theories that have been offered to define its meaning but do not fit with these other models, including the Institutional Academic Freedom model, the Denial model, and the Revolutionary model.

An approach to academic freedom that has gained influence in legal circles is Institutional Academic Freedom. It is notable that when the AAUP in 1915 defined its statement of principles, the idea of institutional academic freedom simply did not exist.



The 1915 Declaration of Principles clearly states that there are two kinds of academic freedom, the student and the faculty, and that the AAUP's concern was solely with the latter. The notion that the administration had a kind of “academic freedom” would have seemed bizarre.

Institutional Academic Freedom, I argue, is not a core concept of any of the models of academic freedom, and in fact it must contradict those models. To the extent that violations of institutional autonomy threaten academic freedom, the danger they pose can be entirely contained within the three models of academic freedom in this study.

Instead, Institutional Academic Freedom is a peculiar legal concept that co-opted the term “academic freedom” beginning in the 1970s. Originally mentioned by Justice Powell in the Bakke affirmative action case, it was intended to provide universities with greater discretion to act without government or court scrutiny over every decision. Over time, the minor legal precedent was expanded by some courts to be a substitute for actual academic freedom as an individual right. In *Urofsky v. Gilmore* (2000), a federal appeals court claimed that academic freedom did not apply to internet searches on public university computers, and that if there was any academic freedom at all, only Institutional Academic Freedom existed.

Institutions do not have rights; only individuals have rights. To protect the academic freedom of individuals, it is wise to have a certain amount of institutional autonomy. But creating a separate Institutional Academic Freedom right that can trump individual academic freedom is a way of undermining academic freedom altogether. Thus, it is not surprising that Institutional Academic Freedom is a concept invoked by

administrators and their lawyers, but not by the AAUP or many theorists of academic freedom.

### The Denial Model

The fact that Gentleman Scientist Model was dominant for much of the 20<sup>th</sup> Century also reflects the backward state of academic freedom at the time. This dissertation does not explore in depth what could be called a fourth model, the Denial Model of academic freedom, which was the dominant belief outside of universities (and occasionally within them) for most of the 20<sup>th</sup> Century. The Denial Model is the view that academic freedom does not (or should not) exist, that universities should have no more freedom than any other institutions, and that professors should have no liberties different from any other employees of any business. Not surprisingly, there is almost no theoretical literature about academic freedom written by those who argue that there should be no such thing as academic freedom. And the Denial Model, by declaring academic freedom to be nonexistent, does not offer much in the way of a deeper analysis of the meaning of academic freedom. The primary advocates of the Denial Model of academic freedom were politicians (often following public opinion) attacking higher education who wanted to silence controversial faculty and students.

However, the lack of analysis about the Denial Model should not lead us to dismiss its existence. It is precisely because of the Denial Model that the Gentleman Scientist Model developed the way that it did. And the Denial Model continues to exist, although it is rarely if ever publicly embraced. One of the greatest successes of the AAUP in the past century was the defeat of the Denial Model among mainstream American debate. The limits and meanings of academic freedom are still debated to this day, but

rarely if ever does anyone call for the elimination of academic freedom. The Gentleman Scientist, Professional, and Liberty Models all have been shaped by the goal of establishing a defense against the Denial Model. But the Gentleman Scientist Model, because it was the oldest, was most influenced by the attacks on academic freedom.

The early advocates of academic freedom who adopted the Gentleman Scientist Model may have concealed their more libertarian views for practical reasons of fighting against the Denial Model; today, the reverse may be true: today's activists and politicians who believe in the Denial Model and would like to destroy academic freedom are not likely to openly oppose academic freedom itself. Instead, they are more likely to take the path of least opposition and declare themselves to be supporters of academic freedom who simply have a different, more restrictive interpretation of the concept.

The differences between these various models of academic freedom are not merely theoretical; they have a dramatic effect on the practical reality of what academic freedom is. The dominant model of academic freedom becomes the guiding light for how colleges and universities operate.

#### The Revolutionary Model

There is also a fifth model of academic freedom that needs to be addressed: The Revolutionary Model. Unlike Fish's version of the revolutionary model, which he condemns for allowing political discussion in the classroom, this Revolutionary Model refers to the theory of restricting academic freedom for those who hold right-wing views deemed contrary to the promotion of social justice.

The Liberty Model of academic freedom was not the only concept challenging the Gentleman Scientist approach in the 1960s. The Revolutionary Model of academic

freedom was in some ways the flip side of the Gentleman Scientist. It demanded conformity to certain political theories as a condition of enjoying liberty. Herbert Marcuse's famous 1965 tract on "Repressive Tolerance" was perhaps the best theoretical expression of this Revolutionary Model. According to Marcuse, the idea of liberal toleration embodied by the Liberty Model was simply a foolish concept that kept the ruling class in power. Marcuse wrote, "The tolerance which enlarged the range and content of freedom was always partisan--intolerant toward the protagonists of the repressive status quo" (Marcuse, 1965).

Marcuse emphasized "the distinction between right and wrong limitations on tolerance, between progressive and regressive indoctrination, revolutionary and reactionary violence." In Marcuse's view, repression was justified when used by progressive forces, even though it was wrong when used by the establishment. Therefore, Marcuse believed in liberatory repression as the flip side of repressive tolerance. Marcuse's critique of tolerance was not without merit. The kind of tolerance advocated by the Gentleman Scientist Model was, indeed, always partisan. There were always limits to this tolerance, and there was always bias against dissenters from the establishment. The Gentleman Scientist Model protected only those who followed its standards. But Marcuse's critique of the establishment's Gentleman Scientist Model was shared by the Liberty Model, which offered a principled alternative to repression of any kind.

The key problem with Marcuse's approach, and the reason why the Revolutionary Model fails to be a genuine model of academic freedom, is that Marcuse openly embraced a system without principles, one that aspired only to have political consequences that he favored. Marcuse took all the flaws of the Gentleman Scientist

Model in practice and flipped them upside-down. He accepted only the hypocrisies, without the principles. No question about whether a violation of academic freedom occurred could be answered by looking at the circumstances, only by examining the ideology of the alleged victim.

Second thoughts did not lessen Marcuse's radicalism. In his 1968 postscript, Marcuse concluded by urging progressives to be "militantly intolerant and disobedient to the rules of behavior which tolerate destruction and suppression." The Repressive Tolerance approach to academic freedom embraced banning ROTC from campus (and for its most extreme adherents, bombing ROTC buildings), trying to stop military research on campus, and attempting to force the shutdown of universities until their demands were met.

Marcuse's theory of Repressive Tolerance, I argue, is not a real model of academic freedom, but a special variation of the Liberty Model aimed at avoiding universal principles. Marcuse argued for the kind of full freedom to discuss politics that the Liberty Model endorses. However, he wanted to limit that Liberty Model freedom to those on the left who agree with his ideological predispositions. To those who disagree with him, Marcuse endorsed the Denial Model and supported full-fledged repression.

What Marcuse espoused seems to be simple hypocrisy: one theory of academic freedom for himself, and a very different theory of academic freedom for those who have a different ideology. This hypocrisy is hardly new, nor is it limited to thinkers on the left. But Marcuse was unusual for his willingness to be so open about his views.

Marcuse reflected the problem of a theorist caught up in the real world. Marcuse imagined radical figures like himself on the left fighting against an overwhelming enemy

that sought to suppress their liberty. The ideal of a principled theory to Marcuse was nothing but a naïve response to repression, one that would lead to certain defeat. To fight against repression, he argued, you must utilize the tools of repression against those who control you.

To support what is fundamentally an unprincipled approach to academic freedom, Marcuse developed a theory that posits the academy (and the left) as a small outpost of freedom in a kind of revolution against a society full of conservative institutions. Marcuse's theory holds that academic freedom should be different for those who hold power in the larger society.

Marcuse and his followers may be unique in their theoretical justification of hypocritical academic freedom, but they are far from alone. Indeed, the Gentleman Scientist Model was also fundamentally a hypocritical approach to academic freedom, one that supported full freedom for scholars who held conventional viewpoints and punished those who espoused controversial ideas that were unpopular with the public.

The history of academic freedom in America is primarily a story of hypocrisy. The long parade of abuses of academic freedom to be found in American history were largely committed by faculty, administrators, trustees, and others who believed sincerely in a kind of academic freedom that protected themselves and their values, but did not extend to a disfavored class.

What makes Marcuse unusual is the rigor and clarity of his hypocrisy, not its existence. Many people have believed in repressive tolerance toward opposing viewpoints, but few of them ever were willing to acknowledge and define this hypocrisy as Marcuse did.

## Analyzing Academic Freedom

Other attempts at defining theories of academic freedom have taken different approaches. Shiell (2006) argues that there are three conceptions of academic freedom, the civil libertarian conception, the legal moralistic conception, and the egalitarian conception. According to Shiell (2006), the civil libertarian conception is a strong defense of free speech on campus adopted by the AAUP, the ACLU, FIRE, and other advocacy groups; the legal moralistic conception sees academic freedom as “a narrow rather than a broad category” and one limited to professional work; and the egalitarian conception argues that the cause of educational equality warrants restrictions on academia such as hate speech codes.

Shiell’s civil libertarian conception is close to the Liberty Model, and the “legal moralistic” conception is similar to the definition of the Professional Model. However, Shiell’s approach to analyzing theories of academic freedom falls short on several fronts. It treats the AAUP as purely a civil libertarian organization, ignoring both its historic roots and its contemporary divisions between “civil libertarian” and “legal moralistic” approaches. Shiell’s definition of a third “egalitarian” conception ignores the fact that “hate speech codes” were a debate focused on student free speech, and less on academic freedom as a core theory. Both the Liberty Model and the Professional Model recognize a university’s obligation to stop harassment and the limits of academic freedom when the legitimate rights of others are infringed. The egalitarian approach can be a way of interpreting the Liberty Model or the Professional Model to restrict hate speech, but it does not represent a fundamentally different approach to academic freedom.

This study's approach of utilizing the Gentleman Scientist Model, the Professional Model, and the Liberty Model is a useful way of analyzing different theories of academic freedom, because it recognizes the historic changes and conflicts over academic freedom, it analyzes well-defined distinctions about academic freedom, and it can incorporate most theoretical approaches to academic freedom within these broad categories.

### Summary

The fear of the denial model of academic freedom has motivated many of the theoretical limits on the concepts. Finkin and Post (2009) called academic freedom "this fragile autonomy" (155), emphasizing the need for limits and compromise to keep the idea alive against all its enemies. Under the Professional Model, academic freedom is fragile and must be protected with narrow interpretations at every turn or the public could be turned against liberty for scholars. Under the Liberty Model, academic freedom is also fragile, which is why it must be strengthened by broad, principled interpretations at every turn. Of course, academic freedom is always under attack. But does narrowing it lead to a stronger concept of academic freedom, or a weaker one? That is at the core of the debate between the Professional Model and the Liberty Model, and one that may never be settled.

Perhaps the greatest triumph of the AAUP was to make academic freedom a desirable term invoked with admiration by nearly everyone. This public relations campaign for academic freedom was so successful that it created its own problems: when academic freedom became an ideal espoused nominally by everyone, opponents of academic freedom would simply try to re-define the term to suit their needs.



As Ellen Schrecker noted, “What makes the history of academic freedom so confusing, however, is that public relations considerations require concealing that pressure” from outside (Schrecker, 2010, 41). As a result, Schrecker pointed out, “politically motivated dismissals, therefore, came to be clothed in academic garb” (Schrecker, 2010, 41). This concealment takes two forms: first, violations of academic freedom are never admitted to be such. Throughout the long history of American higher education, there has never been a recorded case where an institution openly admitted that it was violating academic freedom, and doing so because academic freedom is a terrible idea. Instead, everyone violating academic freedom will praise the idea of academic freedom and always deny that it is relevant in that particular case.

The second form of concealment is the use of academic language to justify a violation of academic freedom. If a professor is fired for their political views, a college will typically do much more than deny any academic freedom violation. The institution will try to create a justification for the firing that meets the wording of professional standards.

The difficulty of this approach to the theory of academic freedom can be found in the reality of campus censorship. The history of academic freedom in America is primarily the repression of scholars for their non-scholarly opinions about politics. Whether it was punishment for political affiliations or an offensive letter to the editor, most of the high-profile attacks on academic freedom had little to do with any scholarship. In the rare cases where a professor's scholarship was under attack, that scholarly expertise was often questioned as insufficiently scholarly.

This is one of the vulnerabilities of the Professional Model, and the Gentleman Scientist Model that preceded it. If professional qualifications can only be understood by experts, then it is difficult to create any remedies for violations of academic freedom. A judge or jury who lacks the capacity to adjudicate a professor's qualifications cannot effectively question an administration's claims to be following professional norms.

This problem might be solved in theory if faculty experts were given the solitary power to make decisions on hiring, tenure, and promotion of their peers. But there is no college in reality with an administration willing to give up all power in these realms.

This dissertation explores the meaning of academic freedom over the past century in American colleges, and it is clear that professional norms almost never motivated the purging of faculty. Instead, professors were fired for predictable reasons: they engaged publicly in controversial extramural speech. These controversial statements might be redefined as violations of “professional norms” in order to justify an attack on academic freedom, but it was rarely the case that professional standards were the key motivation to remove a faculty member.

Finkin and Post (2009) often invoked the term “akademische freiheit” for their analysis of academic freedom. While it is appealing to have a direct German term for academic freedom, the reality is that the phrase seems not to have been in much use a century ago. Finkin and Post do not quote scholars employing the term. The early American advocates of academic freedom, such as the AAUP, almost always used the far more common term “lehrfreiheit.” The broader American idea of academic freedom simply didn't have a direct German counterpart. Finkin and Post used “akademische freiheit” as a way to escape some of the more disturbing limits on academic freedom

imposed by the old Gentleman Scientist Model invoked with “*lehrfreiheit*.” Creating a new term allowed them to imagine some ideal freed from historical reality. And utilizing a foreign term, now as in the past, provides a useful mechanism for claiming some imagined place where academic freedom was strongly defended in perfect harmony with a theoretical ideal. In reality, the Professional Model found in the German idea of academic freedom was very weak, whether one calls it “*lehrfreiheit*” or “*akademische freiheit*.”

Finkin and Post (2009) identified “a striking new turn in the American saga of academic freedom” (5). According to Finkin and Post (2009), “Whereas in the early twentieth century debate turned on the question whether academic freedom should exist, contemporary controversies assume the desirability of academic freedom and attempt to spell out its implications” (5). In reality, there appears to be no dramatic shift. There have always been external forces denouncing academic freedom, and there have always been internal enemies of academic freedom who denied that they were infringing upon academic freedom. The key difference in the past century is that critics who openly denounce academic freedom are much rarer today. But this only makes it even more crucial to properly understand and explain the meaning and history of these competing approaches to academic freedom.

### CHAPTER III

#### ACADEMIC FREEDOM IN THE EARLY COLLEGES

Censorship in higher education is as old as the colleges themselves. In the colonial college and during most of the 19th century, academic freedom did not exist at all, as a phrase or as a concept. The faculty were considered employees whose job was to inculcate students in the traditions of the West. Expression of original or controversial ideas was frowned upon, whether inside or outside the classroom. The most common teaching mode was the recitation, where the teacher would order a student to stand and recite the given truth.

The earliest American colleges were created to educate clergy. In 1636, the Massachusetts Bay colony established Harvard, the first college in America, "dreading to leave an illiterate Ministry to the Churches, when our present Ministers shall lie in the Dust" (Hofstadter & Metzger, 1955, 83). These religious origins included the imposition of orthodoxy.

The first Statutes of Harvard (1646) set forth sharp restrictions on the freedom of students (and by implication, faculty as well). According to the Statutes, "Every one shall consider the main End of his life and studies, to know God and Jesus Christ which is Eternal life." The Statutes made the Bible virtually the sole basis of learning: "Every one

shall so exercise himself in reading the Scriptures twice a day that they be ready to give an account of their proficiency therein, both in theoretical observations of Language and Logic, and in practical and spiritual truths as their tutor shall require.....” Harvard’s 1646 Statutes imposed severe regulation of student behavior: “They shall eschew all profanation of God’s holy name, attributes, word, ordinances, and times of worship...” Even the speaking of English was largely banned: “The Scholars shall never use their Mother tongue except that in public exercise of oratory or such like...”

Harvard’s 1646 Statutes also marked the first incarnation of *in loco parentis*: “They shall honor as their parents, Magistrates, Elders...by being silent in their presence.” Harvard’s staff not only had the responsibility to monitor students like a father, they also were entitled to the same Biblical authority over students that a father had over children.

Samuel Eliot Morison argued that the founding statutes of Harvard were “most remarkable” because unlike European universities there was no “religious test or oath” for teachers or students (Morison, 1936, 339). However, this omission did not appear to reflect a newfound religious tolerance in America, but the economic necessity of recruiting students from across a religiously diverse nation.

Religious dissent quickly reared its ugly head, and that head was figuratively cut off. Harvard president Henry Dunster was forced to resign in 1654 after he sparked some controversy by failing to have his fourth child baptized. Because Dunster shocked people by speaking against "corupcions stealing into the Church" due to infant baptism,

Dunster's replacement, Charles Chauncey, was hired on the condition that he stay silent about his belief in baptism by total immersion rather than sprinkling (Hofstadter & Metzger, 1955, 89). The General Court of the colony declared that "it greatly concerns the welfare of this country that the youth thereof be education, not only in good literature, but sound doctrine." They recommended removing any teachers who "have manifested themselves unsound in the fayth, or scandelous in their lives, and not giving due satisfaction according to the rules of Christ" (Hofstadter & Metzger, 1955, 88-89).

In 1707, lawyer John Leverett became Harvard's president despite the complaints of Cotton Mather about the danger of a secular leader: "To make a lawyer, and one who never affected the study of Divinity, a praesident for a College of Divines, will be a very preposterous thing, a thing without precedent" (Hofstadter & Metzger, 1955, 105). Leverett emphasized "the liberal tradition of Harvard University," which in turn led to the first witchhunt in American higher education in 1723, after Cotton Mather warned that students were privately reading "plays, novels, empty and vicious pieces of poetry, and Ovid's Epistles, which have a vile tendency to corrupt good manners." Mather also complained that tutors were assigned theology books "that have rank poison in them" (Hofstadter & Metzger, 1955, 108).

A Board of Overseers' Committee of Visitation blamed the misconduct of students on the fact that they "have read promiscuously, according to their inclinations, authors of different denominations in religion." Their report concluded, "there has been a practice of several immoralities; particularly stealing, lying, swearing, idleness, picking of locks, and too frequent use of strong drink; which immoralities, it is feared, still

continue in the College, notwithstanding the faithful endeavors of the rulers of the House to suppress them” (Hofstadter & Metzger, 1955, 108).

Not even money could purchase religious liberty at Harvard. After Thomas Hollis gave generously to Harvard in 1719 and 1720 to establish a divinity professorship with the condition that no candidate "should be refused on account of his belief and practice of adult baptism," the Overseers nevertheless interrogated the first candidate, Edward Wigglesworth, to determine if he held orthodox views on "the divine right of infant baptism" among other doctrines (Hofstadter & Metzger, 1955, 109).

In 1735, Harvard's Overseers fired Louis Langloiserie as a French teacher when it became known that he held unsound doctrines and excessive "enthusiasm." The Overseers declared that they could "Examine into the principles of all those that are Employed in the instruction of the Students of the College upon any Just Suspicion of their holding dangerous tenents altho no Express Charge be Layed in against them” (Hofstadter & Metzger, 1955, 157).

Wigglesworth's son underwent a similar examination to be seated in his father's chair in 1765, although the Board of Overseers twice voted down a proposal to examine John Winthrop, who held the Hollis Professorship of Mathematics and Natural Philosophy, on his religious principles (Hofstadter & Metzger, 1955, 156).

Harvard was not alone in its repression of religious dissent. In 1722, Yale fired Rector Timothy Johnson for becoming an Episcopalian, and began examining all future rectors and tutors for faith (Hofstadter & Metzger, 1955, 158). In 1744, two students at Yale were expelled for attending Separatist church services with their parents, and failing to confess to their "crime" in the college hall. President Thomas Clap issued a pamphlet

defending the expulsion on the grounds that "it would be a Contradiction in the Civil Government to Support a College to Educate Students to trample upon their own laws" (Hofstadter & Metzger, 1955, 169). That same year, Samuel Cook was forced to resign under threat of an examination of his religious principles (Hofstadter & Metzger, 1955, 171).

The pressure for orthodoxy from community leaders was strong, especially because America's early private colleges received funding from the state. In 1742, Jonathan Edwards made a warning about the excessive liberalism of American colleges, a fear that would be repeated for centuries to follow: "It seems to me a reproach to the land, that ever it should be so with our colleges, that, instead of being places of the greatest advantages for true piety, one cannot send a child thither without great danger of his being infected as to his morals" (Hofstadter & Metzger, 1955, 161).

However, the religious diversity of the colonies made orthodoxy in college difficult to maintain, since students were sought from various sects throughout colonial America. The movement toward religious tolerance in colonial government was also a trend that grew in the American colleges as well.

By the mid-18<sup>th</sup> Century, the idea that American colleges would represent religious orthodoxy was fading. The 1746 charter for the College of New Jersey (Princeton) required that trustees could not exclude "any Person of any religious Denomination whatsoever from free and Equal Liberty and Advantage of Education" (Hofstadter & Metzger, 1955, 142).

But witchhunts still occurred, especially if unorthodox views of faculty were made public. In 1756, the University of Pennsylvania investigated Provost Smith after



newspapers attacked him for being irreligious and un-Pennsylvanian. However, the four members of the senior class testified that "in the whole Course of his Lectures on Ethics, Government and Commerce, he never advanced any other Principles than what were warranted by our standard Authors, Grotius, Puffendorf, Locke, and Hutcheson" (Hofstadter & Metzger, 1955, 202). In fact, the next year Provost Smith was jailed under a libel charge for publishing an article written by Judge William Moore which criticized the Quaker faction of the Pennsylvania Assembly. However, the trustees gave Smith permission to continue teaching "at the usual Hours in the Place of his present confinement," and a dozen students assembled in his jail cell for instruction (Hofstadter & Metzger, 1955, 205). It is difficult to imagine any 21<sup>st</sup> Century trustees who would support a professor held in prison or allow courses to meet in a jail cell.

In 1778, Ezra Stiles became President of Yale, with the promise from the Corporation that they would repeal the 1753 religious restrictions (Hofstadter & Metzger, 1955, 177). It was not the rights of faculty, but the rights of students, which sparked the development of academic freedom. Hofstadter noted, "freedom of thought as a consciously formulated goal appeared first as religious freedom for students" (Hofstadter & Metzger, 1955, 152). Religious orthodoxy was bad for business in a young country of diverse sects. In a 1802 appeal for money, Princeton officials noted, "No pupil with us has ever been questioned on sentiments, nor received any censure or disapprobation for making known his opinions either in speech or writing" (Hofstadter & Metzger, 1955, 152).

But this same reasoning did not apply to freedom of thought for faculty. Young teachers were cheap and easy to find; academic freedom for teachers wasn't

economically necessary, as it was to attract students. As Hofstadter noted, "Men often spoke of liberty of conscience but never applied it to the teaching function" (Hofstadter & Metzger, 1955, 111).

To the contrary, the leaders who ran America's early colleges maintained a tight hold over teaching, fearing that instructors might promote science above religion. In 1788, Harvard officials resolved that the Hollis Professor of Mathematics and Natural Philosophy "be directed, while he is delivering his Philosophical and Astronomical lectures, to make sure incidental reflections upon the Being, Perfections and Providence of God, as may arise from the subjects, and may tend seriously to impress the minds of youth" (Hofstadter & Metzger, 1955, 199). For Harvard, ordering a science professor to praise religion was more than simply a way to promote belief; it was also a warning that deviations from orthodoxy would be punished. However, as religious liberty for students became more widely accepted, similar liberties for faculty would be demanded, and the first steps toward academic freedom has begun.

### Campus Revolts

Attracting students in a religiously diverse country was not only the reason why American colleges developed religious freedom. The spirit of the American Revolution also had a strong influence on American higher education.

The revolts by American colonists were matched by student revolts against oppression on campus. In 1766 was the first recorded student rebellion, a riot at Harvard over the low quality of butter (Yamane, 2001, 11). It came shortly after the colonists successfully stopped the 1765 Stamp Act by threatening to tar and feather any tax collectors.

For faculty during the American Revolution, students posed the greatest threat. W.H. Cowley noted, “Harvard students drove out of Cambridge the tutor who directed British troops to Lexington” (Cowley, unpublished “Notes on Universities,” quoted in Lipset, 1976, 127). At Harvard, the Revolutionary War was followed by a seven-year rebellion beginning in 1790 against Harvard’s exams (Lipset, 1976, 128). Harvard experienced numerous student rebellions in the new nation. In 1818, four students were expelled for throwing dishes during a food riot (Lipset, 1976, 128). In 1823, more than half of the senior class was expelled right before graduation. In 1834, President Quincy was hanged in effigy because he brought in police to punish rioters. Students who wrote a circular defending the rebellion were deprived of their degrees (Morison, 1986, 185, 252).

Harvard was not the only college with student rebellions. At Princeton in 1806, half of the students were expelled after a riot (Bowes, 1964). At the University of Virginia in 1836, students rioted and formed a militia opposing the “tyrannical movements of the faculty” to remove all arms from campus (who apparently had good reason to worry, since in 1840 a professor was shot to death by a student) (Handlin and Handlin, 1970, 40-1).

#### Freedom and Slavery on Campus

While religion was the key free expression debate of the early American college, slavery became the most public question of academic freedom in the 19<sup>th</sup> Century.

Thomas Jefferson declared that in a world with a thousand religions, “free inquiry must be indulged, and how can we wish others to indulge it while we refuse it ourselves” (Jefferson, 1787). But even Jefferson did not live up to these ideals in the University of

Virginia. Jefferson wrote Madison in 1826, "In the selection of our law professor we must be rigorously attentive to his political principles" (Hofstadter & Metzger, 1955, 241). Jefferson predicted, "If we are true and vigilant in our trust, within a dozen or twenty years a majority of our own legislature will be from one school, and many disciples will have carried its doctrines home with them to their several states and will have leavened the whole mass" (Hofstadter & Metzger, 1955, 241).

Nor did Jefferson's university did not stand up for academic freedom when it came to slavery. In 1832, a member of the University of Virginia's student Jefferson Society publicly declared his support for the emancipation of slaves, which led the faculty to declare, "there should be no oration on any distracting question of state or national policy nor on any point of theological dispute" (Hunter, 213).

In 1856, after professor Benjamin Sherwood Hedrick at the University of North Carolina favored the Republican Party, the North Carolina Standard called the party "incompatible with our honor and safety as a people," and faculty repudiated his views. After being burned in effigy by students, Hedrick was fired after refusing to resign or change his anti-slavery views (Hofstadter & Metzger, 1955, 258).

The repression of anti-slavery sentiments was so powerful throughout the South that few professors would ever dare to espouse abolitionist views. Along the North/South border, however, the disputes about slavery that would lead to the Civil War sometimes could not be suppressed by colleges. In 1833, the Board of Trustees of Lane Theological Seminary in Cincinnati banned an antislavery society formed by students and some of the faculty, declaring that "education must be completed before the young are fitted to engage in the collisions of active life." A group of students, a professor, and a trustees

were dismissed for their views (Hofstadter & Metzger, 1955, 282). The faculty of abolitionist Berea College in Kentucky were forced to flee north after founder John Gregg Fee was reported to have endorsed John Brown's actions (Hofstadter & Metzger, 1955, 254).

But many colleges in the North also censored abolitionists. In 1833, three Western Reserve College professors in Ohio who advocated immediate abolition and racial equality were fired by trustees who sought gradual abolition and the removal of ex-slaves to Liberia (Goodheart, 1982, 421).

In 1835, Amherst College suppressed an anti-slavery society which included one-third of its students (Hofstadter & Metzger, 1955, 259-61). Carl Follen, a professor of German at Harvard, was “separated from his office” in 1836 for opposing slavery and President Quincy (Rockwell, 1950, 229). When Ralph Waldo Emerson came to speak at colleges, he was frequently denied the use of campus buildings (Roszak, 1968, 6).

The abolitionist movement in the North, however, was not immune from suppressing dissent. President Joseph Smith of Franklin College was fired for not being an abolitionist, and Judge Edward Greely Loring was dismissed from Harvard Law School because he had enforced the fugitive slave law (Hofstadter & Metzger, 1955, 260). President Nathan Lord of Dartmouth was forced out of his job for believing in the divinity of slavery. Lord complained about that the trustees' censure, saying that it was wrong for them "to impose any religious, ethical or political test upon any member of their own body or any member of the College Faculty, beyond what is recognized by the Charter of the Institution or express Statutes or stipulations conformed to that instrument” (Hofstadter & Metzger, 1955, 260).

The long-term impact of the abolitionist movement and the Civil War on academic freedom is more difficult to measure. The Civil War led to teacher loyalty oaths in states such as California (1863), Nevada (1866) and West Virginia (1867) (Fosse, 1951, 17).

Even when slavery was condemned, racism prevailed. In the 19th century and much of the 20<sup>th</sup> century, discrimination went unchallenged at American colleges. In 1845, Brown University refused to admit a black student because “southern patronage would be withdrawn” (Weinberg, 1977, 263). In 1850, when Harvard Medical School admitted three blacks on the condition that they emigrate to Africa after graduation, white students successfully demanded their dismissal out of opposition to racial integration and the fear that it would harm the value of their diplomas (the students also, with even fewer dissenters, condemned the possibility that a woman might be admitted) (Watson, 1998, 50).

Religious liberty in universities grew because of the economic necessity of recruiting students from across the country who came from diverse Christian backgrounds. But that same economic necessity caused many colleges, even in the North, to ban black students due to the need to recruit Southerners. Because of that economic influence, racism in higher education continued unabated after the Civil War concluded.

### God and Man on the 19<sup>th</sup> Century Campus

Despite the Civil War, religion remained a key point of controversy. But by the mid-19<sup>th</sup> Century, the principle of private religious freedom for faculty was beginning to be accepted, even if in practice religious liberty was often infringed. Wolcott Gibbs, a Unitarian, was not hired by Columbia's Episcopalian Board of Trustees in 1853 as a

physical science professor because of his religious views, even though the Columbia charter outlawed religious tests (Hofstadter & Metzger, 1955, 270-1).

In 1877, Cornell refused to reappoint Felix Adler because his lectures favored rationalistic views and in one case he suggested that some doctrines of Christianity could be discovered in other religions. Vice-President Russel admitted to Adler, "True wisdom, it seems to me, forbids my bringing on a contest where victory would not be of greatest importance, but where defeat would be lasting injury" (Hofstadter & Metzger, 1955, 340).

In many cases, it was the faculty who imposed religious orthodoxy. In the 1850s, the faculty at Yale expelled a student for leading twenty students to be "free thinkers" (Oren, 1985, 96). Yale rules until the 1860s declared: "If any student shall profess or endeavor to propagate a disbelief in the divine authority of the Holy Scriptures, and shall persist therein after admonition, he shall no longer be a member of the College" (Lucas, 1994, 129).

Discrimination against minority religious views was also common. Seymour Martin Lipset writes, "Few, if any, schools would hire Jews and Catholics, not to speak of overt atheists, until well into the nineteenth century" (Lipset, 1993, 73). In America, religious liberty was often a concept reserved for Protestants.

### The Fight Over Evolution

It was the rise of science which challenged the religious orthodoxy. The value of scientific knowledge was becoming increasingly apparent to the American economy. However, the question of evolution sparked widespread repression as religious authorities rejected Darwin's theory because it seemed to contradict the Biblical story of Genesis.

In 1878, Alexander Winchell was dismissed by Vanderbilt University for writing a pro-evolution tract on the origin of man before Adam. Winchell reports that Bishop Holland McTyeire, president of the trustees, told him: "We are having considerable annoyance from the criticisms which are passed by our people on some of your positions in matters of opinion, and it is likely to increase" (Hofstadter & Metzger, 1955, 331).

In 1879, Yale president Noah Porter ordered William Graham Sumner (whom he had hired despite opposition from the religious orthodoxy) to stop using Herbert Spencer's *Study of Sociology* as a textbook. Porter believed that Spencer's attacks on theistic views and "the cool and yet sarcastic effrontery with which he assumes that material elements and laws are the only forces and laws which any scientific man can recognize, seem to me to condemn the book as a textbook for a miscellaneous class in an undergraduate course" (Hofstadter & Metzger, 1955, 336). In 1884, James Woodrow was forced to resign as a professor of natural science at a Presbyterian seminary in Columbia, South Carolina because he advocated the theory of evolution (Warren, 1914, 693).

However, by the early 20<sup>th</sup> Century, the scientific consensus behind the theory of evolution was so strong that campus bans became much rarer. John Dewey observed in 1902, "The biological sciences are clearly in a transitional state. The conception of evolution is a test case. It is safe to say that no university worthy of the name would put any limitation upon instruction in this theory, or upon its use as an agency of research and classification" (Dewey, 1902, 4). It was in American high schools that the controversy over evolutionary science raged, most famously in the Scopes trial.

Evolution may have been the key dividing issue that began to sharply separate academic freedom for professors and academic freedom for schoolteachers. Whereas in



the late 19<sup>th</sup> Century, academic freedom was seen as a concept applying to all teachers (albeit not fully embraced), by the end of the 20<sup>th</sup> Century, academic freedom for schoolteachers would be almost forgotten. In part, this reflected the success of the Scientific Model of academic freedom. Because few schoolteachers held the Ph.D. or engaged in scientific research, they could not claim scientific expertise as a defense for academic freedom. The Scientific Model of academic freedom strengthened the claims of professors to autonomy, but it divided the profession of teaching and set higher education as a separate occupation entitled to its own unique privileges.

#### Academic Freedom and the Research University

Metzger argued for four reasons to explain the rise of academic freedom after the Civil War: 1) "the post-war university granted its teachers the time to engage in outside activities"; 2) colleges "brought in the professional scholar"; 3) academics "gave up the quiet retreat of moral philosophy and the sanctuary of classical economics for the faculty study of social problems and the evaluation of social policy"; and 4) "the rise of the philosophy of pragmatism, which sanctioned the participation of men of thought in worldly problems and affairs" (Metzger, 1961, 130).

While these factors were important, there were two general developments near the end of the 19<sup>th</sup> Century that created the climate which made academic freedom necessary. The first was the rise of the research university. In the age of the college, freedom was of minimal importance for faculty. Their job was not to think of new ideas, but to transmit the old ones to another generation of ministers and aristocrats. Freedom was not only expendable, but downright dangerous to a system in which the preservation and glorification of classical knowledge was supreme. As new colleges were established

in America and competition for students grew, elite institutions needed a way to differentiate themselves from their peers. The quality of the faculty took on a new importance, and publication of research was the most obvious way to display faculty expertise to students. The growing research universities valued scholarly activity and encouraged it among the faculty (Thelin, 2011).

The second development that followed was the creation of professional standards and departmental affiliations. When faculty were ordered to teach a traditional curriculum of ancient ideas, and hiring and firing were solely in the hands of the president and board of trustees, the idea of academic freedom held little influence. But as universities expanded and divided into more specialized fields, the faculty themselves became the most qualified judges of a candidate's suitability. The universities were moving away from the hierarchical control of faculty in the older English system toward the decentralized German model.

With the growth of the American university near the end of the 19th century, research became the new guiding idea. Professors now were supposed to discover new knowledge, not just repeat the old thoughts as sacred writ. To research new ideas, professors often became the source of controversial ideas. And the ideology of scientific research spread to the study of human problems, which would lead to the biggest academic freedom debates of the 20th century.

#### Lehrfreiheit Comes to America

The American research university was a hybrid of the German University and the English College. And the guiding concept of academic freedom was likewise a hybrid of the reigning concepts in these two institutions, the scientific model and the gentleman

model. It is too simplistic to merely associate the scientific model with Germany and the gentleman model with England; each nation's universities incorporated both models in the concept of academic freedom.

Designed to imitate the German university where research was emphasized, the American university adopted the two German principles of *Lehrfreiheit* and *Lernfreiheit*. According to Metzger, *Lehrfreiheit* meant "the university professor was free to examine bodies of evidence and to report his findings in lecture or published form--that he enjoyed freedom of teaching and freedom of inquiry" (Metzger, 1961, 112-3). *Lernfreiheit* meant that students "were free to roam from place to place, sampling academic wares; that wherever they lighted, they were free to determine the choice and sequence of courses, and were responsible to no one for regular attendance; that they were exempted from all tests save the final examination; that they lived in private quarters and controlled their private lives" (Metzger, 1961, 112). This freedom for professors was necessary in order to provide opportunities for specialization and development of new ideas which drove the research university.

However, the American universities never fully accepted these German principles. Students never received the full freedoms implied by *Lernfreiheit*, although in many universities the traditional fixed curriculum was dramatically weakened. And although some verbal support was given to the idea of academic freedom, in practice it was greatly limited and not institutionalized until after the formation of the AAUP in 1915.

In the early years of the universities, the old ethic of the college age prevailed, where instructors, even with tenure, had no protections of academic freedom.

Administrators had almost unlimited authority to dismiss professors, usually those who were deemed too radical in their public statements. This was true even at the most prestigious universities.

But *Lehrfreiheit* had a much more dramatic effect on American universities. Richard Ely observed in 1938, “The development of science also depends very largely on an atmosphere of freedom of thought and expression, upon what the Germans call *Lehrfreiheit* und *Lernfreiheit*—freedom to think and freedom to express one’s thoughts to one’s fellows. When I first went to Germany I seemed to breathe a new and exhilarating atmosphere of freedom. There was a free and large spirit on the part of the professors to which I had not been accustomed” (Lucas, 1994, 124).

Connolly (2000) argues that the 1915 AAUP Declaration citing *Lehrfreiheit* and *Lernfreiheit* was a “reference to a tradition of academic freedom, something we certainly did not have in the United States....” However, academic freedom was not unknown in America, nor had it reached some idealized stage in Germany. Instead, the German concept of academic freedom was espoused (and often exaggerated) in the United States because scholars (often with only limited experience of how it worked in Germany) saw it as a way to push for improvements in America.

Boyer (2002) noted how the University of Chicago in 1904 celebrated its 15th anniversary by honoring the German research university and giving five honorary doctorates to German scholars. Boyer argued, “what some American academics had already begun to understand by the concept of *Lehrfreiheit* was in fact a more full blown ‘academic freedom,’ a more ambitious and robust notion that included the freedom enjoyed by scholars to speak on issues beyond one’s narrow field of scholarship and,

even more significantly, beyond the walls of one's home university" (Boyer, 2002).

American professors used an idealized picture of *Lehrfreiheit* to push for a much broader concept of academic freedom than ever existed in German universities.

Germany was far from being a paradise of academic liberty; in fact, the concept of academic freedom in Germany developed in response to repression. In September 1819, the German Diet ratified the Carlsbad Decrees, creating truth commissions for each university "to observe very carefully the spirit with which the professors and tutors are guided in their public and private lectures." Professors would be removed if "in overstepping the bounds of their duty, in abusing their legitimate influence over the minds of youth, by the propagation of pernicious dogma, hostile to order and public tranquility, or in sapping the foundation of existing establishments, they have shown themselves incapable of executing the important functions entrusted to them" (Fosse, 1951, 15) No writing was allowed in a newspaper or periodical without advance consent.

It was this kind of repression in Germany—far worse than in America, where the restrictions on academic freedom came largely from trustees and administrators, not legislators—that sparked the drive for *Lehrfreiheit* and *Lernfreiheit* to become dominant in the 19<sup>th</sup> Century. And in Germany, *Lehrfreiheit* and *Lernfreiheit* were strictly limited concepts. *Lernfreiheit* never meant that students would be free to express themselves, inside or outside the classroom. *Lehrfreiheit* applied only to senior scholars at the elite universities, not every professor, and it was sharply limited to classroom speech and scientific research, not political debates.

In America, as in Germany, academic freedom was not derived from an abstract analysis of the ideal university, but from actual experience with restrictions on liberty.

Americans derived a unique interpretation of academic freedom, but the German conception of *Lehrfreiheit* deeply influenced how the Scientific Model of academic freedom was developed and embraced.

#### Economics and the Fight over Academic Freedom

The concept of academic freedom in America was primarily developed during the first two decades of the 20<sup>th</sup> Century, and the understanding of it was shaped by the most prominent controversies at leading universities during the last years of the 19<sup>th</sup> Century. The cases of Edward Bemis at the University of Chicago, Edward Ross at Stanford University, and Richard Ely at the University of Wisconsin all helped to provoke awareness of the threat to academic freedom and the need for academia to create an organization, the American Association of University Professors, that could defend it.

It is no coincidence that these three cases all dealt with economics, and all involved left-leaning professors critiquing policies of the wealthiest class. By the end of the 19<sup>th</sup> Century, businessmen replaced the clergy as the primary conservative influence upon American colleges at the elite level. The growth of the industrial economy had created a new class of millionaires under pressure to prove their social worth. Colleges turned to businessmen not only as donors but also as managers, filling Boards of Trustees with wealthy men. Not surprisingly, the primary intellectual conflicts at colleges were no longer about religion, but economics.

It is also no coincidence that the first American organization which made academic freedom one of its core principles was an association of economists. In 1885, the American Economic Association was formed, and declared that one of its four purposes was, “The encouragement of perfect freedom in all economic discussion” (Ely,

1938, 136). Ely declared, “The American Economic Association took a stand at its organization for entire freedom of discussion. We were thoroughly devoted to the idea of the German university--Lehrfreiheit und Lernfreiheit; and we have not hesitated to enter the lists vigorously in favor of freedom when we have considered it endangered” (Ely, 1938, 146). Ely noted, “we did feel at first that it required a struggle to find a place in our academic life for free expression of our views” (Ely, 1938, 146).

But economists were fighting against a widespread belief that academic freedom could not include the right to dissent from the views of one’s employer. In the 1880s, Henry Carter Adams was fired from Cornell for giving a pro-labor speech that offended an important donor (Hofstadter & Metzger, 1955, 419).

In 1892, George Steele, president of Lawrence University, was fired for his views on free trade (Will, 1901). At Brown University, the Board of Trustees told President E.B. Andrews to cease discussing his support of free silver because “these views were so contrary to the views generally held by the friends of the University that the University had already lost gifts and legacies which would otherwise have come or have been assured to it, and that without change it would in the future fail to receive the pecuniary support which is requisite.” Although a public outcry pressured the Board to back down, Andrews was forced to resign a year later (Will, 1901). The case revealed that many newspapers rejected the concept of academic freedom. The *New York Express* proclaimed in 1897, “The trustees have the unquestionable right to suppress teaching which they believe to be false as well as injurious to the college” (Will, 1901, 251). The *Philadelphia Commonwealth* added in 1897, “The trustees had indeed a right to expect him to shape his teachings in economics to meet their views” (Will, 1901, 251).

When Northwestern President Henry Rogers resigned in 1900, one trustee noted that the board "took the ground that as head of the University he should not voice opinions that were antagonistic to the board of managers" and that the people "giving large endowments to its funds are nearly all opposed to the political views expressed from time to time by Mr. Rogers" (Will, 1901, 256). James Henry Raymond, a Northwestern trustee, noted: "A professor is not a mere parrot to repeat and fairly explain to his students the diametrically opposite premises, arguments, and conclusions of the writers and teachers of the ages upon any given subject. He must of necessity be an advocate, but his advocacy must be in harmony with the conclusions of the powers that be, with the animus and main purposes of the institutions, and the teachings of his collaborators" (Will, 1901, 252-3). Raymond's view may have been shared by many trustees, but academics rejected it. Raymond argued that professors must be advocates of "the powers that be." Against this notion of academic servility, professors sought to use the ideas of objectivity and neutrality, holding that academia could offer the public a balanced arbiter in the world of ideas, someone who would not stand with the powers that be, but also would not blindly oppose them. The Gentleman Scientist Model was meant to protect academia from the dangers posed by pro-business trustees, administrators, and politicians who felt that faculty should be mere employees of the college, speaking in total harmony with its aims.

In the early years of the universities, the old ethic of the college age prevailed, where instructors, even with tenure, had no protections for academic freedom. Administrators had almost unlimited authority to dismiss professors, usually those who



were deemed too radical in their public statements. This was true even at the most prestigious universities.

The University of Chicago's first president, William Rainey Harper, was typical in the controls he placed on students and faculty to prevent them from expressing any radical ideas. Harper, who himself had been accused of religiously unorthodox views, vetoed a plan by some students to form an unacceptably liberal religious association. Though John D. Rockefeller, who provided the millions of dollars which created the University of Chicago, usually stayed out of university affairs, he kept a closer watch on religion. In 1892, an address by actor Joseph Jefferson after chapel services caused conservative Baptists to complain to Rockefeller, who in turn raised his concerns with Harper. Harper apologized for appearing "to be endorsing the theatre in general," and wrote that "the whole event must be regarded as a mistake" (Olasky, 2000, 142). Harper also praised Rockefeller's "deep personal interest in the religious condition of the University" (Marsden, 1994, 244). Harper also wrote to Rockefeller in 1900 to make sure that J. Franklin Jameson was acceptable to him before allowing his hiring (Karier, 1975, 43).

#### The Bemis Affair

One of the most famous academic freedom cases of the late 19<sup>th</sup> Century involved University of Chicago economist Edward Bemis. In some ways, the Bemis case was important precisely because University of Chicago officials denied any bad motives and expressed their strong devotion to academic freedom. The Bemis case exposed the fact that the threat to academic freedom existed at even the most prestigious universities, and

that university authorities could easily conceal their true motives behind a professed allegiance to the emerging concept of academic freedom (Barber, 1993).

Economics at the University of Chicago had a conservative flavor from the start, long before the “Chicago School” ever became infamous. Milton Friedman wrote, “The Chicago Department of Economics has been a leading center of graduate economics ever since the founding of the university in 1890. James Laurence Laughlin, the first chairman of the department, who was recruited by Harper from Cornell, set a pattern that has been maintained ever since. Himself a hard-money man of rigidly conservative views, he demonstrated an extraordinary degree of tolerance in staffing and guiding the department” (Friedman and Friedman, 1998, 191). Yet Laughlin’s “extraordinary degree of tolerance” included rejecting almost all liberal-minded scholars, and helping to fire a left-leaning economist in one of the most famous cases in the history of academic freedom.

Considering the future fame of the conservative Chicago School of Economics, it may be shocking to learn that Laughlin's appointment was mainly chance. In fact, the University of Chicago came remarkably close to hiring Richard Ely, a leftist economist at Johns Hopkins. Chicago's founding president, William Rainey Harper, wanted Ely, who wrote Harper that he would help Chicago economics "to make its influence felt on political life and to elevate practical politics” (Barber, 1993, 248).

In the late 19<sup>th</sup> century, liberal economists were the leaders in the field producing the cutting edge results. But they had an economic dispute: Harper and Ely couldn't agree on a salary: Ely wanted \$5,000 a year, and Harper offered only \$4,000. Ely wrote to Harper on March 20, 1891, "you must raise your prices somewhat in order to get the man

who will make the University the success which we desire” (Barber, 1993, 247). For the want of \$1,000, the entire history of the Chicago School--along with the future of economic thought and American policies--might have been radically different. And the firing of Edward Bemis became possible.

The opposite of Ely, Laughlin was one of the most conservative economists in the country. He adhered to the gold standard. For more than two decades until his retirement in 1916, Laughlin held dictatorial power over appointments in economics, and he did not suffer gently those he regarded as fools. However, Laughlin was also called “Uncle Larry” by his students, and he insisted on bringing Thorstein Veblen with him from Cornell to Chicago, even though Veblen’s progressive views did not conform to Laughlin’s ideology (Barber, 1993, 256).

Laughlin did have strict limits to his tolerance, and Harper worried that the University of Chicago might fall in stature if did not include the cutting edge of research. At the first faculty meeting in 1892, Harper declared: "The question before us is how to become one in spirit, not necessarily in opinions” (Levine, 2007, 67). Harper wanted to hire Edward Bemis, a leading young proponent of the left-leaning “new institutionalist” view of economics.

Laughlin strongly opposed Bemis, declaring that “I do not believe he is competent to treat a difficult economic problem.” Bemis wrote to Harper in 1892 that it would be "most embarrassing and hazardous for myself or indeed any man of the new economic movement" to serve under Laughlin. Bemis noted that he saw Harper "did not intend to have any one school of economics dominate in U'v's'ty, but would have all sides represented on an equal footing." Bemis even proposed a "double department" to allow

this diversity when Laughlin would not; however, Harper instead gave Bemis an associate professorship in the extension division, which carried tenure. But Bemis demanded to spend one quarter each year teaching in the University itself. Laughlin wrote to Harper that Bemis “seriously impairs the morale of his department,” and because of the dispute with Laughlin, Bemis was assigned to sociology (Boyer, 2002, 3).

Harper would soon regret his efforts to hire Bemis. In January 1894, he asked Bemis to look for another position, due to Laughlin’s continued lobbying to get rid of him (Boyer, 2002, 3). Bemis wouldn’t leave, and he refused to keep quiet. In the summer of 1894, Bemis publicly attacked the railroad companies during the Pullman strike, creating an embarrassing controversy for the University. The *Chicago Times* reported on July 16, 1894 that Bemis declared, “If the railroads would expect their men to be law abiding they must set the example,” and he accused railroads of “open violations of the Interstate Commerce law” (Boyer, 2002, 3).

Today, such a statement would hardly be newsworthy (particularly because it was true), let alone justify the firing of a professor. But Harper was angered, and wrote to Bemis: “Your speech at the First Presbyterian Church has caused me a great deal of annoyance. It is hardly safe for me to venture into any of the Chicago clubs. I am pounced upon from all sides. I propose that during the remainder of your connection with the University you exercise great care in public utterances about questions that are agitating the minds of the people” (Boyer, 2002, 3). The gentlemanly model decreed that a professor’s remarks should not make it uncomfortable for a president to enter an exclusive club.

Laughlin was also outraged by Bemis because Laughlin wanted the railroad companies to donate money to the economics department for a center to study railway economics. Laughlin wrote to Harper later that summer, accusing Bemis of being “wholly one-sided on the railway question” and warning that Bemis' insults against the head of the Chicago & Northwestern Railway threatened a potential donor: “in antagonizing Pres. Hughitt he is making very difficult the establishment of a great railway interest in the University” (Boyer, 2002, 3). Although Laughlin invoked the objectivity of the scientific model in his letter, he scarcely seemed to care that he was one-sided on the railway question, too, albeit in support of the railroads.

Harper noted privately, "It is all very well to sympathize with the working man, but we get our money from those on the other side, and we can't afford to offend them." Trustee Fred W. Peck declared, "The trustees should see to it that in teaching...no unsound financial doctrines nor anything of a dangerous character be taught" (Will, 1901, 254).

Bemis was hardly militant in his response to Harper, claiming that he urged trade unions not to strike and "tried to calm the troubled water while making use of the opportunity to urge upon employers a conciliatory Christ-like attitude." However, it was too late for Bemis: Harper and sociology chair Albion Small asked him to resign in December 1894 (Boyer, 2002, 3).

Bemis initially followed the gentlemanly model by keeping his dismissal out of the news. But in 1895, Bemis went public and denounced Harper (Boyer, 2002, 3). Bemis joined up with Richard Ely to launch a national attack on Harper that sometimes strayed from the truth. Ely, for example, falsely claimed that he had rejected Harper's offer to be

a professor “because the institution was supported in part by a monopolist.” Bemis and Ely even placed a false anonymous letter in the *New York World* which asserted that Harper denied offering Ely the post, prompting Ely to write to Harper, hoping to embarrass him into publicly stating the truth (Boyer, 2002, 3).

Yet Harper and his supporters were equally deceptive in their replies. Harper denied any violation of academic freedom, claiming Bemis was “incompetent,” a common excuse for removing troublesome faculty (Boyer, 2002, 3). “This outcry about violation of academic freedom is a mechanically manufactured alarm,” declared Small. “The American professor whose digestion is good and who has escaped brain-fag has all the freedom that he wants. He knows that he could not have more without resorting to license that would place him among social quacks” (Small, 1899, 471). However, Small had worried early on about Bemis' political views, asking him in a March 31, 1892 note to make his classes “only incidently and secondarily controversial” (Boyer, 2002, 3).

The controversy forced Harper to publicly announce his devotion to academic freedom in June 1895: “Any statement to the effect that the University has in any way restricted the liberty of its professors in the declaration of their opinions, or in the performance of their duties as free citizens, I declare to be absolutely false.” But Harper also noted, “Care however should be taken not to confound personal privilege with official duty, not to mistake popular pleading for scientific thought” (Boyer, 2002, 4). In Harper’s view, a scientist was entitled to academic freedom, but someone who sought to influence the general public, rather than fellow scholars, was not entitled to protection. This was the embodiment of the Gentleman Scientist Model.

Small not only denied the fact that Bemis had been fired for his political views, but also wrote an essay on academic freedom discounting any threat to intellectual freedom at any leading university. Small wrote in 1899, "With reference to alleged cases of interference with academic freedom, of which only hearsay reports have reached me, I have yet to learn of the first instance in which the evidence presented seems to justify the rumor" (Small, 1899, 463). Small denied "that an authenticated case has ever come to my knowledge in connection with the non-State institutions" (Small, 1899, 463). Small's state of denial reflected his personal involvement in the Bemis case. To admit that academic freedom was endangered would require confessing his own failure to protect Bemis. Instead, Small made the bizarre claim that no professor at a private university had ever been denied academic freedom.

But Small's view of the state of academic freedom also reflected the severe limits he placed on the concept. According to Small, "Absolute freedom is a speculative abstraction which has no counterpart in reality. No man is free. We are simply free within the limits set by our responsibilities" (Small, 1899, 464). Small saw "responsibility" in very broad terms: "The professor is responsible again to his students. His business is to develop in them first and foremost intellectual integrity and morality. Knowledge is secondary. Right intellectual conduct is primary" (Small, 1899, 465). For Small, the search for knowledge was no defense. Professors had the responsibility to conceal the truth if it might damage their tender students. Small's notion that "right intellectual conduct" mattered more than knowledge reflected the old view that higher education primarily taught morality, not truth. This was the gentlemanly half of the Gentleman Scientist, the belief that moral goodness was the first duty of a professor. Of course, this

“right intellectual conduct” did not include being an agitator like Bemis. As Small noted about any professor: "Whatever his other deficiencies, he should be above suspicion of intellectual irresponsibility" (Small, 1899, 465).

To allow full academic freedom would, in Small's view, ruin the profession. Because Small embraced such a broad sense of misconduct by professors, it is little wonder that he never saw academic freedom endangered at any university, or in his own conduct.

Small even defended the wealthy businessman who provided both the funding for universities and dominated boards of trustees. He argued that "American rich men are not the enemies of humanity" because of "their loyal support of institutions whose ideals and traditions are distinctly different from those of pure business" (Small, 1899, 471). Small contended in another apparent reference to Bemis, "If there is any board of trustees in this country that muzzles a professor of economics or sociology in the interest of wealth, I do not know the institution which it controls. From my personal knowledge of conditions of instruction in those subjects, I should at once suspect that a professor who demands more liberty than he enjoys probably wants a sort of liberty to which he has no right" (Small, 1899, 471). Small also invoked the scientific model of academic freedom, but only in order to denounce what he called "partialism posing as science" (Small, 1899, 471), or the effort to extend academic freedom to ideas which had not been scientifically proven.

Thus, Small concluded, "This outcry about violation of academic freedom is a mechanically manufactured alarm" (Small, 1899, 471). Small opposed a broader view of academic freedom because he saw it as a threat to the scientific status of the profession. If professors had the academic freedom to speak, the entire profession would be reduced to



the level of “social quacks.” Therefore, to protect the sanctity of academia, the broad concept of academic freedom had to be rejected.

Small’s fundamental error was assuming that the only people who ever suffered infringements of academic freedom would be the “social quacks” who deserved repression—a mistake that Small perhaps felt was justified by his experience with the troublesome Bemis case. Nor did Small consider how restriction of the extremes would tend to silence even those with more moderate views, and increase the potential to punish many more perspectives.

As Small’s viewpoint indicated, there was no consensus about the meaning of academic freedom in America at the end of the 19<sup>th</sup> Century. Although the term “academic freedom” itself had been well established within academia as a noble concept (hence the intense efforts by Small and Harper to deny any misconduct in the Bemis case, despite the fact that their personal letters indicated otherwise), there was no operational definition or enforcement mechanism.

#### Economic Orthodoxy in the American University

Edward Bemis was not the only victim of economic orthodoxy at the University of Chicago. In 1894, Docent I.A. Hourwich attended a Populist Party convention and was given the choice of resigning or stopping his political activities. He resigned. The trustees’ minutes merely record Hourwich resignation, but the explanation leaked out to sympathetic media. The suburban *Elgin News* reported on November 8, 1895: “Chicago University seems to be singularly unfortunate in its professors of political economy. Following the lead of the old school writers of free trade, they not only teach their heresies but go a step further and champion the pernicious doctrines of socialism and

populism. Prof. Bemis was 'resigned' for that cause, and now Dr. Isaac Hourwich is debarred from teaching because he is an 'avowed socialist, an infidel, and a sympathizer with the people's party.' The last count is not so bad, because every man has a right to his political convictions, but no self-respecting institution should retain for an hour among its lecturers one who holds such dangerous opinions as Dr. Hourwich. While the prompt action of President Harper saved the university from serious harm, he should be warned against nominating men to professorships till their fitness is fully ascertained" (Metzger, 1961, 149).

Harper continued to rein in faculty who strayed too far from the mainstream. Harper wrote to John D. Rockefeller in 1900 to make sure that J. Franklin Jameson was acceptable to him before allowing his hiring (Novick, 1988, 64).

In his President's Report of 1900, Harper noted: "A professor is guilty of an abuse of his privilege who promulgates as truth ideas or opinions which have not been tested scientifically by his colleagues in the same department of research or investigation" (Boyer, 2002, 4). Harper's scientific model of academic freedom, following closely the attitude of Small, held that a faculty who strayed from his colleagues with controversial views was not entitled to the protections given to scientists. However, Harper also believed in the gentlemanly model, holding that faculty must exercise "common sense" by refraining from being partisans or speaking outside their given area of expertise.

Harper declared, "There is not an institution of learning in the country in which freedom of teaching is more absolutely untrammelled than in the University of Chicago" and said, "freedom of expression must be given to members of a university faculty, even tho it be abused, for the abuse of it is not so great an evil as the restriction of such

liberty." However, Harper was better at expressing the tenets of academic freedom than following them.

In 1903, Harper warned Jerome Raymond, associate professor of sociology, that some of his Extension lectures stirred up strife. In 1906, Veblen was pressured into resigning by Harper because of his extramarital activities (as C. Wright Mills politely put it, "Girls, we are told, liked Veblen, and he did not really object"). Dean Marion Talbot argued that same year that students who gave newspapers information about the prevalence of gambling on campus should be summarily expelled, even if the information was true.

However, Harper was still committed in theory to the idea of diversity, despite the trouble it caused him. Even as Bemis was leaving, Harper hired Edmund James to teach political science in the extension division. In 1901, when James held lectures on "modern social and economic problems" and included guest speakers such as Edward Ross—the economist fired by Stanford University for his left-leaning views—Laughlin erupted in anger at someone stepping on his turf. Laughlin wrote to Harper, reminding him of the problems with Bemis and warning, "we are laying up difficulties for ourselves in the future."

The University of Chicago was not unique in the restraints it placed on faculty; Edward Bemis would be fired again for his economic views in 1899, this time from the Kansas State Agricultural College (Will, 1901, 255). The limits on academic freedom were expressed by James Henry Raymond, a trustee at Northwestern, who declared that social scientists should in all things "promptly and gracefully submit to the final determination of the trustees" (Will, 1901, 252). Raymond added that a professor's

"advocacy must be in harmony with the conclusions of the powers that be, with the animus and main purposes of the institutions, and the teachings of his co-laborers" (Will, 1901, 253). Most leaders of leading universities agreed wholeheartedly with Raymond's views. James Allen Smith was dismissed from Marietta College in 1897 for his anti-monopoly teaching, along with a number of liberal teachers (Will, 1901, 255). Even President Schurman of Cornell University, who spoke out strongly for scientific freedom, supported the dismissal of a professor in favor of free silver (Will, 1901, 253).

#### The Case of Edward Ross

Perhaps the most famous case regarding academic freedom involved Edward Ross at Stanford. As Joan Wallach Scott puts it, "In 1901 Edward Ross, a liberal economist at Stanford University, was fired at the insistence of Jane Stanford, who found repugnant his views on economic reform and his criticism of the economic policies of her husband, Stanford University founder Leland Stanford" (Scott, 2002). Jane Stanford wrote to President David Starr Jordan, "Professor Ross cannot be trusted, and he should go" (Hofstadter and Metzger, 1955, 439).

President Jordan proclaimed, "No one has the right to speak for the University in any matter of opinion, but each man as a private citizen is perfectly free to take any stand in politics he may choose." (Elliott, 1937, 336). Ross was accused of using his position in 1896 to support William Jennings Bryan's political campaign and his stand for free silver, even though 50 Stanford professors supported McKinley publicly in 1896 without censure (Metzger, 1961, 167).

But the key reason why Jane Stanford ordered the firing of Ross was his opposition to the importation of Chinese laborers to build the railroads, in which the

Stanford family had a strong financial interest. However, William Tierney has argued that the Ross case is much more complex. Ross' opposition to immigration was put in blatantly racist terms. Ross declared in 1900, "The Oriental can elbow the American to one side in the common occupations because he has fewer wants. To let this go on, to let the American be driven by coolie competition, to check the American birth-rate in order that the Japanese birthrate shall not be checked . . . is to reverse the current of progress, to commit race suicide. . . . We are resolutely determined that California, this latest and loveliest seat of the Aryan race, shall not become, if we can help it, the theater of such a stern, wolfish struggle for existence as prevails throughout the Orient" (Tierney, 2004).

After reading Ross' speech, Jane Stanford wrote to President Jordan. "I am grieved to the depths of my heart" and expressed her fear that anti-Chinese prejudice would lead to a reign of terror. Stanford declared, "The teaching of violence is inconsistent with the Founding Grant" (Tierney, 2004). Jane Stanford defended the Chinese against racism, including an effort in 1891 by Stanford students to ban Chinese workers from Stanford's cafeterias. But her maternalistic concern for Chinese people did not apparently extend to the conditions of those workers who suffered tremendous exploitation and loss of life helping to make her family more wealthy.

Jordan tried to persuade Stanford to change her mind, but he ultimately obeyed his orders and dismissed Ross. Fifteen economists, including some of the most conservative in America, endorsed the report of an American Economic Association committee criticizing Stanford's action (Will, 1901, 256). When Stanford professor George Howard declared, "I do not worship Saint Market Street; I do not reverence Holy Standard Oil; nor do I doff my hat to the celestial Six Companies," he was forced by

order of Jane Stanford to apologize or resign, and chose the latter option (Will, 1901, 256). Seven Stanford professors resigned to protest the firings. Perhaps the most significant result of the Ross controversy was its impact on the thought of philosopher Arthur Lovejoy, who left Stanford University and moved on to Johns Hopkins University, where he became the most powerful influence in creating the AAUP and influencing its early approach to academic freedom (Scott, 2002).

The racism of Edward Ross should make us realize how widespread bigotry was in academia. However, many classic cases of academic freedom have involved faculty expressing vile beliefs. The firing of Ross reflected the insecurity of academics, and inspired enormous concern on college campuses. The fact that Ross' views should have been condemned along with his dismissal doesn't change the fundamental issue of academic freedom at stake in his case.

#### Defending Academic Freedom in Wisconsin

Not all early cases about academic freedom were horror stories. Richard Ely, the director of the University of Wisconsin School of Economics, Politics, and History, was tried by a committee on the Regents for supporting "strikes and boycotts, justifying and encouraging the one while practicing the other" (Metzger, 1961, 152). Ely was denounced by Regent Oliver Wells, who was elected Wisconsin's state superintendent of education in 1892. Wells declared that Ely "supports strikes and boycotts, as evidenced by his entertaining at home and advising an out-of-state union organizer fomenting labor unrest in Madison and by his withdrawing a contract when the printer refused to unionize his workplace. His books, intentionally written for the masses and widely marketed by the University, trick the general population into accepting his revolutionary views

through his pious cant and ostentatious sympathy for all who were in distress” (Wells, 1894).

At the July 31, 1894 Regents meeting, a committee of three people was appointed to investigate Ely. Wells, who was elected Wisconsin’s state superintendent of education in 1892, declared that Ely's books provided a "moral justification of attack upon life and property" and were "utopian, impracticable or pernicious” (Metzger, 152). It was true that Ely was a radical compared to other 19<sup>th</sup> Century faculty; he was the first academic economist to speak to a national labor union when he addressed the American Federation of Labor in 1887. But Ely defended himself by declaring, “I am neither a socialist nor an anarchist, and although I favor labor unions, I have a limited faith in them” (Shiell, 2005b). Ely’s numerous friends and former students jumped to his defense, and Wells’ accusations proved to be shaky at best under scrutiny.

Ely was eventually exonerated and the Regents’ committee made a strong declaration of academic freedom: “we could not for a moment think of recommending the dismissal or even the criticism of a teacher even if some of his opinions should, in some quarters, be regarded as visionary. Such a course would be equivalent to saying no professor should teach anything which is not accepted by everyone as true. This would cut our curriculum down to very small proportions. We cannot for a moment believe that knowledge has reached its final goal, or that the present condition of society is perfect. We must therefore welcome from our teachers such discussions as shall suggest the means and prepare the way by which knowledge may be extended, present evils be removed and others prevented. We feel that we would be unworthy of the position we hold if we did not believe in progress in all departments of knowledge. In all lines of

academic investigation it is of utmost importance that the investigator should be absolutely free to follow the indications of truth wherever they may lead. Whatever may be the limitations which trammel inquiry elsewhere we believe the great state University of Wisconsin should ever encourage the continual and fearless sifting and winnowing by which alone the truth can be found” (Herfurth, 1998).

The committee’s defense of academic freedom was one of the strongest ever made, and it was extraordinary for the 19<sup>th</sup> Century. But as Goldstein noted, "it could hardly escape the attention of other teachers that the alleged holding of 'radical' opinions could lead to problems and that Ely himself denied the charges against him and said that had they been true they would 'unquestionably unfit me to occupy a responsible position as an instructor of youth in a great University.'"(Goldstein, 2001). It is noteworthy that Ely never invoked academic freedom to express radical ideas; instead, he denied the charges made against him, and declared that if they were true, he would deserve being fired. Ely’s approach put him well within the mainstream of the gentleman model of academic freedom, since he denied any rights of free expression for professors.

The University of Wisconsin’s strong stand for academic freedom did not end all future controversies. In November 1909, after historian Frederic Jackson Turner left Madison for Harvard, President Van Hise reached a compromise with the Regents to stop interference. However, that deal quickly fell apart. In January 1910, the Regents unanimously censured sociology professor Edward Ross, who had come to Wisconsin to be with Ely, his former professor, and benefit from the tradition of academic freedom at Madison. Ross was censured because he defended the right of anarchist Emma Goldman to speak in Madison, for escorting her around campus, for giving her a tour of the



campus, and for inviting Parker Sercombe (who happened to be an advocate of free love) to speak to his class about educational theories (Shiell, 2005a; Downs, 2005, 191).

President Van Hise did not defend these actions, but instead sought to minimize them: “In the first place it would be an injustice; for the mistakes which professor Ross has made are no sufficiently grave to have more weight than years of service as a teacher highly appreciated by his students, including many of the higher grade; second, the removal of a professor on the grounds considered would damage the University most seriously in the eyes of the academic world. The effects of such a drastic action as the removal of a professor holding a continuing appointment for so inadequate a cause would not be overcome for years” (Shiell, 2005a). Political activists in the Class of 1910 decided to cast the Regents’ 1894 statement in bronze and presented it to the Regents (who refused to allow it to be hung, and stored it in the basement of Bascom Hall). But the Regents backed down from any further action.

The Class of 1910’s tablet would prove to be remarkably difficult to avoid. Alumni lobbied to the Regents to display it on campus. Finally, in 1915, the Regents (which had shifted from conservative to progressive control) agreed to a compromise, putting it up in Bascom Hall if the members of the Class of 1910 withdrew their claims that the Regents were violating academic freedom (Shiell, 2005a).

Van Hise proclaimed in 1915, “There are no ‘sacred cows’ at Wisconsin. There is no such thing as ‘standardized’ teaching in any subject. Professors and instructors present faithfully the various sides of each problem. Their duty is to train the students to independent thinking. They are in no sense propagandists for any class or interest” (Shiell, 2005a). Van Hise’s actions toward academic freedom displayed more

ambivalence than his ringing words. In 1912, he gave a commencement address defending the academic freedom of philosopher Max Otto, who had been attacked for criticizing belief in God in his class, "Man and Nature" (Shiell, 2005a). But in 1914, Van Hise asked the faculty to refrain from discussing the growing conflict in Europe, whether inside or out of class, until he backed down after a Regent expressed concern that this threatened academic freedom (Shiell, 2005a).

### The Culture of Academic Conformity

Conformity was a common value at the turn of the century. President Draper of the University of Illinois, who feared that students who went to Europe would come back with "un-American ideas, and perhaps loose habits," also advised students: "Do not stand aloof;...above all, do not get to be a freak. Keep in step with the procession. It is a pretty good crowd and it is generally moving in the right direction" (Veysey, 1965, 78, 428). Faculty were also quite conservative. William Dodd wrote that the faculty at the University of Chicago hated President Woodrow Wilson so much that the faculty club "took his picture down from a conspicuous place in the main room and put it behind the door upstairs" (Novick, 1988, 130).

Although economics was the primary threat to academic freedom in the early 20<sup>th</sup> century, religion remained a concern. Drury College dismissed a professor for donating a book on theosophy to the library (Hofstadter & Metzger, 1955, 466).

Racism was also prevalent on campus. In 1903, John Bassett, a professor at Trinity College (later named Duke University), wrote a moderate article stating that not all blacks were intellectually inferior, *Raleigh News and Observer* publisher Josephus Daniels noted that the University of Chicago was not "the only institution which harbors

freaks who rush into absurd statements and dangerous doctrines--statements which, if true, damn the State of North Carolina, and doctrines which, if carried out, would destroy the civilization of the South” (Hofstadter & Metzger, 1955, 447). Bassett resigned in 1903 after the pressure increased and a boycott of the college was threatened. However, President Kilgo and the entire faculty signed a petition for Bassett, threatening to resign if his resignation was accepted. The trustees voted 18-7 to keep Bassett, although they opposed his views, because they were "unwilling to lend ourselves to any tendency to destroy or limit academic liberty” (Hofstadter & Metzger, 1955, 448). The trustees noted, "We cannot lend countenance to the degrading notion that professors in American Colleges have not an equal liberty of thought and speech with all other Americans” (Hofstadter & Metzger, 1955, 449). But while white professors could have freedom at some Southern colleges, black professors (and students) were excluded. Academic freedom never extended to racial equality.

#### Politics and the Rise of the Public University

The widespread creation of public universities in the wake of the Morrill Acts of 1862 and 1890 created a new threat to academic freedom: the political attack. Professors at private universities were accustomed to the threats posed by administrators and trustees. But the 1817 Dartmouth College decision insulated private universities from direct political influence. However, the same could not be said of public colleges (Hofstadter & Metzger, 1955).

In 1887, Democrats led the successful effort to remove three Republican prohibitionist professors at the State University of Iowa (Hofstadter & Metzger, 1955, 429). In 1893, the Regents of West Virginia University dismissed the president and all

the faculty (Hofstadter & Metzger, 1955, 429). At Kansas State Agricultural College, a 1896 victory by Democrats and Populists led to a takeover of the presidency and economics department. In 1899, when Republicans returned to power, president Thomas Elmer Will, Edward Bemis, and Frank Parsons were all dismissed (Hofstadter & Metzger, 1955, 424-5).

In 1915, a year after IWW folk-song composer Joe Hill was tried for murder and executed, a professor at the University of Utah who had been active in his defense was fired (Goldstein, 2001, 97). That same year, 17 professors resigned from the University of Utah to protest the dismissal of four professors by President Kingsbury. Kingsbury declared that he was firing Dr. A. A. Knowlton because "Dr. Knowlton has worked against the administration of the University" and "spoken very disrespectfully of the Chairman of the Board of Regents." Professor George C. Wise was fired for having "spoken in a depreciatory way about the University before his classes" and "spoken in a very uncomplimentary way about the administration," which had banned a political meeting of a student club (AAUP 1915a).

Charles W. Snow was dismissed as an instructor by Kingsbury because of a 1914 commencement address by Milton Sevy, which Snow had looked over and advised on revisions. Sevy's address attacked "ultra-conservatism" and urged the University to take a role of leadership toward a "vigorous, progressive policy." Unfortunately, Governor Spry was in attendance and did not appreciate these progressive comments. Spry wrote a letter to the Board of Regents urging that "those who are responsible in the University for the unwarranted, untrue ideas regarding the attitude the state has taken toward educational

matters and institutions, be curbed in their utterances or relieved of their positions. They are a menace to the educational interests of the state” (AAUP, 1915a).

The interference of a governor in public universities was not unusual at this time. In 1915, James Brewster was denied reappointment to the University of Colorado Law School despite "eminent satisfaction" with his teaching after the school was reorganized. In 1914, after Brewster had appeared as counsel for the Miners' Union and testified before the Commission on Industrial Relations, Governor E.M. Ammons called President Farrand to demand his dismissal (AAUP, 1916c).

These incidents, particularly the wholesale dismissal of faculty due to shifts in political control, greatly alarmed the advocates of academic freedom. There is no evidence that faculty at public colleges faced greater restrictions than those at private colleges (indeed, in the most famous cases it was Stanford and Chicago that fired faculty, while the University of Wisconsin regents defended academic freedom). But the elitist Gentleman Scientist Model had much more confidence in the abilities of trustees at top private universities, and feared the prejudices of the masses much more. The Gentleman Scientist Model defined academia in profoundly anti-democratic terms, creating an elite that could defend itself against attempts at outside control.

#### Academic Freedom and the Fear of the Masses

Harvard President Charles Eliot was prescient in 1907 when he called academic freedom “a difficult subject, not as yet very well understood in this country, but likely to be of increasing interest and importance throughout the coming century” (Eliot, 1907, 1).

In his 1869 inaugural address, Eliot declared that Harvard “demands of all its teachers that they be grave, reverent and high-minded; but it leaves them, like the pupils,

free” (Hofstadter and Metzger, 1955, 394). Despite these gentlemanly restrictions on faculty, Eliot was the first major American academic leader to propose freedom as a key value of the American university.

By 1907, Eliot saw the danger to academic freedom as coming not from a few rich men, but “the pressure in a democracy of a concentrated multitudinous public opinion” (Eliot, 1907, 1). In some areas, “a teacher holding unpopular opinions could, until very recently, hardly escape the alternative of silence or banishment” (Eliot, 1907, 2).

According to Eliot, “Professors of economics are not even supposed to be free in some American communities which have held for generations with great unanimity the doctrine of protection” (Eliot, 1907, 2). But Eliot’s idea of the dangerous democracy, striking down free trade and other ideas, was at odds with most of the prominent cases involving academic freedom, in which professors who opposed corporate interests suffered the most, not those who opposed protectionism.

Although legislators in some states infringed academic freedom at public universities, for the most part this reflected the powerful control of wealthy interests over politicians, not the will of the majority. It is noteworthy that the most dubious claim of the 1915 AAUP Declaration was its assertion that in public universities subject to legislative interference, “the menace to academic freedom may consist in the repression of opinions that in the particular political situation are deemed ultra-conservative rather than ultra-radical” (AAUP, 1915a).

The 1915 Declaration pointed to the “most serious difficulty of the problem; namely, the dangers connected with the existence in a democracy of an overwhelming

and concentrated public opinion” (AAUP, 1915a). This “danger of despotism” was seen as the greatest threat to academic freedom.

It was precisely this misapprehension about what endangered academic freedom that reinforced the Gentleman Scientist Model. If the primary threat was perceived to be public opinion, then an elitist model aimed at insulating academics from the people was embraced as the strongest protection.

Eliot was not alone in viewing the university as a conservative force necessary to suppress the errors of the masses. The AAUP’s 1915 Declaration stated that a university is “likely always to exercise a certain form of conservative influence” because one of its roles was “to check the more hasty and unconsidered impulses of popular feeling.”

Indeed, the AAUP argued in its 1915 Declaration that academic freedom was essential precisely in order to add credibility to its conservative influence: “For the public may respect, and be influenced by, the counsels of prudence and of moderation which are given by men of science, if it believes those counsels to be the disinterested expression of the scientific temper and of unbiased inquiry.” The mass public, on the other hand, “is little likely to respect or heed them if it has reason to believe that they are the expression of the interests, or the timidities, of the limited portion of the community which is in a position to endow institutions of learning, or is most likely to be represented upon their boards of trustees” (AAUP, 1915a).

The AAUP was making a direct appeal to conservative trustees, arguing that academic freedom would protect the integrity of a university that was essential in order to persuade the ignorant and dangerous public. But this was more than just a cynical argument; the leaders of the AAUP were not leftist radicals. They sincerely believed in

the threat posed by the public, and they saw the Gentleman Scientist as the best model for protecting academic freedom from the masses.

By misjudging the primary danger to academic freedom, the AAUP adopted a Gentleman Scientist Model that was unable to fully confront the political debates that dominated the question of academic freedom throughout the 20<sup>th</sup> Century.

Even Eliot, whose views about academic freedom were the most advanced of his generation (in the sense of resembling 21<sup>st</sup> Century ideas of free expression), failed to understand that democracy was not the primary threat to academic freedom.

Although Eliot may have been misguided about the main threat to academic freedom, he made a key contribution to academic freedom by recognizing that tenure was essential to it. Eliot noted, “So long as school committees insist on annual elections of all teachers, and boards of trustees of colleges and universities claim the right to dismiss at pleasure all the officers of the institutions in their charge, there will be no security for the teachers’ proper freedom” (Eliot, 1907, 2). According to Eliot, “A long tenure of office for teachers is well-nigh indispensable, if a just academic freedom is to be secured for them” (Eliot, 1907, 2).

Eliot defined tenure as a concept that should apply to all teachers, not just to universities: “Teachers in every grade of public instruction from the lowest to the highest, when once their capacity and character have been demonstrated, should hold their offices without express limitation of time, and should be subject to removal only for inadequate performance of duty or for misconduct publicly proved” (Eliot, 1907, 2). Eliot was also rare among his peers in raising the academic freedom of students as a concern: “A faculty



is much more likely to limit unduly the academic freedom of students than of teachers” (Eliot, 1907, 3).

Eliot was the most prominent advocate of student academic freedom: According to Metzger, “before the nineties, academic freedom had alluded primarily to student freedoms, particularly the freedom to elect courses” (Metzger, 1961, 223). But after the turn of the century, “only one of the important documents of academic freedom linked *Lernfreiheit* with *Lehrfreiheit*”—Charles Eliot’s 1907 address (Metzger, 1961, 223).

Eliot declared in that speech, “When he reaches his college, normally at eighteen or nineteen years of age, he ought to find at once a great enlargement of his freedom of choice among studies. This is for the student the first element in a just academic freedom” (Eliot, 1907, 7). Much of Eliot’s idea of student academic freedom followed the principle of *lernfreiheit* that he had already sought to implement at Harvard. This included “choice among teachers” (Eliot, 1907, 7). According to Eliot, “the student ought to find himself free to determine the method of his daily life with no more restrictions than the habits and customs of civilized society necessarily impose” (Eliot, 1907, 9). But Eliot’s idea of student academic freedom also went far beyond the German concept. According to Eliot, “The college student may reasonably expect to find himself free from attempts to impose opinions on him”—whether by teachers, peers, or mass meetings (Eliot, 1907, 8). This was something that the German model of universities (where students rarely expressed their views) never addressed.

Eliot still had a somewhat paternalistic view of students, even urging a ban on pledging a fraternity early in the first year of college and doing so in the name of academic freedom: “To be forced to accept an unknown group of permanent associates

within three weeks of entering college is an unfortunate limitation of academic freedom” (Eliot, 1907, 9).

The student, Eliot proclaimed, “has also a right to be free from all inducements to cant, hypocrisy, or conformity,” noting that “voluntary attendance at all religious exercises is a valuable element in academic freedom” (Eliot, 1907, 8). Eliot even urged financial aid “on merit only, without regard to any opinions or practices of his” (Eliot, 1907, 8).

Charles Eliot’s concern for student academic freedom was unusual for his time, and did not reflect the primary emphasis on the scholar as the source and purpose of academic freedom. However, Eliot had an underlying motive for his view of academic freedom that did not correspond to the civil liberties view of academic freedom. Eliot believed that it was essential to alter the structure of the university, and student choice in the curriculum was the mechanism for freeing it from its fixed old ways. Once students began to choose courses in more modern scientific fields, colleges would be able to hire scholars who did new research. Other student liberties, such as the abolition of mandatory chapel, were similarly aimed at removing the stranglehold of old ideas over academia. Thus, Eliot’s perspective never really conflicted with scientific models of academic freedom, but represented a deeper understanding of the political barriers to creating a genuinely scientific university.

Because Eliot saw academic freedom as essential to teaching at all levels, and applied it even to students, he did not endorse the scientific model which saw academic freedom as applying only to a certified elite of experts. But Eliot was deeply committed to the gentlemanly model: “academic freedom for teachers is properly subject to certain

limitations which may best be described as those of courtesy and honor. They resemble the limitations which the manners of a gentleman or a lady impose on personal freedom in social intercourse” (Eliot, 1907, 6).

Eliot told the story of a Harvard professor who approached him about the controversial economic view he presented in a textbook: “I was obliged to tell him that the president and fellows would prefer to have that doctrine omitted from the book, unless, indeed, he were willing to omit from the title page his own official title as a Harvard professor. The result was that the troublesome chapter was omitted....The incident taught me that the best defense of an institution against abuses of academic freedom was to be found in the sense of duty and honor which obtains among its officers” (Eliot, 1907, 7). In Eliot’s view, self-censorship was the most desirable outcome; the true Gentleman professor would, of course, prefer to silence a controversial chapter rather than remove his noble affiliation with Harvard University. And the true Gentleman would clear his writing with his president rather than potentially embarrass his institution. Eliot’s gentle form of repression was an example of how pervasive such censorship was at the turn of the century. The fact that Eliot would actually celebrate his successful suppression of controversial economic views in an essay about “academic freedom” reflected how pervasive the Gentleman Scientist Model was.

But the gentleman model had a much darker side to it. Imagine what might happen to the professor who published controversial ideas, who publicly offended donors and trustees, who even dared to oppose the administration. The professor who was not a gentleman would quickly find himself out the door, even if (as Edward Bemis discovered) the true reasons for his dismissal were never disclosed.

The Gentleman Scientist Model functioned because leading universities were still, at the turn of the century, small clubs where the virtue of the individual professor could be monitored closely. Eliot's story seems unusual from the perspective of the 21<sup>st</sup> Century, when most university presidents are far too busy raising money to read anything written by their professors, and virtually no professor would imagine a moral obligation to get permission from the president before publishing controversial ideas. As higher education expanded far beyond what any of the AAUP's founders could have imagined, the Gentleman Scientist Model increasingly became an anachronism that sharply restricted academic freedom rather than a system for defending it. However, it did not take several decades for the flaws of the Gentleman Scientist Model at protecting academic freedom to become apparent.

#### The Idea of Academic Freedom in the Early 20th Century

In one of the earliest articles about the term "academic freedom," published in 1885, Andrew West warned: "freedom in studies, freedom in conduct....these two are one" (West, 1885, 443). And West did not regard freedom as a good thing: "if this easy-going dealing with faith and morals is the spirit of the new departure, it is certainly the most dangerous element in the whole movement" (West, 1885, 444). Evoking the conservative attitude of the 1828 Yale Report, West wrote: "What our youth most need is discipline of character, deeply inwrought with their studies" (West, 1885, 444). To West, "Discipline in diligence, attentiveness, candor, ready obedience to law, determination to achieve honorable success, patience, perseverance, courage, assured control over appetites and passions, and unselfish devotion to pending duty are the ruling powers.

These are both preconditions and products of genuine education” (West, 1885, 443).

West was describing the virtues of a gentleman.

Johns Hopkins founder Daniel Gilman defended academic freedom in 1885. "It is the universities which edit, interpret, translate and reiterate the acquisitions of former generations, both of literature and science. Their revelation of error is sometimes welcomed but it is generally opposed; nevertheless the process goes on, indifferent to plaudits or reproaches" (Lucas, 1994, 172-3). Gilman's optimism about the inevitability of scientific progress (and opposition to it) reflected a 19<sup>th</sup> Century attitude. But the rise of the industrial economy created popular and political support for science, and much greater controversies over politics and economics as the ideology of science spread to what would be called the "social sciences." For the 20<sup>th</sup> Century, it would not be literature or science that sparked the worst violations of academic freedom, but this odd middle ground of new "sciences" which challenged the wealthy donors who financed the new research universities sprouting around the country.

By the turn of the century, the idea of academic freedom bore little resemblance to today's vision of it. William Hyde, who served as president of Bowdoin College for 32 years, declared in 1901 at the Boston University commencement: "The incompetent man should be dismissed at the first opportunity. Academic freedom demands it" (Hyde, 1901, 12).

Hyde observed that "this question of academic freedom did not arise so long as the colleges were content to teach Latin, Greek, mathematics, and a little science and philosophy, for the simple reason that nobody cared much, one way or the other, what was taught about these things" (Hyde, 1901, 1). According to Hyde, "Interference with

liberty comes only when the subjects taught are those for which the people care” (Hyde, 1901, 1). However, Hyde’s claim that professors in the early American college did not face repression was simply wrong. What went on in the classroom did not cause public disputes over academic freedom because the teaching either went unnoticed by authorities or was dealt with behind the scenes. It was rarely teaching of any kind that caused controversy throughout the history of higher education; instead, it was the fear that a publicly revealed remark or allegiance might indicate how a professor taught in the classroom, or a simple belief that anyone who believed in such ideas should not be employed by a college.

The Gentleman Model decreed that politeness was considered essential for a professor, and trumped academic freedom. Hyde argued, "a professor is under obligation to respect the constituency of the college. A professor has no right, deliberately and intentionally, to offend the friends and supporters of the institution which he is employed to serve” (Hyde, 1901, 13). Hyde rejected the idea that a professor could be an “agitator” unless “he should first hand in his resignation” (Hyde, 1901, 13).

Like others who espoused the ideal of the Gentleman Scientist, Hyde saw the ideal as a necessary compromise to protect professors from political persecution. In this implicit “don’t ask, don’t tell” deal about politics, the inevitable result was a model of the university which avoided any discussion of contemporary political issues. Hyde noted, "Membership in a political party and frank avowal of one's views on political and social questions are perfectly consistent with the position of a professor. Neither president nor trustee nor donor has the slightest right to inquire into a professor's views for the purposes of discipline or removal, nor to prevent the reasonable and moderate expression

of such views” (Hyde, 1901, 14). But, Hyde wrote, the college’s president and trustees have "both the right and duty" to warn "a professor that the immoderate and aggressive and vituperative reiteration of views which are repugnant to a large portion of the constituency of an institution, are inconsistent with his largest usefulness as a professor; and if he persists in such utterances, to notify him to choose between the career of an agitator and a professor” (Hyde, 1901, 14).

This “ivory tower” approach, the separation of agitating and professing, was meant to protect the university from the pressures of external politics, but it also prevented members of the university from fully participating in politics. Hyde’s approach (which probably represented a common campus view) allowed radical views to become targets for attack, since only ideas outside the mainstream (and expressed in an “immoderate” way) would be targets for punishment. In this vision of the Gentleman Scientist, radical professors gave up the right to academic freedom (and to their jobs) by violating the standards of polite society, which expected them not to offend the “constituency” of a university.

Arthur Hadley wrote in the 1903 *Atlantic Monthly* about the threat to academic freedom, which he regarded as a relatively small problem: “Once or twice every year the public hears of differences of opinion between teachers in our collegiate institutions and those who hold the appointing power” (Hadley, 1903, 152).

Hadley saw the “cardinal fault” of early science: “it failed to provide for progress” (Hadley, 1903, 153). The idea of progress was essential not only for science, but also for academic freedom. Unless new knowledge (and criticism of old knowledge)

was necessary, there would be no reason to give professors the freedom to express their own views.

Hadley's ideas reflected the early split between liberty of research and liberty of teaching, and he urged severe limits upon the teacher: "We have not learned to separate the rights of the discoverer from the duties of the teacher, or to secure the advantages of freedom without the dangers" (Hadley, 1903, 160). Hadley believed that the teacher has "a contractual relation with authorities, public or private, who pay him for his teaching and conceive that they have the right to say what he shall teach" (Hadley, 1903, 160). Hadley argued that tying together academic freedom for both the researcher and the teacher would bring down scientific research. Since it was natural for colleges to demand limits upon the teacher, it would be better to accept these limitations and instead try to assure freedom of thought for academics: "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, even among teachers of the highest grade" (Hadley, 1903, 157).

Warren's 1914 essay on academic freedom expressed the opposite fear, that freedom of teaching in the German sense was being denied in America: "The German scholar has higher ideals. In German universities academic freedom of teaching (*akademische Lehrfreiheit*) has long been a cardinal tenet. The professor of highest rank (the *Ordinarius*) is free to offer any course whatsoever within the confines of his own branch. This untrammled freedom of teaching has led to a somewhat mistaken conception in our own country of the real meaning of academic freedom. It is often imagined that it implies liberty on the part of a professor to advance any theory in



classroom without restraint” (Warren, 1914, 691). By contrast, in America, “Freedom of teaching does not mean that an instructor may offer any course which he deems wise without securing the consent of his colleagues” (Warren, 1914, 691).

This split between teacher and researcher has been influential in guiding the idea of academic freedom; the AAUP’s 1915 Declaration even included a warning about indoctrinating students too immature to handle the truth. But for the most part, the advocates of academic freedom by the 20<sup>th</sup> Century had unified research and teaching as two sides of the same coin of scientific investigation. To report scientific truth to one’s colleagues or one’s students was a duty of the professor.

In 1914, Howard Crosby Warren described several examples of academic freedom being violated. In 1911, Warren noted, “Professor Banks was dismissed from the University of Florida, following the publication of an article in *The Independent*, in which he stated his conviction that teachers and others in positions of influence made a grievous mistake in the generation prior to the Civil War in not paving the way for a gradual removal of slavery without the loss of so many lives and the consequent pension burden.” (Warren, 1914, 693).

Warren reported “a very exceptional instance” in 1913 when President Bowman at the State University of Iowa offered to resign after “the Board had dismissed a member of the Faculty without consulting the president, and without giving the accused member a hearing.” (Warren, 1914, 694).

In 1913, Dr. J. L. Lewinsohn, a law professor at the University of North Dakota, “resigned under pressure, the authorities having disapproved of his active participation in

the political campaign. He claims to have been censured by the dean for attending a conference of leaders of the Progressive party” (Warren, 1914, 694).

In 1914, Professor A.E. Morse was “practically forced to resign for political reasons” as chair of political science at Marietta College. The faculty were told, “it is the sacred duty of the trustees to administer the affairs of the institution according to their own judgment and the dictates of their own conscience” (Warren, 1914, 694). Two other department chairs, friends of Morse, were given the choice of resigning or being dismissed (Warren, 1914, 694).

In 1914, a psychology department head at a state university “was dismissed on indefinite charges, his petition for a faculty committee of inquiry being denied.” (Warren, 1914, 693). At a state normal school, an assistant professor of psychology was “dismissed without warning after a brief hearing before the board” (Warren, 1914, 693).

Warren concluded, “At present the biologists appear to have won the right to teach the truth as they understand it” (Warren, 1914, 693). According to Warren, “Interference with freedom of inquiry and instruction in recent years has been largely confined to the departments of philosophy, psychology, and economics, particularly the last.” (Warren, 1914, 693).

#### Nicholas Murray Butler and Academic Freedom at Columbia

In 1914, Columbia president Nicholas Murray Butler espoused the gentlemanly model in sharp terms: “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” (Butler, 1914, 291). According to Butler, “Most abuses of academic freedom are due simply to bad manners and to lack of ordinary tact and judgment” (Butler, 1914, 292).

Butler enforced this gentlemanly model. Joel Elias Spingarn, a full professor at Columbia, was fired in 1911 because he opposed President Butler's "corporate efficiency" and defied the conventional views of English professors (Klingenstein, 1991, 106).

Butler asserted that “questions of academic freedom are frequently involved with other issues” citing the case of an inadequate teacher where “it would only be possible to remove him from office or make other change in his status if he happened to be a Republican or a Democrat. If he were a Progressive and had supported the proposals for the recall of the judges and the recall of judicial decisions, both the newspapers and the general public would assume, assert and reiterate that such a teacher had been punished because of his political opinions” (Butler, 1914, 292). Butler’s dubious claim that left-wing professors were protected from dismissal precisely because they belonged to an unpopular political party must have astonished those teachers who lost their jobs for being a Progressive.

Butler’s view of faculty was this: “They enjoy academic freedom, but they enjoy it like gentlemen” (Butler, 1914, 294). Academic freedom, Butler declared, is “confused and confounded with many other issues, and one of those issues is the capacity or incapacity of a given scholar to behave like a gentleman” (Butler, 1914, 293). According to Butler, “A gentleman understands that it is neither necessary nor expedient to teach to the young everything which the experience and reflection of an older man may have

taught him to believe...He knows how to use the rich gift of freedom without divesting himself of a high sense of responsibility for that use” (Butler, 1914, 294).

These early formulations of academic freedom by university presidents often cited the gentlemanly requirement that was considered fundamental to the concept. Perhaps the scientific model of academic freedom was really thought of as an alternative to the gentleman model. The goal was to use scientific method and scientific consensus to allow for the expression of ideas that might be controversial among the uneducated masses.

By 1915, academic freedom was not widely embraced in America; it was often perceived as the special pleading of professors. In 1915, the *New York Times* editorialized, "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” (Hofstadter & Metzger, 1955, 482). Whether it was newspapers, politicians, or college presidents, faculty faced a hostile audience as they tried to persuade people of the value and necessity of academic freedom. The rest of the 20<sup>th</sup> Century would be marked by a concerted effort of faculty to make academic freedom a reality, and not merely a theory.

### Dewey and Academic Freedom

One key to understanding the meaning of academic freedom in the early 20<sup>th</sup> Century is to examine the thoughts of John Dewey, who would go on to be the most prominent founder of the AAUP and its first president. Dewey’s vision of academic freedom in 1901 made “a distinction between the university proper and those teaching

bodies, called by whatever name, whose primary business is to inculcate a fixed set of ideas and facts” (Dewey, 1902, 1). Dewey believed, “An ecclesiastical, political, or even economic corporation holding certain tenets certainly has a right to support an institution to maintain and propagate its creed” (Dewey, 1902, 1). Dewey did not, in 1901, see academic freedom as a universal concept essential to the idea of higher education. Instead, he regarded it as an idea that applied only to a certain elite in the top universities, where the ideals of pursuing knowledge made academic freedom necessary. As Dewey put it, the university requires “accepting obligations to a larger world of scholarship and of society” (Dewey, 1902, 2).

Dewey declared: "The university function is the truth-function” (Dewey, 1902, 3). And Dewey saw no difference between discovering truth and transmitting it. But Dewey also believed that an opinion expressed by a professor “is almost certain to be regarded as an official judgment. It thus commits and possibly compromises the institution to which the instructor belongs” (Dewey, 1902, 6). Here was the weakness of the Gentleman Scientist Model embraced by Dewey: so long as the opinions expressed by professors were taken as the official view of a university, the university would be justified in restricting the freedom to speak.

Dewey saw science as the way out of the problem of academic freedom. According to Dewey, “Upon the whole, it is practically impossible for any serious question regarding academic freedom to arise in the sphere of mathematics, astronomy, physics, or chemistry. Each of these subjects now has its definite established technique, and its own sphere within which it is supreme” (Dewey, 1902, 4). If every field could achieve similar scientific validity, Dewey imagined, there would be no problem. Dewey

worried, “Wherever scientific method is only partially attained the danger of undue dogmatism and of partisanship is very great. It is possible to consecrate ideas born of sheer partisanship with the halo of scientifically established belief. It is possible to state what is currently recognized to be scientific truth in such a way as to violate the most sacred beliefs of a large number of our fellow-men” (Dewey, 1902, 7).

Dewey viewed academic freedom from a scientific perspective. Dewey admitted that “some of the studies taught in the university are inherently in a much more scientific condition than others” (Dewey, 1902, 3). But he saw the study of economic activity as demanding more academic freedom, not less. Dewey observed, “Political economy, sociology, historical interpretation, psychology in its various possible applications, deal face to face with problems of life, not with problems of technical theory. Hence the right and duty of academic freedom are even greater here than elsewhere” (Dewey, 1902, 5).

Dewey also endorsed the gentlemanly ideal of the professor: “We may insist that a man needs tact as well as scholarship” (Dewey, 1902, 8). According to Dewey, “Lack of reverence for the things that mean much to humanity, joined with a craving for public notoriety, may induce a man to pose as a martyr to truth when in reality he is a victim of his own lack of mental and moral poise” (Dewey, 1902, 8). Here Dewey quoted University of Chicago president William Rainey Harper’s December 1900 convocation: “A professor is guilty of an abuse of privilege who promulgates as truth ideas or opinions which have not been tested scientifically by his colleagues in the same department of research or investigation” (Dewey, 1902, 8).

Harper identified four other exceptions to a professor’s academic freedom: “who takes advantage of a classroom exercise to propagate the partisan view of one or another

of the political parties”; “who in any way seeks to influence his pupils or the public by sensational methods”; who “undertakes to speak authoritatively on subjects which have no relation to the department in which he was appointed to give instruction” or even a specialist in a department who tries to discuss anything “with which he has had little or no experience” (Dewey, 1902, 8-9).

Harper did declare, “freedom of expression must be given to members of a university faculty, even tho it is abused, for the abuse of it is not so great an evil as the restriction of such liberty” (Dewey, 1902, 9). But although academic freedom is technically given to such members, no one could expect faculty to stand up for their rights if they violated the scientific ideal.

In Dewey’s scientific ideal, academic freedom is very simple, and he worries that “the presence of these personal elements detracts very much from the simplicity and significance of an issue regarding academic freedom” (Dewey, 1902, 9). The desire of Dewey to simplify academic freedom and avoid complicated cases caused him to have an almost naïve view of its status. Dewey declared that he would “dissent most thoroly from the opinion sometimes expressed that there is a growing danger threatening academic freedom. The exact contrary is, in my judgment, the case as regards academic freedom in the popular sense, that is to say of dictatorial interference by moneyed benefactors with special individual utterances” (Dewey, 1902, 9). Ironically, Dewey would express a similar opinion more than a decade later at the start of the AAUP,

Dewey claimed in 1901, “The man with money hardly dare directly interfere with freedom of inquiry, even if he wished to; and no respectable university administration would have the courage, even if it were willing, to defy the combined condemnation of

other universities and of the general public” (Dewey, 1902, 10). But by 1915, Dewey realized that the general public often cared little for (or actually opposed) academic freedom, and that universities were unwilling to criticize their peers. Thus, it became necessary for professors to be the source of “condemnation” in such cases.

Dewey wrote in 1901, “There has never been a time in the history of the world when the community so recognized its need of expert guidance as to-day” (Dewey, 1902, 13). As he would do in 1915, Dewey saw the AAUP ultimately as a means to help society benefit from the expert advice of professors, not purely as a defense of academic freedom.

Dewey saw the scholarly association as a model: “No fact is more significant than the growing inclination on the part of scientific associations to assume a right and duty to inquire into what affects the welfare of its own line of inquiry, however and wherever it takes place. This is the growth of the corporate scientific consciousness; the sense of the solidarity of truth” (Dewey, 1902, 14). In 1901, Dewey even predicted the future of the AAUP he would later help to create, writing that he could “foresee a time when the consciousness of being a member of an organized society of truth-seekers will solidify and re-enforce otherwise scattered and casual efforts” (Dewey, 1902, 14).

This was Dewey’s scientific model of academic freedom, in which the scientific experts would themselves defend academic freedom through their scientific societies. Only the scientific experts could truly judge who within their field was entitled to the protections of academic freedom.

Dewey confidently declared that through individual initiative and “the sense of membership in the wider university,” academics “will assuredly amply triumph over all



dangers attacking academic freedom” (Dewey, 1902, 14). It was an optimism that would be repeated by Dewey in 1915 at the creation of the AAUP.

### Mecklin and the Rise of the AAUP

In 1905, John Mecklin was named as professor of moral and mental philosophy at Lafayette College, a Presbyterian institution. President Ethelbert Warfield was offended by Mecklin’s teaching of evolutionary theories in his classes, and wrote to him, “I shall be glad to give you every opportunity to explain your opinions and your teachings, but I ask that you do so explain them or retire from the chair which you occupy” (Tiede, 2014). After twice being summoned before a committee of the governing board, and expecting that he would be dismissed, Mecklin decided to resign in 1913 (Tiede, 2014). Angry students at Lafayette responded by disrupting Warfield’s chapel speeches and commencement (Tiede, 2014).

The American Psychological Association and the American Philosophical Association joined together in 1913 in order to investigate the Mecklin case and issued a report of the joint committee. By unanimous vote, the committee declared: “We believe it to be the right of the general body of professors of philosophy and psychology to know definitely the conditions of the tenure of any professorship in their subject” and “to understand unequivocally what measure of freedom of teaching is guaranteed in any college, and to be informed as to the essential details of any case in which credal restrictions, other than those to which the college officially stands committed, are publicly declared by responsible persons to have been imposed” (Warren, 1914, 696).

Mecklin was not the only professor whose dismissal inspired a collective response from scholarly associations. In 1913, Willard Fisher, professor of economics and social

science at Wesleyan College, was asked to resign from Wesleyan University because of some offhand remarks he made about church-going and Sunday observance at a lecture (Warren, 1914, 694). At their 1913 meeting, the American Political Science Association (APSA) appointed a committee of three “to examine and report upon the present situation in American educational institutions as to liberty of thought, freedom of speech, and security of tenure for teachers of political science” (Warren, 1914, 696). Similar committees were also established by the American Economics Association (AEA) and the American Sociological Association (ASA), and all three joined together to investigate the dismissal of Fisher.

#### Creating the AAUP

The movement to create a “National Association of College Professors” was first broached in response to the Mecklin case in a spring 1913 letter by senior faculty from Johns Hopkins, and a preliminary meeting was held on Nov. 17, 1913 in Baltimore, attended by 18 delegates from Clark, Columbia, Harvard, Johns Hopkins, Princeton, Wisconsin, and Yale. John Dewey was appointed as chair of a committee to send invitations to join the organization to full professors “whose names appeared on the lists of distinguished specialists prepared for the committee” (AAUP, 1916b, 18).

Recognizing that individual scholarly groups lacked the power to address violations of academic freedom, the group decided that a national association of faculty was necessary.

The December 1913 meetings of the AEA, APSA, and ASA for a joint committee on academic freedom spurred the development of the AAUP’s emphasis on academic freedom. After a preliminary report of this joint committee was presented in December 1914, the AAUP held its first meeting in January 1 and 2, 1915 with over 250 professors

meeting at the Chemists' Club in New York City, and decided to take up the problem of academic freedom by passing a motion to "bring about a merging in a new committee of the committees already created by the economic, political science and sociological associations to deal with the subject of academic freedom, the joint committee to be authorized to investigate the subject in behalf of this Association" (AAUP 1916b, 16).

This committee, known as Committee A, would quickly become the central focus of the new organization. Committee A reported a year later, "The committee of fifteen had scarcely been constituted when a number of cases of alleged infringement of academic freedom were brought to its attention" (AAUP, 1915a).

With 11 cases suddenly on its hands, Committee A was unable to put together enough investigating committees; it sent three cases to "appropriate special societies": Dartmouth College, to the American Philosophical Association; Tulane, to the American Physiological Society; and the University of Oklahoma, to the American Chemical Society. The December 1915 Bulletin announced that the AAUP would meet in Washington, DC on Dec. 31, 1915 in order to coordinate with "three societies concerned with the social sciences" because the academic freedom report "is the chief feature of this year's program."

At the 1915 meeting, the AAUP began by concentrating on academic freedom. The AAUP's early emphasis on academic freedom bothered some members. John Dewey, elected as head of the group, announced: "I have heard rumors of some criticism on this point" (Dewey, 1915, 11). Dewey tried to comfort these members by saying, "none of the officers of the Association, least of all those who have been overwhelmed by the duties incident to these investigations, regard this year's work as typical or even as

wholly normal” (Dewey, 1915, 11). But Dewey argued that the AAUP had an obligation to address these problems: “The investigations of particular cases were literally thrust upon us. To have failed to meet the demands would have been cowardly; it would have tended to destroy all confidence in the Association as anything more than a talking body” (Dewey, 1915, 12).

The AAUP’s formation in 1915 and its first statement of principles marked the most important step in the history of academic freedom. Metzger called it “an academic freedom rationale that did not become crystallized in this country until 1915” (Metzger, 2000, 73). However, the AAUP’s founders had no clear idea that this would happen. The AAUP’s defense of academic freedom in America was more of an accident than a conscious plan of the organization.

The goal of the AAUP was not academic freedom, but a much broader concept of professionalization for university faculty. The original call for a meeting to create the AAUP declared, “The scientific and specialized interests of members of American university faculties are well cared for by various learned societies. No organization exists, however, which at once represents the common interests of the teaching staffs and deals with the general problems of university policy” (Wigmore, 1916, 11).

Academic freedom was considered one privilege of professors, important but certainly not the special focus of the AAUP. Most of the founders of the AAUP regarded academic freedom as a rare issue they would hardly have to address, especially when other concerns (such as low salaries) were a worry for everyone in academia.

Dewey emphasized that academic freedom was essential for the AAUP’s mission: “the enhanced security and dignity of the scholar’s calling throughout our country”

(Dewey, 1915, 12). Academic freedom was important primarily because its absence might undermine the status of professors. Without academic freedom, the prestige attached to professors would disappear since their words could not be trusted as an independent scholarly judgment. Without that prestige and freedom, fewer bright men would be lured into the field. Academic freedom merged with tenure because both were needed for job security, in order to make the low-paid field of teaching appealing to well-educated men.

Dewey concluded his first president's address with his characteristic optimism about the future of academic freedom: "We met one year ago with mingled hopes and fears. We meet today with a record of things accomplished and a definite program of things yet to be undertaken—with fears allayed and hopes confirmed" (Dewey, 1915, 13).

#### The AAUP's 1915 Declaration of Principles

The AAUP's 1915 Declaration of Principles was the most influential definition of academic freedom in America. The 1915 Declaration would form the ideological foundation of the AAUP's doctrines, and would shape the later statements made by the AAUP. The 1915 Declaration began by noting, "The term 'academic freedom' has traditionally had two applications -- to the freedom of the teacher and to that of the student, *Lehrfreiheit* and *Lernfreiheit*. It need scarcely be pointed out that the freedom which is the subject of this report is that of the teacher" (AAUP, 1915a).

The 1915 Declaration was one of the earliest and most influential expressions of the triumverate purposes of the university: "To promote inquiry and advance the sum of human knowledge. To provide general instruction to the students. To develop experts for

various branches of the public service.” This rendition of research, teaching, and service has become the standard measure of scholarly achievement in academia; however, the third component has become the most altered portion, since today “service” now typically refers to serving on committees within the college rather than the original purpose of “public service.” Ironically, the protection for extramural utterances has dramatically increased even while the AAUP’s original justification for those utterances (to serve the public with expert opinion) is rarely mentioned by the organization anymore.

Corresponding to these three functions of the university, the AAUP identified three kinds of academic freedom: “Academic freedom in this sense comprises three elements: freedom of inquiry and research; freedom of teaching within the university or college; and freedom of extra-mural utterance and action. The first of these is almost everywhere so safeguarded that the dangers of its infringement are slight. It may therefore be disregarded in this report” (AAUP, 1915a).

Instead of research (which had rarely been seriously threatened), the AAUP focused on teaching and extramural utterances: “The second and third phases of academic freedom are closely related, and are often distinguished. The third, however, has an importance of its own, since of late it has perhaps more frequently been the occasion of difficulties” (AAUP, 1915a). However, the key flaw of the 1915 Declaration, and one that would haunt the AAUP for more than a half-century until it resolved the issue in the 1960s, was the failure to confront the question of extramural utterances and stand up in defense of them. The AAUP Declaration noted, “we shall consider the matter primarily with reference to freedom of teaching within the university, and shall assume that what is

said thereon is also applicable to the freedom of speech of university teachers outside their institutions” (AAUP, 1915a).

By refusing to distinguish between freedom of teaching and freedom of extramural utterances, the AAUP neglected the key threat to academic freedom. And the ideology of the Gentleman Scientist decreed that a professor should engage in the same polite behavior outside the classroom as inside of it.

Part of the Gentleman Scientist Model was the rejection of business values. The AAUP statement opposed the idea of higher education as an “ordinary business venture,” instead emphasizing its “social function.” The AAUP also denounced what it called the “proprietary school or college designed for the propagation of specific doctrines prescribed by those who have furnished its endowment” (AAUP, 1915a).

The primary focus of the AAUP in the 1915 Declaration was not academic freedom itself, but the elevation of their profession: “If education is the cornerstone of the structure of society and if progress in scientific knowledge is essential to civilization, few things can be more important than to enhance the dignity of the scholar's profession, with a view of attracting into its ranks men of the highest ability, of sound learning, and of strong and independent character” (AAUP, 1915a). Academic freedom was needed to draw the best “men” into academia.

The AAUP also began its crusade for tenure, where it would be even more successful than in its quest for academic freedom. Tenure was needed for the profession because “men of high gifts and character should be drawn into it by the assurance of an honorable and secure position.” Tenure was an extension of the Gentleman Scientist Model—not only did it protect the freedom to be a scientist, but it was founded upon the

concept of honor, and the belief that among gentlemen a professor should not be treated like a disposable employee. The AAUP called for permanent tenure after 10 years of service (AAUP, 1915a).

The 1915 Declaration also reinforced the Gentleman Scientist Model: “To the degree that professional scholars, in the formation and promulgation of their opinions, are, or by the character of their tenure appear to be, subject to any motive other than their own scientific conscience and a desire for the respect of their fellow-experts, to that degree the university teaching profession is corrupted” (AAUP, 1915a). Although this was aimed at freeing professors from the perception that the business interests which financed universities might control the faculty, it reflected the view that only “scientific” ideas were protected.

Noting that “the modern university is becoming more and more the home of scientific research,” the AAUP’s 1915 Declaration argued for the necessity of academic freedom in the service of expanding scientific knowledge: “the first condition of progress is complete and unlimited freedom to pursue inquiry and publish its results. Such freedom is the breath in the nostrils of all scientific activity” (AAUP, 1915a). Nor did the AAUP limit “science” to today’s narrower conception of natural science. The AAUP specifically included “social science” and even “philosophy and religion” as part of this scientific model.

For teachers, the AAUP worried about students’ “confidence in his intellectual integrity,” and the fear that “this confidence will be impaired if there is suspicion on the part of the student that the teacher is not expressing himself fully or frankly, or that college and university teachers in general are a repressed and intimidated class who dare



not speak with that candor and courage which youth always demands in those whom it is to esteem” (AAUP, 1915a).

The AAUP sought the independence of other professionals, such as doctors and lawyers, even though college teachers were hired by institutions rather than commonly working independently. According to the 1915 Declaration, “once appointed, the scholar has professional functions to perform in which appointing authorities have neither competency nor moral right to intervene” (AAUP, 1915a). To justify this independent status despite being an employee, the AAUP appealed to the public service function of a professor: “The responsibility of the university teacher is primarily to the public itself, and to the judgment of his own profession; and while, with respect to certain external conditions of his vocation, he accepts a responsibility to the authorities of the institution in which he serves, in the essentials of his professional activity his duty is to the wider public to which the institution itself is morally amenable” (AAUP, 1915a).

Following this model of serving the public, the AAUP proclaimed the need for freedom to inform the public: “It is obvious that here again the scholar must be absolutely free not only to pursue his investigations but to declare the results of his researches, 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” (AAUP, 1915a). Once again, the AAUP followed the Gentleman Scientist Model by justifying academic freedom solely on the grounds of “disinterestedness.” Without academic freedom, the AAUP feared control of professors by “inexpert and possibly not wholly disinterested persons outside of their ranks” which would undermine their credibility. However, this

justification carried with it the argument for restricting extramural utterances which might threaten the perceived expertise and disinterestedness of academics. If powerful people believed that faculty were not acting in a “disinterested” critique providing an “expert” opinion, could they revoke academic freedom?

The AAUP argued, “The attempted infringements of academic freedom at present are probably not only of less frequency than, but of a different character from, those to be found in former times” (AAUP, 1915a). Instead of religious disputes, the AAUP noted, “In more recent times the danger zone has been shifted to the political and social sciences--in some of our smaller institutions” (AAUP, 1915a). This last comment reflected the elitism of the AAUP, that it was unwilling to admit that the controversy over political comments by professors had affected some of the largest and most prestigious universities in the country. By treating academic freedom as a problem only of “smaller institutions,” the AAUP failed to see how pervasive the threat to academic freedom was.

The AAUP saw the danger of class conflict of interest: “In the political, social, and economic field almost every question, no matter how large and general it at first appears, is more or less affected with private or class interests; and, as the governing body of a university is naturally made up of men who through their standing and ability are personally interested in great private enterprises, the points of possible conflict are numberless” (AAUP, 1915a).

However, the AAUP was careful to try to position itself as politically neutral by claiming that “in our state universities the danger may be the reverse” and “the menace to academic freedom may consist in the repression of opinions that in the particular political situation are deemed ultra-conservative rather than ultra-radical” (AAUP, 1915a).

The AAUP specifically warned against the idea that professors should reflect public opinion: “in a democracy there is political freedom, but there is likely to be a tyranny of public opinion. An inviolable refuge from such tyranny should be found in the university. It 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, perchance, it may become part of the accepted intellectual food of the nation or of the world. Not less is it a distinctive duty of the university to be the conservator of all genuine elements of value in the past thought and life of mankind which are not in the fashion of the moment” (AAUP, 1915a).

The section of the 1915 Declaration most often quoted today expresses the model of the Gentleman Scientist: “Since there are no rights without corresponding duties, the considerations heretofore set down with respect to the freedom of the academic teacher entail certain correlative obligations. The claim to freedom of teaching is made in the interest of integrity and of the progress of scientific inquiry; it is, therefore, only those who carry on their work in the temper of the scientific inquirer who may justly assert this claim. The liberty of the scholar within the university to set forth his conclusions, be they what they may, is conditioned by their being conclusions gained by a scholar's method and held in a scholar's spirit; that is to say, they must be the fruits of competent and patient and sincere inquiry, and they should be set forth with dignity, courtesy, and temperateness of language” (AAUP, 1915a). By seeming to limit academic freedom to those who have “the temper of the scientific inquirer” and a gentleman’s “temperateness of language,” the AAUP left a substantial opening for restrictions on faculty.

A similar gentlemanly restraint was put upon teaching: “The university teacher, in giving instructions upon controversial matters, while he is under no obligation to hide his own opinion under a mountain of equivocal verbiage, should, if he is fit in dealing with such subjects, set forth justly, without suppression or innuendo, the divergent opinions of other investigators; he should cause his students to become familiar with the best published expressions of the great historic types of doctrine upon the questions at issue; and he should, above all, remember that his business is not to provide his students with ready-made conclusions, but to train them to think for themselves, and to provide them access to those materials which they need if they are to think intelligently” (AAUP, 1915a).

However, the AAUP strictly prohibited outside interference in accusations that faculty violated these standards, declaring it “inadmissible that the power of determining when departures from the requirements of the scientific spirit and method have occurred, should be vested in bodies not composed of members of the academic profession” (AAUP, 1915a).

The AAUP noted that this power had rarely been exercised by faculty, but it was essential: “If this profession should prove itself unwilling to purge its ranks of the incompetent and the unworthy, or to prevent the freedom which it claims in the name of science from being used as a shelter for inefficiency, for superficiality, or for uncritical and intemperate partisanship, it is certain that the task will be performed by others...”(AAUP, 1915a). While the AAUP was condemning a system where administrators and trustees dismissed faculty at will, it created an expectation that the

profession would itself purge incompetent professors, an expectation that was never realized.

Even the teaching of scientific truths held one exception that reflected the Gentlemanly Model (and its corollary concept, *in loco parentis*). The 1915 Declaration identified “one case in which the academic teacher is under an obligation to observe certain special restraints--namely, the instruction of immature students. In many of our American colleges, and especially in the first two years of the course, the student's character is not yet fully formed, his mind is still relatively immature. In these circumstances it may reasonably be expected that the instructor will present scientific truth with discretion” (AAUP, 1915a). This view—placing gentlemanly discretion above scientific truth—marked one of the few points of internal contradiction for the Gentleman Scientist Model, and in such cases the gentlemanly approach prevailed.

The suspicion of the public was reflected in the desire for secrecy in academia. The AAUP's 1915 Declaration even declared, “Discussions in the classroom ought not to be supposed to be utterances for the public at large. They are often designed to provoke opposition or arouse debate. It has, unfortunately, sometimes happened in this country that sensational newspapers have quoted and garbled such remarks. As a matter of common law, it is clear that the utterances of an academic instructor are privileged, and may not be published, in whole or part, without his authorization” (AAUP, 1915a). The AAUP hoped to limit the threat of its concessions by declaring classroom speech off limits to public discussion.

## The AAUP and Professional Standards

Academic freedom was far from the singular focus of the AAUP. The initial statement of ideals for the AAUP included numerous goals, of which only one was “the impartial determination of the facts in cases in which serious violations of academic freedom are alleged” (AAUP, 1915a).

From the very beginning, most of the ideas about shared governance and tenure embodied in today’s university were sought by the AAUP. In 1916, the AAUP proposed what was called the “Bryn Mawr plan,” which called for faculty representatives to the Board of Directors, a faculty committee to make recommendations on re-appointments and termination of appointments, and rules to safeguard “the tenure of office of full professors after a certain number of years of service” (AAUP, 1916a, 5). Although the concept of faculty representatives on the Board of Trustees was resisted, the rest of the Bryn Mawr plan became the foundation of shared governance and tenure, which the AAUP pushed throughout academia. It was the model of the Gentleman Scientist as the embodiment of academia which reinforced these values. After all, if professors were the leaders of academic values, and not mere employees, then they had to hold decision-making influence in any rational system.

The AAUP’s founders saw themselves as a genteel club of scholars who followed and strengthened professional ideals. The AAUP planned to be “all-inclusive” but initially required a “ten-years’ apprenticeship” before admission in order to raise its stature (Wigmore, 1916, 9). The “apprenticeship” reflected the scientific ideal of academic freedom. It was not granted to all individuals. It was granted only to those who had been skilled enough to learn the ideas of their profession, so that they could discuss

those ideas. The expectation was that the untenured professor was still a mere apprentice, and apprentices were not entitled to academic freedom since that required scientific expertise. Initially, new members were required also to be nominated by a current member and approved by 2/3rds of the Committee on Admissions, much like an exclusive club.

However, the financial drain caused by so many academic freedom investigations prompted rapid changes. In 1920, the AAUP reduced the service requirement to three years, hoping to increase its membership (AAUP, 1920a). Eventually the AAUP dropped the burdensome club requirements and allowed any faculty members to join at will. But the influence of gentlemanly ideals remained strong within the AAUP and its idea of academic freedom.

At the very start, the AAUP defined the Gentleman Scientist as its goal. President J.H. Wigmore's 1915 address to the AAUP began: "The influence of this Association, to rise to its fullest measure, must consist in its ability to express the best professional opinion on matters within its sphere. That professional opinion, to be representative, must have been well sifted and formulated by discussion, continued through ample time and in all quarters of the college world" (Wigmore, 1916, 8). Wigmore's vision was decisively anti-individualist. His ideal was the "professional opinion" that expressed the consensus of academic thought.

Most of the AAUP's early academic freedom cases, although they technically defended individual professors, were primarily aimed at the protecting the mainstream viewpoints of the profession. The goal was not to let idiosyncratic views be expressed,

but to defend professors who simply recited the commonly-held views of their profession.

Wigmore emphasized this message of unity. “The truth is that we are a single profession—the most responsible branch of that profession which Fichte forever exalted with his inspired essay on ‘The Nature of the Scholar.’”(Wigmore, 1916, 8). According to Wigmore, “hitherto, we have lived a separate life, each in his own particular acre of the field, be it history, psychology, geology, or the rest, and never united as a body of university teachers” (Wigmore, 1916, 8). The AAUP’s goal was to unify the profession under an ideology of science.

#### Fighting the Union Label

In order to raise their professional status, the AAUP fought against the idea that it was creating a union. AAUP president John Wigmore declared in 1916, “I wish to repudiate the notion that this Association is an occupational union, which seeks to defend its members by a ‘We Don’t Patronize’ list, or by any other form of coercion. Its only means of influence is publicity, and thereby an appeal to the common sense of justice” (Wigmore, 1916, 14).

The idea that the AAUP was a union particularly offended the ideal of the Gentleman Scientist. Unions were the product of the working class; the AAUP leaders would never lower themselves to such a level. Even those who approved of unions for the workers believed that such a notion would be disastrous for the AAUP.

Despite Wigmore’s opposition to the idea of a “We Don’t Patronize” list, the AAUP eventually developed its Censure List in the 1930s as it realized that ongoing publicity against an offending institution was impossible, and some permanent list was



needed to warn members as well as to provide an incentive for reform. Of course, the AAUP never used “We Don’t Patronize” to describe its censure list, preferring instead to treat it as publicity to shame the institutions that violated academic freedom.

Warren noted in 1914 about the proposed AAUP, “It will not be a grievance society or a trade union of the economic type. The men composing the committee are too well balanced to accept any such programme. Their ideals are too high, their interests too scholarly” (Warren, 1914, 697). Warren claimed, “they have had constantly in mind the pattern of the medical and bar associations” and will “elevate the standards of the teaching profession, by promoting self-respect, initiative, and responsibility” (Warren, 1914, 697).

AAUP President Frank Thilly proclaimed in his 1917 address, “We began our existence with a comparatively small membership; no violent efforts were made to persuade our colleagues to join us; and some of them held back, fearing that our profession might emphasize unduly its own individual rights and interests and sink, as they themselves put it, to the level of a trade-union” (Thilly, 1917a, 7). Thilly reported on the danger of the union label. An AAUP member noted that a newspaper wrote how professors at an informal AAUP meeting belonged to a “semi-secret organization of university professors.” Thilly responded, “The matter of academic freedom and tenure was, of course, forced upon us soon after our organization, and the only right thing to do was to meet the issue. It is, nevertheless, unfortunate that we should have become identified in the public mind with a movement whose immediate concern is with the fortunes of the professors. It goes all right in a jocular way to be spoken of a labor union, but an impression of this kind could do great damage to us if it become more than a joke”

(Thilly 1917b, 4). Thilly spoke about the AAUP efforts to defend academia: “There is no trade-unionism in this, no selfish insistence on personal rights and interests; we should be faithless to our trust as the custodians of academic scholarship if we refused to accept our share of the burden in the work of reform” (Thilly, 1917c, 17).

Other leaders of the AAUP worried about unions. J. M. Coulter proclaimed, “The Association has been characterized as a sort of labor union seeking to protect itself from the tyranny of its employers; also as a self-appointed judicial body trying cases which do not concern it. Such characterizations have arisen in consequence of certain of our activities, which belong to the category of what the public press regards as ‘news’” (Coulter, 1918, 3). The AAUP needed to espouse a Scientific Model of academic freedom in order to oppose the notion that the AAUP was a self-interested union. If the AAUP could assert that it was defending a neutral, scientific model of academic freedom, it would be able to escape the attacks on the AAUP as a union.

Arthur Lovejoy warned in his 1919 AAUP presidential address against what he called “Professorial Trade-Unionism” that was happening with college faculty joining the American Federation of Teachers. Lovejoy argued that unions “like to be futile” and “would diminish the usefulness and hamper the freedom of our profession...” However, Lovejoy was not generally anti-union, and proclaimed, “If I were a worker at a manual trade I should assuredly be a member of the union of my trade” (Lovejoy, 1919, 23). Nor did Lovejoy endorse “the silly snobbishness in the feeling that it would somehow be incongruous or unseemly for members of our learned profession to adhere to an organization composed chiefly of manual workers” (Lovejoy, 1919, 23).

Instead, Lovejoy felt that “all members of college or university faculties should be united in a single representative body” (Lovejoy, 1919, 23). Of course, the AAUP was intended to be that body which could provide a “very extensive *consensus* of professional opinion” (Lovejoy, 1919, 24). The AFT threatened not only the future of the AAUP, but also its Gentleman Scientist ideology. But by resisting the AFT rather than cooperating with them, the AAUP helped extend the growing split between K-12 and college educators.

In 1920, 15 members of the AAUP’s University of Missouri chapter objected to their president’s attack on college teacher unions and the AFT. Noting that some colleges are part of the public school system, and disadvantages of not being involved, the faculty proclaimed, “It is hard to see, however, wherein the actual relations between American colleges and the public schools warrant any such rigid distinctions. To us, it seems quite fitting that there should be an association including both...” They added, “If the history of the American Association of University Professors proves that collective action is needed among college teachers, there is no reason on the face of things why a college teacher may not think that collective action on a larger scale is worth while” (AAUP Bulletin, April 1920, 15). Lovejoy, however, refused to reply publicly to the attack, and only communicated with the Missouri members.

Lovejoy’s prejudice against academic unions reflected a variation on the Gentleman Scientist Model. A primary original ideal for the AAUP was not merely to defend professors, but to also provide a way for faculty to express their expert views on current controversies. The goal was for a group of gentlemen to get together and agree about what the true scholarly position should be. As a representative force for the entire

professoriate, the AAUP would prevent retaliation that might occur if one professor expressed an opinion. Unfortunately for Lovejoy and the other AAUP leaders, this aim for the organization proved to be unworkable. The AAUP never developed an adequate mechanism to determine a scholarly consensus on any issue, nor did it wish to undermine its strength by taking controversial stands on policy issues.

However, protecting the ability of individual professors to speak out provided another justification for academic freedom, according to Lovejoy: “The general public is little likely to heed ostensibly ‘expert’ opinions and arguments which it knows—or has plausible grounds for believing—to have been bought and paid for, or to have been delivered under any kind of duress. It is for this reason that the maintenance of ‘academic freedom’ must be a perennial and essential part of the business of this Association” (Lovejoy, 1919, 19). Lovejoy firmly rejected the idea of “those who pay the piper are entitled to call the tune....by its very essence, a university is an institution in which opinions are not for sale and doctrines are not served to order” (Lovejoy, 1919, 19).

Lovejoy’s assertion that faculty were not “employees of establishments conducted for the private profit of individuals” also indicated why the AAUP rejected unionism (Lovejoy, 1919, 25). To define the AAUP as a union would imply that professors were mere employees who had to negotiate their liberty; by contrast, the AAUP leaders saw the faculty as Gentlemen Scientists who were entitled by their position to academic freedom. A union would undermine the idea of academic freedom for any professors who were not unionized.

Lovejoy also believed that the economic fight between corporations and unions would continue to pose the greatest threat to academic freedom, and “the professional

investigator of social problems ought to avoid entangling permanent alliances with any of the purely economic groups which are now struggling with one another..."(Lovejoy, 1919, 26). If faculty were members of a union, Lovejoy feared, the public would no longer accept their pronouncements on disputes involving labor as objective and neutral.

### The AAUP's Idea of Academic Freedom

The AAUP's concept of academic freedom, framed by the 1915 Declaration of Principles, reflected and codified the idea of academic freedom being widely expressed by scholars. But the AAUP's statement also moved academic freedom forward in new directions, embracing not only the idea of intellectual freedom but the structures (such as tenure and formal policies) necessary to protect it. The Gentleman Scientist Model, intertwined throughout the 1915 Declaration of Principles, was part of the AAUP's attempt to gain public approval of its optimistic vision of academic freedom. However, the reality of academic freedom on American campuses was much different than the model espoused by the AAUP. The AAUP would struggle in its early years, and for decades to come, to reconcile its Gentleman Scientist ideal with the repression that was common on college campuses.

## CHAPTER IV

### ACADEMIC FREEDOM FROM 1915-1940

With the formation of the AAUP, the idea of academic freedom had gained a strong place in higher education. For the first time, professors had a single organization working nationwide and across all disciplines to defend academic freedom. But would the nascent AAUP be powerful enough to stand up against the forces of campus repression? The AAUP would soon face an enormous test, and it would fail badly. The AAUP was founded during the largest global war that the world had ever seen. Although in 1915 the United States maintained a neutral stand, that would soon change. By 1917, America had entered the Great War, and the suppression of academic freedom quickly reached extraordinary levels that would never be seen again on college campuses. The AAUP, seemingly designed to deal with political disputes about economics, could not withstand the cries for patriotic unity during war. The idea of the Gentleman Scientist was easily converted into the Warrior Scientist serving the military cause, and the pacifist and the skeptic about war no longer could find a secure position at American colleges (Gruber, 1975).

#### Scott Nearing, From Economics to War

One of the most famous cases where academic freedom was violated concerned a leftist economist named Scott Nearing. The attacks on Nearing because of his political

beliefs began long before he was fired. While a lecturer at the Wharton School of Business at the University of Pennsylvania, Nearing was denied a promotion despite the recommendations of the faculty and the Academic Council. Dean Robert Young warned him, "Mr. Nearing, if I were in your place I would do a little less speaking about child labor" (Saltmarsh, 1991, 84).

Nearing's firing in 1915 was explicitly due to his political views. Trustee George Pepper said he supported free speech only if "free speech means the right to proclaim views not discordant with the ethical sense of the community" (Saltmarsh, 1991, 97). Pepper noted that it was "generally recognized that Doctor Nearing not only antagonized industrial orthodoxy, but orthodoxy in other fields, social and religious" (Saltmarsh, 1991, 99). Another trustee said that Nearing was a problem because "he advocated the ruthless redistribution of property" (Saltmarsh, 1991, 97). One trustee noted that Nearing was accused of "economic heterodoxy" (Saltmarsh, 1991, 99). Ralph Easley, head of the National Civic Federation, assured a trustee that "there will be no trouble to prove that Nearing is a socialist and a man whose utterances are of such a character as to make him unworthy of being connected with an institution like the University of Pennsylvania" (Saltmarsh, 1991, 101).

When the Wharton school fired Nearing, it was protested by the AAUP, the Wharton faculty, and 1,500 students who signed a petition (Saltmarsh, 1991, 102). But many people, including the *New York Times*, supported the decision: "Men who through toil and ability have got together enough money to endow universities or professors' chairs do not generally have it in mind that their money should be spent for the dissemination of the dogmas of Socialism or in the teaching of ingenuous youths how to

live without work. Yet when Trustees conscientiously endeavor to carry out the purposes of the founder by taking proper measures to prevent misuse of the endowment, we always hear a loud howl about academic freedom. We see no reason why the upholders of academic freedom in this sense should not establish a university of their own. Let them provide the funds, erect the buildings, lay out the campus, and then make a requisition on the padded cells of Bedlam for their teaching staff. Nobody would interfere with the full freedom of professors; they could teach Socialism and shiftlessness until Doomsday without restraint” (Novick, 1988, 64-65). Obviously, the early attempts to establish the principle of academic freedom met with strong resistance.

#### World War I and the War on Academic Freedom

After Scott Nearing's firing from the University of Pennsylvania, he received an offer from Toledo University (now the University of Toledo) to teach. Upon reaching Toledo, Nearing was greeted warmly by the local newspaper: "Dr. Nearing can express whatever views he has, suggest any progressive reform he believes in, and there will be no reactionary, medieval brained trustees attempting to muffle him” (Saltmarsh, 1991, 109).

But Nearing didn't keep his mouth shut, and didn't limit his criticism to child labor. As war seemed imminent, Nearing spoke out in opposition to US intervention. Within a year and a half, the local newspaper had changed its position, concluding that "As long as Nearing stays at the University, the School will be under fire." According to the paper, "free speech is not involved" but rather "the peace and the future of T.U. and the community at stake” (Saltmarsh, 1991, 120). Although Nearing offered to resign, the



trustees rejected this by a 5-4 vote, but a week later they voted 4-3 not to renew Nearing's contract in 1917 (Saltmarsh, 1991, 121-2).

Nearing lost his job, his publisher, and became persona non grata for many years on college campuses even after the war ended. In 1920, when Nearing spoke at Clark University, the president Wallace Atwood found the lecture "disgusting" and stopped it after five minutes (Saltmarsh, 1991, 170). As H.L. Mencken noted about Nearing, "He was thrown out because his efforts to get at the truth disturbed the security and equanimity of the rich ignorant who happened to control the university....In three words, he was thrown out because he was not safe and sane and orthodox." Mencken added, "I should be a great deal more comfortable in those convictions and instincts if I were convinced that the learned professors were really in full and absolute possession of academic freedom--if I could imagine them taking the other tack now and then without damnation to their jobs, their lectures dates, their book sales and their hides" (Jacoby, 1987, 209).

Even the organization of the AAUP to protect academic freedom did not provide faculty with the liberty to speak. This became clear only a few years later, when opponents of World War I found themselves widely persecuted with no one to defend them. The suppression of anti-war professors was accepted by academics because it did not threaten the basic university institutions. The repression was made on political, not academic grounds; furthermore, the repression was made for political reasons (supporting the war) which most faculty favored. In addition, the lines between supporting the war and opposing it were clear enough to prevent the danger of a slippery slope which might threaten academic institutions. Yet this is precisely what happened when the exception to

academic freedom was regarded as legitimate. Not only "disloyal" professors, but anyone who expressed any skepticism about the worthiness of the war or who had any German connections was subject to suppression.

The New Republic reported more than 20 cases of professors fired because of their refusal to support the war, and there were undoubtedly many more that went unreported. A few teachers even faced legal penalties. Carl Haessler, a philosophy professor at the University of Wisconsin, was imprisoned for his opposition to the war (Smith, 1990, 127). Academia, including the newly-formed AAUP, refused to support academic freedom during a time of war.

#### The AAUP's Wartime Report on Academic Freedom

During World War I, the AAUP embraced the most repressive measures ever supported by the organization. Never before, and never again, would the AAUP call for the suppression of peaceful dissent. In part, the AAUP's position reflected the stance of an organization eager for public approval and unwilling to sacrifice its limited credibility for the abstract principle of academic freedom during wartime. But the AAUP's support for repression also reflected the strong support for the war itself among its leaders.

John Dewey believed in academic freedom, but he also believed in this war to end all wars. Dewey convinced the New Republic's editors to ban his former student Randolph Bourne from their magazine because Bourne disagreed with Dewey about the war (Mulcahy, 1996, 147). Even the victims of past repression supported severe wartime limits on academic freedom; Richard Ely wrote to a friend, "We cannot take the same position in time of war as we take in time of peace....A man who gives utterance to opinions which hinder us in this awful struggle deserves to be fired" (Gruber, 1975, 256).

Lovejoy condemned conscientious objectors as “an unpleasantly parasitic part in the history of human progress” (Whitfield, 1974, 69). He urged purging pacifists from academia, “whether or not they have already come within the reach of the law” (Whitfield, 1974, 70). Lovejoy declared that “such a war as this, in which the entire world is involved and the future character of human life and relations upon this planet is at issue, alters many things and suspends some of the rules of less critical and perilous times” (Gruber, 1975, 170). Lovejoy argued that colleges had to choose between being an “accomplice” in the “defeat and the dishonor of the republic,” and refusing to “give countenance and aid” to such persons (Gruber, 1975, 170-1). Lovejoy was the chair of the AAUP’s Committee on Academic Freedom in Wartime, and the report it produced in 1918 reflected his views.

Practically no one spoke up in defense of the right to dissent, and even the AAUP, which had three years earlier made the first defense of academic freedom, declared in 1918 that the war “gives rise to new problems concerning the rights and obligations of free speech.” The AAUP quickly backed off from its new commitment to academic freedom when America went to war. At times, the AAUP Report on Academic Freedom in Wartime decried special penalties aimed at faculty, but did not espouse any special freedoms for them: “university teachers should be subject to the inhibitions which, because of the exigencies of war, the government may enjoin upon all citizens alike, and to those inhibitions alone” (AAUP, 1918, 34). It noted six cases in four months of professors dismissed for “disloyalty” and declared a “presumption against supplementary disciplinary action by colleges” (AAUP, 1918, 29, 36).

Yet the Report also endorsed precisely this kind of action, and proclaimed that professors should “be required by their institutions to refrain from propaganda designed, or unmistakably tending, to cause other to resist or evade the compulsory service law or the regulations of the military authorities; and those who refuse to conform to this requirement may be, and should be, dismissed, even before any action has been taken against them by the law-officers of the state.” (AAUP, 1918, 37). The AAUP decreed that all professors must “refrain from public discussion of the war” and privately act “to avoid all hostile or offensive expressions concerning the United States or its government” (AAUP, 1918, 41). The AAUP had never proclaimed that a topic could not be discussed in public and that professors could not, even in private, criticize the government.

However, Lovejoy and the other pro-war members of the Committee were concerned about the far reach of repression on college campuses during World War I. The Report noted that a woman’s college announced, “no pro-German, pacifist or neutral sentiment will be tolerated by the college” and ordered that the dismissal of anyone whose “unqualified loyalty” to the government and support for the war was “subject to any reasonable doubt” (AAUP, 1918, 42). The Report added that “a distinguished man of science” was dismissed from an important university for “seditious or treasonable acts” for writing a letter to Congress opposing conscription without public support. The AAUP committee called it “a grave abuse of the power of dismissal” (AAUP, 1918, 45).

The AAUP’s special report declared four wartime exceptions to academic freedom: 1) "conviction of disobedience to any statute or lawful executive order relating to the war"; 2) "propaganda designed, or unmistakably tending, to cause others to resist or evade the compulsory service law or the regulations of the military authorities"; 3)

actions "to dissuade others to resist others from rendering voluntary assistance to the efforts of the Government"; 4) and, for Germans, violation of a requirement "to refrain from public discussion of the war; and in their private intercourse with neighbors, colleagues and students, to avoid all hostile or offensive expressions concerning the United States or its government" (AAUP, 1918, 37-41). These four "exceptions" covered practically all of the controversial issues which led to censorship; not only was any criticism of the draft or military regulations unprotected, but Germans were vulnerable to any accusation about a private conversation concerning America. Never before, and never since, had the AAUP proclaimed that a topic could not be discussed in public and that professors could not, even in private, criticize the government.

The AAUP did not seek to toe a delicate line between fierce loyalty and protection of dissent. To the contrary, the Report called those opposed to war "enemies of the state" and guilty of "treachery" (AAUP, 1918, 35). According to the AAUP's Report, "the attitude of citizens who resist the law of military service is both ethically indefensible, and, if it is widely prevalent, gravely dangerous to the public in time of war; and in such a time the public safety is the supreme law" (AAUP, 1918, 35).

The *Nation* magazine criticized the AAUP report as "a serious disappointment" arguing that "By rejecting this principle, the committee, for the period of the war, hands over the keys of the castle to the enemy..." and "jeopardy the very conception of a university" ("The Professors in Battle Array," 1918). The *Nation* argued, "surely the university, as the home of freedom, should not go out of its way to impose on its members, in addition to these, other restrictions that are not laid on other members of the community" ("The Professors in Battle Array," 1918).

As the *Nation* put it, “The fundamental error in the committee’s position, as we see it, lies in the apparent assumption that a state of war fundamentally changes the work of a university and the method of accomplishing it” (“The Professors in Battle Array,” 1918). The *Nation* concluded, “we have here another melancholy instance in which judgment on a great question of freedom has been warped by passionate devotion to that cause, and that the more sober reflection of quieter times, when it is too late, will lead to another answer.” (“The Professors in Battle Array,” 1918). While the AAUP never again endorsed such restrictions on academic freedom, it also never repudiated what it did during World War I, and none of the AAUP’s leader apparently ever expressed regret for the 1918 Report.

Lovejoy wrote an angry rejoinder to the *Nation*, far longer than the original editorial. Lovejoy argued that the AAUP report was “primarily” a rejection of “petty persecution” at some colleges (Lovejoy, 1918). But Lovejoy’s complaint had little basis in fact. While the AAUP report was mildly critical of some institutions, it did not name any of them (and the AAUP never investigated or censured any college for their actions during World War I).

Lovejoy also justified significant restrictions on academic freedom. Lovejoy offered the hypothetical examples of a professor who would “be permitted to employ his leisure in inciting other citizens to resist the draft laws; or to go about urging farmers, by adroit appeals to self-interest and class prejudice, to reduce the production of cereals” (Lovejoy, 1918). These were, to Lovejoy, self-evident examples of cases where a professor should be dismissed even if he were not prosecuted.

Lovejoy argued that the AAUP had always sharply limited academic freedom, allowing the firing of a professor “for grave moral delinquencies, or for violations of professional ethics, or for gross and habitual discourtesy” (Lovejoy, 1918). Lovejoy declared that the AAUP had never adopted the Nation’s position, which he dismissed as “complete academic anarchism” (Lovejoy, 1918). As Lovejoy put it, “The committee, in short, has sought to face realities” (Lovejoy, 1918).

Lovejoy also made a startling declaration that academic freedom did not apply to communists: “The American college, if it maintained the kind of neutrality, with respect to the present struggle, which the Nation regards as essential to academic freedom, would, in fact, be not merely tolerating but facilitating the efforts of those who would repeat in America the achievement of the Lenines and the Trozskys in Russia” (Lovejoy, 1918). This statement was particularly shocking because World War I was not fought over communism, and it indicated that Lovejoy’s sharp restrictions on academic freedom were not limited to wartime but to any perceived threat to the nation.

Metzger depicted the AAUP in World War I as fighting off overwhelming threats to academic freedom: “Suddenly, the gains for academic freedom that had painfully and gradually been won—the greater acceptance of the principle, the beginnings of a regime of academic law—were swept aside....Nothing in the experience of the professors prepared them to deal with the problem of loyalty in a time of national emergency” (Metzger, 1961, 222). But in reality, the AAUP’s report was a problem of its own making. The AAUP was not a victim of war hysteria, but an active participant in it.

## The Consequences of Wartime Repression

When even the AAUP would not support academic freedom, universities felt free to dismiss professors on the most tenuous of grounds. Allen Eaton at the University of Oregon was fired by trustees, despite being defended by the president and the faculty, because he attended a meeting of the People's Council for Peace and Democracy and wrote a letter to the newspaper about it (Gruber, 1975, 175). Leon Whipple of the University of Virginia was denounced by fellow faculty members for his pacifism expressed in public speeches and letters to newspapers (Gruber, 1975, 176). Ernst Feise was fired at the University of Wisconsin, where 90% of the faculty, as well as the president and the deans, signed a petition condemning Senator Robert La Follette's anti-war stand, accusing him of giving "aid and comfort to Germany and her allies" and failing "loyally to support the government in the prosecution of the war" (Gruber, 1975, 207). At the University of Michigan, C.E. Eggert, W.W. Florer, E.A. Boucke, John Dieterle, W.W. Kusterman, Herman Wiegand, and Richard Ficken were fired for crimes such as a "pro-German attitude" (Hollingsworth, 2000, 10). At the University of Nebraska, E.E. Hopt, C.E. Persinger, and G.W.A. Luckey were victims of the repression.

At the University of Illinois in 1917, President Edmund James noted that one sacrifice in war was "that you keep your mouth shut while we are in a fight" (Swanson, 1966, 316). Three faculty members at Illinois were dismissed after refusing to buy Liberty Bonds (*Daily Illini*, November 3, 1917). Philosophy teacher Carl Haessler was dismissed from the University of Illinois for his condemnation of the war and his pacifism. Refusing to serve in the armed forces, he was sent to Fort Leavenworth. Even supporting a pacifist could lead to retaliation. In 1918, Arthur Cole, another professor



who had his loyalty questioned, started a petition immediately after the armistice to support amnesty for Haessler and other prisoners (Grisso, 1980, 559). After Cole led the formation of a faculty union (associated with the American Federation of Teachers) in 1919, the Board of Trustees reduced his appointment from three years to one year, and eliminated his pay hike. In 1920, when again they offered only a one-year appointment without a pay hike, Cole left the University (Grisso, 1980, 563).

William Schaper, a professor of political science at the University of Minnesota, was fired because he had participated in antiwar demonstrations and signed a petition opposing war. However, Schaper never had spoken his "pro-German" views in class or tried to indoctrinate students. When war began, he stopped his antiwar activities and even urged several students to join the armed forces. But in 1917, an informant to the Minnesota Public Safety Commission accused Schaper and other faculty members of "infecting" the college with the "germ" of disloyalty. Because Schaper had several first cousins in the German army, he felt he "could not boost for the war," but he believed the law must be obeyed and no war activities hindered in any way. President M.L. Burton accused Schaper of being "the Kaiser's man" and within a few hours, the regents had dismissed him because "his attitude of mind...and his expressed unwillingness to aid the United States in the present war, render him unfit and unable rightly to discharge the duties of his position." The resolution declared that the war required "unqualified loyalty on the part of all teachers in the University" (Gruber, 1975, 178-79).

Schaper, who could not get an academic position until 1925, wrote to a friend, "No one who has ever known me will ever doubt my devotion to my country. It was because of my intense Americanism that I tried to keep my country out of the European

war” (Gruber, 1975, 183). In 1938, the Minnesota regents admitted their error and reinstated Schaper as professor emeritus, awarding him \$5,000 in reparations (Gruber, 1975, 186). But such was the paranoia at the University of Minnesota during World War I that when an ardently pro-war professor's speech was grossly misreported in a Philadelphia newspaper, the Minnesota regents and President Burton raced to fire him until the faculty intervened to point out the mistakes (Gruber, 1975, 184).

At Columbia University, the loyalty crusade even preceded the war. In 1916, Charles Beard was brought before the trustees, charged with defending a speaker who had said "to hell with the flag" at a public meeting. Although Beard refuted the false charges, he was interrogated for half an hour about his beliefs. Beard and all political science faculty were warned against any teaching "likely to inculcate disrespect for American institutions” (Gruber, 1975, 189). Faculty members Leon Fraser and Benjamin Kendrick were called before the trustees to explain their remarks criticizing military training (Gruber, 1975, 189). In 1917, Columbia rescinded an invitation to pacifist Court Ilya Tolstoy. When faculty and students criticized this decision, a trustee committee began investigating whether subversive doctrines were being taught at the university (Gruber, 1975, 190).

At the June 6, 1917 commencement, Columbia President Nicholas Murray Butler expressed the wartime change in academic freedom: "What had been tolerated before becomes intolerable now. What had been wrongheadedness was now sedition. What had been folly was now treason....There is and will be no place in Columbia University...for any person who opposes or counsels opposition to the effective enforcement of the laws of the United States, or who acts, speaks or writes treason." Butler concluded, "This is the

University's last and only warning to any among us...who are not with whole heart and mind and strength committed to fight with us to make the world safe for democracy” (Gruber, 1975, 199). Butler's condemnation of academic freedom was nothing new, since many ideas had been intolerable even before the war; in 1910, he told the Columbia Board of Trustees, "Men who feel that their personal convictions require them to treat the mature opinion of the civilized world without respect or with contempt may well be given the opportunity to do so from private station and without the added influence and prestige of a university's name” (Novick, 1988, 64). But before the war Butler had at least written, "If certain preconceived views must be taught and if certain preconceived opinions must be held, then the institution whose teachers are so restricted is not a university," although he also wrote that "a gentleman understands that it is neither necessary nor expedient to teach to the young everything which the experience and reflection of an older man may have taught him to believe." (Butler, 1914, 291, 294). Butler's invocation of the Gentleman Scientist Model, which called for a gentlemanly professor to censor certain truths in teaching students, made it much easier to demand a blanket censorship on anti-war speech. Butler's 1917 proclamation signaled that the small steps toward academic freedom made in the past few years had been wiped away by the war. And Columbia did not hesitate to enforce its new view of treason.

At Columbia, a Committee of Nine was established to determine "whether doctrines which are subversive of, or tend to the violation or disregard of the Constitution or the laws of the United States or of the law 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 and disseminated by officers of the University” (Metzger, 1961, 224).

James McKeen Cattell, a leading psychology professor at Columbia for 26 years, was fired in 1917 by the trustees on the grounds of "sedition," "treason," and "opposition to the effective enforcement of the laws of the United States” (Gruber, 1975, 189). Columbia had tried three times earlier to make Cattell retire because of his criticisms of administration policy. It finally got a chance to get rid of him when he wrote a letter to three congressmen in support of "a measure against sending conscripts to fight in Europe against their will” (Gruber, 1975, 196). Defending conscientious objectors was considered treasonous behavior.

Henry Wadsworth Longfellow Dana, assistant professor of comparative literature, was fired for encouraging student agitation against the Conscription Act while it was pending. Leon Fraser, instructor in politics, was dismissed for making some critical remarks about the Plattsburg military camp (Metzger, 1961, 228). In disgust at the firings and the conduct of the trustees, Charles Beard and three other professors resigned. But they were not in the majority. According to Gruber, "There is every indication of considerable faculty agreement that the opinions and activities of the two men were improper and injurious to Columbia University and to the nation” (Gruber, 1975, 204).

Columbia was certainly not the only university to suppress anti-war activists. Emily Balch, a faculty member at Wellesley for 20 years, actively opposed American opposition. In 1917-18, she took a leave of absence to spare the college embarrassment, but in 1918 the trustees decided to delay a decision on her re-appointment, and a year later they refused a re-appointment and dismissed her (Gruber, 1975, 175). The Board of

Regents at the University of Texas unanimously voted in July 1917 to fire a political scientist who had helped found the People's Council of America for Peace and Democracy, a radical anti-war group (Goldstein, 2001, 127). Simon Patten was forced out of the University of Pennsylvania by trustees offended because of his defense of "German values," his economic and social ideas, and his "tactical error" of introducing a pacifist at a public meeting just before American intervention in the war (Gruber, 1975, 175).

In 1918, Justice Department Bureau of Investigation detectives questioned a University of Southern California professor accused of favoring Germans in his lectures. Although the professor offered many examples of "highly patriotic" excerpts from his lectures, he "was cautioned that whenever he delivered a speech of any kind to be sure he delivered it in such ringing American terms that no one would question his loyalty" (Thomas, 2008, 36).

In part because of the routine purging of radicals, college faculty were often deeply conservative. Four hundred faculty at the University of Wisconsin endorsed a petition denouncing Senator La Follette for his "unwise and disloyal utterances giving aid and comfort to the enemy" (Thomas, 2008, 124). In 1918, Professor Victor Lenher warned the Justice Department that the Wisconsin Forum (a student group which brought speakers to campus) leaned toward socialism, and advised them to investigate. After Jessica Colvin, a member of the Forum, wrote a sympathetic letter to a conscientious objector in prison, she was summoned to appear before investigators and asked if she held Socialist or pro-German views, even though she was a supporter of the war and noted that she had bought war bonds (Thomas, 2008, 124-5).

Only President Lawrence Lowell of Harvard resisted the tidal wave of repression, refusing to fire a pro-German professor whose dismissal would allow a \$10 million bequest from a disgruntled alumnus (Metzger, 1961, 228-9). Few other colleges had the inclination or the deep pockets to resist the patriotic, anti-German sentiment which swept across the country. Even the language was suspect, as enrollments in German classes declined by 40% during the war (Cardozier, 1993, 122).

Most colleges and universities not only suppressed dissenters, but threw themselves enthusiastically into the war effort. At the University of Chicago, 50 scientists urged President Judson to "offer the scientific laboratories and equipment of the University to the federal government for use in case of war." A petition signed by 153 Chicago faculty and administrators expressed their support for "military, industrial or scientific service in case of war" (Gruber, 1975, 97). Bond campaigns were encouraged, and the United War Work Campaign Committee even urged faculty to use five minutes of class time to take collections from students (Gruber, 1975, 107).

During World War I, an effective censorship machine went into action with the passage of the Espionage Act. More than 50 scholars helped a government surveillance effort, reading local foreign language newspapers and sending translations of any articles which "might be construed as advocating insubordination or opposition to the execution of the laws or regulations of the United States Government or halting the work of enlisting men in either the Army or the Navy" (Gruber, 1975, 157).

The war also affected the curriculum, as many universities (beginning with Columbia) began instituting War Issues or Western Civilization courses designed to explain to students the legacy of the West which they would be defending in Europe. And

the stirrings of the first Red Scare were beginning. In the University of Michigan “War Aims” course, William Frayer warned students about "the wild excesses of the revolutionists," noting that "a surprising number" of them were Jews. Frayer declared that Bolshevik sympathizers "are everywhere," even "on the campus of the University of Michigan” (Gruber, 1975, 241). The fear-mongering during World War I about radicals and treasonous speech made repression in academia much easier to justify in the years that followed, when radicalism and the fear of the Soviet Union would become the dominant excuse for firing faculty.

#### Academic Freedom in the 1920s

Restrictions on academic freedom continued after the end of the war, and even after the Red Scare which followed in its wake. Although historian Page Smith claimed, "The twenties saw a sharp drop in the number of professors fired for unorthodoxy” (Smith, 1990, 131), there is little evidence to support this generalization. Fosse argued that in the 1920s, “The atmosphere of the university was charged with fear” (Fosse, 1951, 21). Indeed, in academia it may be more accurate to consider the era between World War I and World War II as a continuous Red Scare, although the degree of repression certainly varied.

In the 1920s, a journalism professor at Ohio State was fired for treating a coal strike favorably, and pacifist leader Nevin Sayre was barred from speaking at the University of Oklahoma (Goldstein, 2001, 180-181). A 1920 survey by the Intercollegiate Socialist Society, “Freedom of Discussion in American Colleges,” found that “an increasing number of schools were (1) prohibiting outside affiliations for political groups,

(2) placing increasing restrictions on speakers, and (3) censoring the faculty's right to express liberal opinions" (Lipset, 1976, 162).

In 1921, Vice-President Calvin Coolidge wrote an article on "Enemies of the Republic" beginning with the "Reds" in college. Coolidge worried that "college faculties rebel at the authority of presidents and trustees" (Lipset, 1976, 162). This may be the only case of a sitting Vice President publicly denouncing left-wing professors. Interestingly, Coolidge's article was titled, "Are the Reds Stalking Our College Women?" (Coolidge, 1921). Sexuality and radicalism went hand in hand to the critics of higher education. Subversives were seen as both sexual and political.

A sex scare at Harvard occurred in 1920. On May 13, 1920, Harvard student Cyril Wilcox committed suicide a few weeks after suffering a nervous breakdown and being kicked out of college for poor grades (Paley, 2002). But shortly after his death, a letter written to him by fellow student Ernest Weeks Roberts made references to "faggoty parties" and homosexual activity at Harvard. Cyril's brother tracked down some of the men in the circle of gay friends, and informed Harvard dean Chester Greenough. An anonymous Harvard student reported parties in Roberts' room with crossdressing where "the most disgusting and disgraceful and revolting acts of degeneracy and depravity took place openly in plain view [sic] of all present" (Paley, 2002). Harvard created a secret court to track down gay students and spy on likely homosexuals on campus. The Court interrogated students about homosexuality and masturbation, and pressured students to name others. When one student outed philosophy assistant Charles B. Clark as gay, Clark was forced to withdraw from pursuing his Ph.D. and was not reappointed; President Lowell personally crossed out his name from Harvard's records (Paley, 2002).



The secret Court would find 14 men guilty of homosexual activities, including four men not connected with Harvard. Seven college students were expelled from Harvard and even ordered to leave the town of Cambridge; Dean Greenough wrote one man's father, "He has been ordered to leave Cambridge today. Consequences of disobedience of this order would be most serious" (Paley, 2002). A letter about their homosexuality was placed in the students' Alumni Placement Service files, and one alumnus was blocked when he sought teaching jobs. When Joseph Lumbard (whom Harvard officials could not prove had committed any homosexual acts) sought to enter other colleges, Harvard contacted the deans to block his application. Brown University Dean Otis Randall expressed his gratitude to Greenough. "How frequently we uncover in the undergraduate life messes of this sort, and how disagreeable it is to deal with such matters!" Lumbard was re-admitted to Harvard a year later, became a federal judge, and later served on Harvard's Board of Overseers (Paley, 2002).

Another expelled student, Keith Smerage, wrote, "A human streak in me makes me feel rather sore at being one of eight expelled when I am one of at least ten times that number" (Paley, 2002). Smerage planned to attend Rutgers, but withdrew his application because Harvard officials threatened to out him. Eventually, Smerage became a traveling song-and-dance man until he committed suicide in 1930. His was not the only suicide. Eugene Cummings, a dental student interrogated in the scandal, committed suicide. The secret Court at Harvard became known only because the records accidentally were sent to the archives and a *Harvard Crimson* reporter saw an obscure reference to their records and then launched a six-month campaign to have them released (Paley, 2002). Similar

acts of repression against gay students must have been common at colleges around the country, but most of the cases will never be known.

University of Illinois President David Kinley was a prominent example of how academic leaders were pressured to suppress subversives on campus. In 1894, Kinley had been the primary defender of his mentor Richard Ely at the University of Wisconsin. Although a University of Illinois economics professor, Kinley was vacationing in Madison during the summer, and he vigorously prepared the successful defense of Ely against charges of being a socialist (Hansen, 1998, 45-46).

Yet by the 1920s, Kinley was a leading example of repression imposed by public college presidents. Kinley stated that academic freedom was "limited by the obligation which every member of the staff" had to observe. Parents of students, he felt, had the right not to have their children exposed to doctrines which might "undermine their health and...morality" (Rodnitzky, 1967, 189). In 1927, Kinley ordered a dean to tell a faculty member to "recall his request that the student read this book, and advise him that this is not the kind of thing which...should be assigned to undergraduate students at all." The book was James Joyce's *Ulysses* (Grisso, 1980, 568-9). In 1926, after Dean of Men Thomas Clark declared, "There is moral danger in the car," student automobiles were banned, and not until 1953 were they again allowed (Schwartz, 2010, 40). In January 1926, Kinley suspended *The Illini Magazine* for the rest of the year after it ran an article insulting LaSalle, Illinois (Grisso, 1980, 566). Two students were removed for portraying the zinc smelting industry in an "unfavorable light" (ACLU, 1931, 28). After a 1928 report by Paul Douglas, a professor of economics at the University of Chicago and later a senator from Illinois, urged the state to make ROTC voluntary, Kinley defended the

ROTC and even prompted the Dad's Association to denounce "slackers, communists, and bolsheviks" for causing "discord among the faculty and students" (Grisso, 1980, 608). Campus freedom, which Kinley had defended so forcefully three decades earlier when his teacher was threatened, became a disposable impediment to the orderly functioning of a university when he was in charge.

Arthur Schlesinger, Sr., noted that a president of a state university "favors freedom of teaching in principle....He would even protect a professor from outside criticism up to a certain point. But if University appropriations are involved, then his allegiance is to the appropriation" (Novick, 1988, 66). And the threat of government control always lurked in the background. In 1921, then-Vice President Calvin Coolidge noted worriedly that Mary Calkins of Wellesley had been "said to have voted for Debs for President at the recent election" (Coolidge, 1921). President Harding's Commissioner of Education declared that in colleges there was "altogether too much preaching of these damnable doctrines of Bolshevism, Anarchy, Communism and Socialism." He added, "if I had it in my power I would not only imprison but would expatriate all advocates of these dangerous un-American doctrines. I would even execute every one of them--and do it joyfully" (Goldstein, 2001, 174). When the leading federal government official overseeing higher education was calling for the mass execution of socialist professors, it can hardly be irrational to surmise a massive amount of censorship and politically motivated firings on college campuses.

Even college presidents who sought to suppress campus radicals were denounced for doing too little. In 1928, A.J. Muste, director of the Brookwood Labor College, was attacked for being "anti-religious" and because of the college's "red tendencies." The

reds did not agree; they criticized Muste, accusing him of firing left-wing teachers and expelling communist students (Kates, 2001, 95).

A 1931 report by the ACLU, "The Gag on Teaching," identified numerous examples of censorship on college campuses. In 1928, a Federal Trade Commission investigation found "a close connection between public utilities and the academic profession" in the form of subsidies paid to schools of commerce and professors, and promotion of textbooks favorable to utilities. Political power was sometimes wielded more directly: In 1930, one of the largest purges in the history of higher education in America occurred when Mississippi Governor Bilbo "discharged 179 faculty members, replacing them by teachers personally pleasing to him" (ACLU, 1931, 17).

The ACLU report also described a large number of instances where professors were censored. In 1926, two teachers in the Genesee, New York state Normal School were dismissed, apparently for their "progressive" political activities. In 1926, John Kirkpatrick was fired from Olivet College because his book, *The American College and its Rulers*, attacked the control of higher education by business interests. In 1927, philosophy professor Sol Auerbach was dismissed from the University of Pennsylvania because he praised Soviet Russia; Auerbach was informed that his department believed it "incompatible for a man to take a stand on a public issue and at the same time to retain the critical state of mind necessary for research in philosophy and teaching." In 1928, journalism professor Wesley Maurer was dismissed from Ohio University for publishing articles sympathetic to striking miners. A powerful coal operator was a member of the Board of Trustees. Walter Ludwig, a student pastor who showed sympathy to the miners' cause, was also fired at the end of the year. In 1929, psychology graduate student Fred

Woltman was fired from the University of Pittsburgh because he served as secretary of the local Civil Liberties Committee. In 1931, sociology professor Herbert Adolphus Miller was denied reappointment at Ohio State University because he supported the Indian nationalist movement and opposed compulsory military training (ACLU, 1931, 23-25).

However, even these numerous examples cannot convey the full scale of repression on college campuses. The ACLU report noted that some colleges "are so tightly controlled that no teachers are employed likely to raise issues, and student discussion of controversial matters in their own societies is not tolerated. In some places only 'safe and sane' men are hired. In others one-year contracts are made and tenure of office has been cut so that a troublesome man can be let out without raising the issue of his views. In some colleges a whole course has been eliminated or a department reorganized to get rid of too independent a teacher" (ACLU, 1931, 23). One example was an economics professor at Battle Creek College who was ordered to resign after he was accused of being a Socialist. When he refused, the administration backed down from its threat to fire him out of fear of a student strike, but later dismissed him by discontinuing his department (ACLU, 1931, 24).

Faculty were not the only victims of censorship in the growing repression of the late 1920s. Colleges frequently suspended students for expressing liberal views and banned radicals from speaking on campus. Scott Nearing, Arthur Garfield Hays, and Clarence Darrow were banned from the University of Pittsburgh; Kirby Page, the pacifist editor of "The World Tomorrow" was prevented from speaking at the University of West Virginia and Oregon State College. John Nevin Sayre, chair of the Committee on

Militarism in Education, was not allowed to address students at the universities of Oklahoma, Wyoming, Indiana, and Missouri (ACLU, 1931, 26). At Detroit City College, the Detroit Employers' Association opposed attempts to allow Scott Nearing and ACLU director Roger Baldwin to speak. The employers' group pressured the administration not to allow the college hall to be used, and then pressured the city library to deny them a room. The dean of the college told students that if there was more publicity, "You will jeopardize your future" (ACLU, 1931, 27).

Liberal and leftist students began to protest against campus strictures such as compulsory ROTC, and they often faced repression. The Liberal Club at Duke University was forbidden to discuss the case of Ella May Wiggins, a textile worker killed during a strike, because it was "controversial." At City College of New York, two students were suspended for expressing opposition to compulsory military drill, and discussion of the issue was banned from the student paper. A third student was suspended after being arrested for handing out pamphlets to announce a Communist demonstration. At the University of Minnesota, 36 students were suspended for opposing military training, although 24 were later reinstated after legal action was taken (ACLU, 1931, 27). When the Liberal Club at the University of Pittsburgh held a protest meeting and demanded the "unconditional release of Thomas Mooney and Warren K. Billings," it was disbanded and faculty adviser F.E. Woltman was dismissed. An AAUP report concluded, "The University had adopted a highly ambitious project for expansion and is dependent for funds partly on the local community and partly on the state government, in both of which the influence and peculiar point of view of certain big business and interests seem to be paramount." The University often persuaded faculty to avoid controversial subjects in

public by summoning professors to the chancellor's office and dismissing those who did not change their ways (ACLU, 1931, 28).

Student newspapers were especially vulnerable to administrative control. The *Junior College Collegian* in Kansas City was suppressed after it printed student criticism of the college, and one student was expelled and four more suspended. The editors of a newspaper at the University of Washington were suspended after publishing an article on Lincoln. The editor of *The Thresher*, a student paper at Rice Institute, was dismissed for an "objectionable" article. At Baptist University, when the student paper demanded reinstatement of three professors fired for teaching evolution, the newspaper was suppressed. Clark University expelled three editors of *Clark Monthly* for an article which went unprinted when the president got hold of the galley proofs. When the Detroit City College Newspaper ridiculed the assistant dean, the editor was removed and the paper was put under the control of a faculty board of censors (ACLU, 1931, 28).

In the 1920s, underground student newspapers, according to Oscar and Mary Handlin, "demanded not only the right to ask critical questions but also the right to give the answers" (Lipset, 1976, 163). In 1925, the *New York World* editorialized about the "revolt which is going on in colleges and universities all over the country." According to the paper, "Always there are the same symptoms: the outlaw student paper, with its devastating satire and cartoons; the speeches, the meetings, the reprisals by the faculty, the mutterings of discontent in the student body" (Lipset, 1976, 167). However, it is notable that this account does not describe faculty as victims of suppression, instead calling them the leaders of reprisals against radical students. The repression of academic

freedom in the 1920s was not more noticeable because professors were generally so conservative that they rarely questioned the status quo.

### Evolution Under Fire Again: The Scopes Trial

The 1920s also revived some of the older controversies over academic freedom, most notably evolution. Although the Scopes trial is remembered solely for its impact on K-12 schools, the law in question applied equally to higher education. The Tennessee Anti-Evolution Act passed in 1925 decreed: “it shall be unlawful for any teacher in any of the Universities, normals and all other public schools of the state which are supported in whole or in part by the public school funds of the state, to teach any theory that denies the story of the divine creation of man as taught in the Bible and to teach instead that man has descended from a lower order of animals” (Scopes v. State, 289 S.W. 363 (1927), 363).

Contrary to the popular impression, the Scopes trial was ultimately a defeat for academic freedom. Scopes, after all, was found guilty, albeit only symbolically. In the Scopes decision, Judge C. J. Green ruled in the case about the role of the teacher in a public school, “He was under contract with the state to work in an institution of the state. He had no right or privilege to serve the state except upon such terms as the state prescribed. His liberty, his privilege, his immunity to teach and proclaim the theory of evolution, elsewhere than in the service of the state, was in no wise touched by this law” (Scopes v. State, 364).

The Scopes case was an early example of how freedom in the classroom could be ruled by the courts more restrictive than freedom to speak in public. This view of



academic freedom held that the classroom was a space owned by the state which could dictate what was taught there.

The Scopes trial also magnified the differences between college professors and secondary school teachers. In 1920, the New York legislature passed the Lusk Laws, which required all public school teachers to get “a special certificate certifying that they are of good character and that they are loyal to institutions of the State and Nation.” As part of the law, “No person who is not eager to combat theories of social change should be entrusted with the task of fitting the young and old of this State for the responsibilities of citizenship” (Fosse, 1951, 20). The law was repealed in 1923. New York Gov. Al Smith later declared, “It deprived teachers of their right to freedom of thought and it limits the teaching staff of the public schools to those who lack the courage of the mind to exercise their legal rights to just criticism of existing conditions” (Fosse, 1951, 21).

For college faculty, the suppression of K-12 teachers might drag down their academic freedom as well. As a result, the liberty of colleges and schools began to take separate tracks. The model of the Gentleman Scientist was rarely applied to the predominantly female, less educated teachers in K-12 schools who did little scholarly research. Academic freedom, sometimes defined as the freedom for all teachers, gradually became regarded as the exclusive province of college faculty.

#### Goose-Stepping Through Academia

Upton Sinclair's 1922 book, *The Goose-Step*, was an important example of the increased attention given to academic freedom. Sinclair's book included a series of reports from his correspondents identifying problems with the suppression of dissent on college campuses. For example, Sinclair reported that the University of Iowa “is

controlled by the railroads which run this 'rock-ribbed' Republican state” and quoted a letter from a professor there, who wrote that his president is “politically a Harding Republican, and personally he has no curiosity about or sympathy with liberal thought of any kind. His attitude toward freedom of teaching in his faculty is a purely pragmatic one. Since his main job is to get funds from the state legislature, he does not propose to allow the ‘indiscretions’ of a professor to damage the cause of the university there. In other words, a professor can say anything he wants to in the class-room, if his students don't talk too much and thus arouse sentiment in the state unfriendly to the university. An ‘injudicious’ remark might cost the university a half-million dollars in much needed appropriations” (Sinclair, 1922, 336).

Unfortunately, it is difficult to document or verify these individual cases described by Sinclair, but they remain a valuable glimpse of intellectual freedom across the country. Sinclair’s key contribution was to identify how the larger economic structure supporting higher education influenced academic freedom. Sinclair observed, “So long as we have a system of private ownership of natural resources, we shall of course have to have trustees who represent money interests. But we should endeavor to pare down the powers of this special privilege group as much as possible; and especially all faculty members should set their face against the idea of any interference with teaching, or with the opinions or outside activities of the faculty, by monied men who represent ownership and not service in the institution” (Sinclair, 1922, 462).

Sinclair feared that “the American college has not been organized on the principles of American government, but on those of American business; the college is not a state, but a factory” (Sinclair, 1922, 460). Sinclair was among the first to see the

management model of American higher education, and to critique it. For Sinclair, the danger of an occasional businessman suppressing academic freedom was very real, but the far greater threat of colleges structured as businesses. Indeed, Sinclair was not entirely opposed to wealthy businessmen serving as trustees: “if any rich man wants to come into a college and work for faculty control and academic freedom, for the right of service and true scholarship to guide our education, I will bid that man welcome” (Sinclair, 1922, 462). However, Sinclair argued: “The largest single group upon the board of a college should obviously be the faculty, who know most about the institution, and have its interests most at heart” (Sinclair, 1922, 461). This vision of faculty running Boards of Trustees never happened, but the idea of shared governance (based on faculty expertise in curriculum and hiring) gradually became adopted. Sinclair recognized that the structure and management of colleges had a powerful impact on academic freedom.

#### The AAUP and the Rise of Tenure

The AAUP also recognized the importance of institutional structure in protecting academic freedom. The Association of American Colleges (AAC), dominated by administrators, refused to embrace the AAUP’s 1915 Declaration of Principles. However, some leaders were sympathetic to the need for tenure. At the AAC’s annual meeting in 1923, Dean C.N. Cole of Oberlin College defended the idea of tenure as “a policy by which teachers of tested competence, character and loyalty are lifted above the plane of annual, biennial or quinquennial appointments and put into the position of trusted partner appointed without term” (Metzger, 1990, 25). Plainly, Cole’s vision of tenure was compatible with the Gentleman Scientist model, although for Cole it seemed to be reserved for only a small number of trustworthy faculty rather than all professors.

The AAUP had also joined the American Council on Education (ACE), a coordinating group created in 1918 to enable higher education groups to work together for common goals. H.W. Tyler, who conceived of the idea for ACE and served as the AAUP's representative, eventually took over the rotating presidency of ACE and seized the opportunity to hold a conference for collective agreement on principles of academic freedom and tenure. Under Tyler's guidance, the conference could not reach common ground for all of these different organizations. But after the conference, the AAUP and the sympathetic AAC were able to agree on a joint statement about tenure released in 1925 (Metzger, 1990, 26).

The AAUP members were not fond of the 1925 Statement, which most of them deemed to be too much of a compromise with the AAC presidents. Tyler refused to send the Statement to local chapters for approval, fearing that they would reject it. At the 1926 Annual Meeting of the AAUP, Lovejoy worked to persuade the delegates to endorse the Statement. In the end, the delegates gave "general approval" to the Statement, but added the caveat that its provisions "are to be interpreted as far as this Association is concerned in the light of its previous declarations on academic freedom and tenure" (Metzger, 1990, 26).

Many AAUP leaders were troubled by the compromises in the 1925 Statement. John Dewey, who had attended the 1925 conference, worried about the addition of "treason" to the crimes of "professional incompetence" and "gross immorality" (both from the 1915 AAUP Statement) which justified summary dismissal. Dewey feared that treason "might be employed in cases similar to those arising during the late war to justify the dismissal of teachers whose views on national policy were contrary to the patriotic

sentiments of the time.” Dewey had objected during the conference to the term, but the AAC representative claimed that if the word was removed it would be difficult to gain approval. Dewey eventually concluded that “treason” could not be removed “without sacrifice to the rest of the agreement, which as a whole seems to constitute a great advance” (Metzger, 1990, 27).

Indeed, the 1925 Statement, for all of its flaws, represented a great advance for the AAUP. For the first time, an organization of higher education institutions (run by college presidents) had joined with the AAUP. And for the first time, such an organization had formally endorsed the concept of tenure. These two accomplishments marked an important step forward for the AAUP, and the Gentleman Scientist approach was essential in portraying a moderate position acceptable to the higher education establishment.

However, the AAUP membership was less enthusiastic about the 1925 Statement, and although it provided an important first step, the AAUP was still a long way away from institutionalizing tenure and the principles of academic freedom. The “treason” clause in particular annoyed many members during the anti-subversive crusades of the 1920s and 1930s, putting pressure on the AAUP to revisit the statement. But it was not until the late 1930s that the AAUP and the AAC came back together to negotiate a new, more powerful statement on academic freedom and tenure.

It is difficult to estimate to what extent academic freedom was suppressed during the 1920s. The growth of the AAUP and the founding of the ACLU created a structure that had never previously existed for publicizing academic freedom cases, and the attacks on academic freedom were, for the first time, matched by an organized national

resistance. But the extraordinary amount of repression in academia went on despite the defenders of academic freedom.

### Professors and Race Relations

The Great Depression made academic freedom even more vulnerable. The economic growth of the 1920s had made it possible for faculty who were fired to seek jobs elsewhere. But the economic decline of the 1930s put academic jobs at a premium, and turned dismissal from a faculty job into long-term unemployment.

In the 1930s, liberal professors were under fire for a wide range of political stands deemed offensive to conservative administrators and trustees. In 1930, Ohio State's trustees decided to dismiss professor Herbert A. Miller after a terminal year at Ohio State. According to Miller, "The President then investigated various allegations which had been raised as to the basis of their action: (1) My activities in India; (2) that I had been on the point of being dismissed from Oberlin when I came to Ohio State University in 1924; and (3) that my attitude on matters of Race were (sic) unsound" (AAUP, 1931, 467). Miller concluded, "It is my personal opinion that the race issue underlies much of the animus against me" (AAUP, 1931, 467). Miller was a kind of global troublemaker. In 1929-30, he traveled around the world and according to the trustees, "it was reported that he had been escorted by the Japanese police from a public meeting in Korea where he was making an address on matters forbidden by the Japanese authorities" (AAUP, 1931, 444). According to Miller, his crime was describing Czecho-Slovakia as a "republic," which was a forbidden word (AAUP, 1931, 450). Worst yet, Miller traveled to India and on March 12, 1930, spoke at a gathering of independence supporters. The press accounts of Miller's speech (which he denied) reported that he called Gandhi's work a "noble

experiment” and urged “settling your differences in a genuine religious spirit.” Ohio State’s trustees and president were far less charitable: “here was an American professor, an employee of the university of a state whose nation was at peace with Great Britain, helping to incite the Hindus to civil disobedience” (AAUP, 1931, 445).

Complaints about Miller’s views on race relations, his area of expertise, were also received by the university from students and outside pressure groups (AAUP, 1931, 452). The AAUP described his views as “liberal but not extreme,” defending him by claiming, “He did not advocate intermarriage (as sometimes reported) but emphasized rather the necessity for amicable relations” (AAUP, 1931, 453). Among Miller’s violation of social norms was this: “He gave teas to which both white and colored people were invited” (AAUP, 1931, 453). Miller argued that racism was a strong component of his firing: “As to how far the Board itself was affected by race prejudice there is but little definite evidence. It did refuse on three separate occasions, contrary to conventional action in such cases, to grant fellowship status to negro students who were regularly recommended by the Graduate School but whose stipend was provided by the Urban League. With respect to the visit at Wilberforce a trustee was quoted as saying, ‘He made his students dance with niggers.’”(AAUP, 1931, 454).

Ohio State’s trustees carefully declared, “the Board wishes to emphasize the fact that members of the faculty of the Ohio State University have enjoyed, and now enjoy, wide latitude in expressing their opinions in the classroom” (AAUP, 1931, 443). The latitude, however, did not extend to the public sphere. And at the time, Ohio State refused to grant tenure to any employee, requiring them to follow annual contracts. Ohio State’s Board of Trustees did not embrace the concept of dissent. When some students and

faculty criticized compulsory military training, the Board of Trustees responded in harsh terms on May 20, 1931: "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" (AAUP, 1931, 448). At Ohio State and many other campuses, students and faculty faced a similar kind of repression when they sought to take political stands that embarrassed the university.

#### The Anti-Subversive Crusade of the 1930s

In the early 1930s, a new wave of student protest was matched by renewed efforts at censorship. In 1932, Columbia University President Nicholas Butler expelled Reed Harris because he was the muckraking editor of the *Columbia Spectator* (he attacked ROTC, the commercialism of football, and the college's food service), provoking a mass protest by 2,000 students and a one-day student strike (Cohen, 1993, 55, 62). According to Butler, the idea of academic freedom for students "has no meaning whatever. It relates solely to the freedom of thought and inquiry and teaching on the part of accomplished scholars" (Cohen, 1993, 59). Nevertheless, the protest convinced Butler to reinstate Harris in order to avoid bad publicity (Cohen, 1993, 65). However, in 1935 Butler did expel six anti-war activists in the medical school (Cohen, 1993, 132). And Butler never changed his views on academic freedom, declaring in 1940, "Before and above academic freedom of any sort comes university freedom, which is the right and the obligation of the university itself to pursue its high ideals, unhampered and unembarrassed by conduct on



the part of any of its members which tends to damage its reputation” (Goldstein, 2001, 262).

The rights of students were virtually nonexistent during this era. Courts held that colleges could expel students without a hearing, and the New York Court of Appeals upheld the expulsion of a Syracuse University student solely on the justification that she was not a "typical Syracuse girl” (Anthony v. Syracuse University, 1928). The Supreme Court unanimously upheld the right of land-grant colleges to expel students who refused to participate in the mandatory military training (Hamilton v. Regents of the University of California, 1934). Robert Cohen found at least 53 colleges which overtly restricted the free speech rights of students between 1933 and 1935, including Harvard, MIT, Columbia, and Berkeley (Cohen, 1993, 105). These included 14 campuses with violent attacks against student radicals, 17 colleges which banned anti-war meetings or student rallies, 8 campuses which banned radical organizations, 16 colleges which expelled or suspended students who held lawful protests, and 16 colleges which censored anti-war publication or student newspapers (Cohen, 1993, 370-1).

At City College of New York from 1931-34, President Frederick Robinson expelled 43 students and suspended 38 more, as well as investigating the political beliefs and protest activities of hundreds. After one anti-fascist protest in 1934, sparked by Robinson's invitation to a delegation of Italian fascist students, 21 students were expelled, 12 put on probation, and four suspended. In 1932, Robinson fired English instructor Oakley Johnson because he was a communist who had supported leftist students, and then sent police to attack students who held a rally in Johnson's defense (Cohen, 1993, 108, 115).

Although CCNY had the most extensive record of repression, other universities took similar action. Other faculty firings included Donald Henderson at Columbia (a radical economics instructor whose appointment was not renewed in 1933), Herbert Miller at Ohio State, and Jerome Davis at Yale (Cohen, 1993, 244). In 1934 at Ohio State, President Rightmire suspended 17 students who resisted military drills. At the University of Michigan, President Ruthven expelled four anti-war leaders (Cohen, 1993, 132). Roscoe Ingalls, head of Los Angeles Junior College, personally tried to stop a protest by yelling into microphones, blowing a whistle, and using police and the sprinkler system to disperse the students (Cohen, 1993, 106). At Berkeley, Dean Louis O'Brien organized conservative members of fraternities and the football team to disrupt a free speech demonstration by shouting down speakers, ripping down posters, and throwing rotten eggs and tomatoes (Cohen, 1993, 122-3). Berkeley also stifled a protest strike by having the 18 members of the strike committee arrested for distributing antiwar pamphlets on the grounds that these violated an ordinance "to prevent stoppage of the city drains" (Brax, 1981, 43).

In 1934, UCLA provost Ernest Moore suspended the president of the student council and four other student leaders who were trying to create an open forum on campus; claiming that this would violate the university's political neutrality, Moore accused them of trying "to destroy the university" and turn UCLA into "a hotbed of Communism" (Cohen, 1993, 118). However, University of California president Robert Sproul (who nevertheless opposed the free speech forum) reinstated four of the students because after a week of investigation, he said, "I cannot find any evidence" that the students gave their approval to the National Student League or any radical group (Cohen,

1993, 125). The remaining student, Celeste Strack, was a radical organizer, but was finally reinstated because she had complied with all university rules by holding political meetings off campus (Cohen, 1993, 127). Moore noted privately that educators must "make battle plans" against the communist plot because taxpayers "will not any longer pay taxes to support institutions for the training of young people who are devoting themselves to the overthrow of our government" (Cohen, 1993, 119). Moore even urged the Governor to sponsor a bill prohibiting any "outside" organization from interfering in the work of schools, declaring, "We must smash this thing or the dry rot it spreads will kill us" (Cohen, 1993, 128). Moore was supported by the UCLA fraternities and sororities, who voted to support the administration "100 percent in any action taken in their drive to oust the radical element from the UCLA campus" (Cohen, 1993, 121).

The fear of radicals was spread by the press. Roscoe Dorsey wrote in *The National Republic*, "There are few colleges or universities where parents may send their sons and daughters without their being contaminated with some phase of the vilest of Communistic and allied teaching" (Cohen, 1993, 239). When Sidney Hook helped organize the socialist American Workers Party in 1935, the Hearst Press led an unsuccessful national campaign to have him dismissed from New York University (Hook, 1990, 270). Hearst reporters frequently misquoted professors and posed as communist students to lure liberal professors into making radical statements (Cohen, 1993, 129). The Chicago Hearst paper, the *Herald Examiner*, launched a campaign against campus radicals in a February 24, 1934 story, "U of C Prof Attacks US at Communist Rally," which called Robert Hutchins an "advisor to Moscow." It sent a young woman into the University of Chicago's International House to try to dig up

information on the sex lives of faculty and students (she failed to find anything). One Hearst editorial, "Red Teachers," declared, "The danger lies in the teachers of communism in our colleges and schools" (Cohen, 1993, 239).

Yet all the evidence suggested this was not true. A survey of 1930s student activists found that only 21.6% reported that a faculty member, often merely a liberal, had helped foster their political action, while another 20% had encounters with conservative faculty who tried to stifle dissent (Cohen, 1993, 240-2). As Cohen notes, "About the rarest experience of all was encountering teachers who explicitly incorporated Marxist ideas into their lectures and other regular classroom activities" (Cohen, 1993, 245).

But there was a liberal ethic among the social science faculty; a 1937 survey found that 84% supported New Deal liberalism (Cohen, 1993, 243). Surveys showed that students in the 1930s left college with more liberal views than when they entered (Brax, 1981, 15). However, in general, professors in the classroom were very conservative and most of the radicalism was extracurricular. In one survey of teachers, 35% said they "would deliberately omit from textbooks facts that might lead to criticism of the social order on the part of the young" (Cohen, 1993, 400). The ethic of the Gentleman Scientist still reigned. As Cohen notes, "the legislative offensive against faculty radicals was misdirected because academia had already done its own purging" (Cohen, 1993, 130).

The federal government also worked with college administrators against radicalism on campus. From the mid-1930s to 1941, the FBI collected in its files "the names of two thousand students" actively involved in the student movement at the University of Chicago. An unknown informant in the Dean's office provided the FBI with

the membership list of the American Student Union (Cohen, 1993, 99). This cooperation with the FBI occurred at virtually every college, and Cohen estimates that the names of more than a thousand informants from this period are in FBI files, but are deleted by FBI censors even today (Cohen, 1993, 336). At the University of Michigan, president Alexander Ruthven told the FBI that student radicals were "definitely troublemakers" and promised to "furnish all available details" on their activities to the FBI (Cohen, 1993, 100). Robert Cohen, who found at least 43 leading colleges which gave information to the FBI, usually from high-ranked officials, noted: "In more than 3000 pages of FBI documents covering the student movement of the Depression decade, I did not find a single case in which a college or university administrator refused to cooperate with the FBI. None expressed any concern that informing on students might constitute a violation of their rights" (Cohen, 1993, 366).

State governments also formed an important part of the anti-subversive movement, often conducting investigations of both private and public universities and carrying the implicit threat. In 1934-35, legislators called the University of Wisconsin an "ultra liberal institution in which communistic teachings were encouraged and where avowed communists were welcome" (Goldstein, 2001, 232). In 1933, attempts were made in the Illinois legislature to control expenditures at the University of Illinois, and also to implement faculty oaths to fight the menace of "bolshevism, revolution, and red anarchy" (Stephens, 1948). At an April 12, 1935 National Student Strike against "war, Fascism, and ROTC," only 2.3 percent of the University of Illinois participated, compared with an average of 21.3 percent nationwide (DeMartini, 1974, 337-9, 341).

Nevertheless, the Illinois State Senate a few days later called for a commission to investigate "reported communist teachings" at the University (DeMartini, 1974, 343).

The University of Illinois tried to stop even the small degree of activism which existed. In March of 1934, the University denied recognition of the National Student League. A few months later, a group known as Campus Forum was also denied recognition after it sponsored a symposium which included the passage of resolutions (DeMartini, 1974, 333). By 1938, removal of notices from unrecognized groups was a common means of censorship (DeMartini, 1974, 358).

Public universities were not the only ones subject to investigations. On April 13, 1935, drugstore mogul Charles Walgreen wrote a letter to University of Chicago President Robert Hutchins withdrawing his niece from the College because "I am unwilling to have her absorb the Communist influences to which she is assiduously exposed." Walgreen accused Frederick Schuman, assistant professor of political science, of preaching free love and said that two course syllabi taught Marxism. But as historian William McNeill notes, "Walgreen's charges were absurd. Chicago's professors were nearly all conservatives" (McNeill, 1991, 64). Because of Walgreen's complaints, the Illinois legislature established a committee to examine the "subversive Communistic teachings and ideas," focusing on three professors. But since none of them were actually communists, the committee voted 4-1 to exonerate the university. Walgreen was so chagrined by Robert Hutchins' testimony that he established a Walgreen Foundation for the Study of American Institutions at the University of Chicago with a \$550,000 gift (McNeill, 1991, 65).

Radicals were not the only group to face discrimination, nor its worst victims. Racism was widespread on American campuses. The University of Illinois' *Daily Illini* reported in 1932, "Negro students are barred from all campus confectionaries and eating establishments. The Home Economics Cafeteria is the only public place at which they may eat. They are segregated at shows and semi-public gatherings" (Cohen, 1993, 207). In 1935, the University of Minnesota Board of Trustees ruled that blacks would continue to be excluded from the men's dormitory (Cohen, 1993, 207). Cohen noted that during the 1930s at the University of Chicago and other universities, "segregation in dormitories and rooming houses prevented blacks from living on or even near campus. Campus communities regularly excluded blacks from restaurants, shops, recreational facilities, social clubs, and athletic competition" (Cohen, 1993, 206). Even at black colleges, radical efforts to protest discrimination were often opposed. When Ishmael Flory organized a protest at Fisk University against the lynching of a black teenager a few blocks from campus, Thomas Jones, the white president of Fisk, expelled him, with the support of the faculty (Cohen, 1993, 218).

Although the Red Scare of 1933-35 eventually faded, the efforts to suppress radicals continued. In April 1937, Martin Dies led the campaign for a resolution passed in the House to establish the Special Committee on Un-American Activities which would examine "the extent, character, and object of un-American propaganda activities in the United States" and "the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by the Constitution" (Smolla, 1992, 364). From this committee would come the era of McCarthyism.

Repression continued on college campuses in the late 1930s and 1940s. When Communist Party leader Earl Browder tried to speak on campuses in the fall of 1939, he was banned at Harvard, Oberlin, Brooklyn College, and the University of Chicago (Cohen, 1993, 307). In 1940, Arkansas' Commonwealth College folded after its property was seized for a lawsuit based on a charge of anarchy, due to the school's failure to fly the American flag and its display of the hammer and sickle (Goldstein, 2001, 257-8).

The president of Western Washington College of Education was fired in 1939 for allegedly tolerating subversive activities (Goldstein, 2001, 256). But most administrators took a hard line against radicals. In 1941, during an investigation by the state legislature, University of Oklahoma president William Bizzell proudly declared, "I believe that the University faculty is as conservative as any in the country, and I believe the same applies to the student body" (Goldstein, 2001, 257). As Representative Claud Thompson said about a suspect mathematics professor, "What I still want to know is what he is doing as a mathematics teachers messing around with government?" (Goldstein, 2001, 257). Nevertheless, the University was cleared of the charges.

The repression of radicals during the 1930s had a profound impact on academics of all views. Edward Shils pointed out that "they had a very intimidating effect. Even at a university where academic freedom was as assured as it was at the University of Chicago, and where there was so little sympathy with communism, some of the teachers thought that they should step carefully lest they be attacked" (Shils, 1993, 203). Throughout its history, the American university had always failed to live up to the ideals of academic freedom which developed by fits and starts. The repression during World War I and the



anti-radical crusades of the 1920s and 1930s set the stage for the crackdown on leftists during the Cold War.

### Bertrand Russell and Campus Morality

A turning point in academic freedom came in 1940. That year marked the adoption of the AAUP's fundamental doctrine on academic freedom and tenure. But it was also the year in which famed philosopher Bertrand Russell was prevented from teaching logic at City College of New York, and the first court decision in America mentioned academic freedom.

Russell was called "a desiccated, divorced, and decadent advocate of sexual promiscuity" (Edwards, 1957, 210). Bronx Borough President James Lyons threatened to eliminate the \$7.5 million appropriation for city colleges unless Russell was fired, declaring that "the colleges would either be godly colleges, American colleges, or they would be closed" (Edwards, 1957, 213). The New York State Legislature unanimously adopted a resolution asking the Board to rescind Russell's appointment, declaring that "an advocate of barnyard morality is an unfit person to hold an important post in the educational system of our state at the expense of the taxpayers" (Edwards, 1957, 217). Charles Keegan of the City Council called Russell an "avowed Communist" and urged that board members should be dismissed if they tried to put Russell on the faculty. The Council voted 14-5 to ask the mayor to reorganize the board and appoint new members (Edwards, 1957, 250-1).

But ultimately, it would be the judicial system that demanded the firing of Russell. Jean Kay, a citizen of Brooklyn with no connection to City Colleges, filed suit declaring that "it was contrary to public policy to appoint as a teacher anyone believing in

atheism” (Edwards, 1957, 219). A New York judge revoked Russell’s appointment as “an insult to the people of the City of New York” and “in effect establishing a chair of indecency” (Edwards, 1957, 221).

As would often happen in the future, academic freedom was seen as being inapplicable to sexual questions. Judge McGeehan wrote, “While this court would not interfere with any action of the board in so far as a pure question of ‘valid’ academic freedom is concerned, it will not tolerate academic freedom being used as a cloak to promote the popularization in the minds of adolescents of acts forbidden by the Penal Law” (Kay v. Board of Higher Education, 1940, 829). Nor was academic merit given any consideration. Judge McGeehan declared, “It is contended that Bertrand Russell is extraordinary. That makes him the more dangerous” (Kay v. Board of Higher Education, 1940, 829).

In his decision, Judge McGeehan denounced Russell for “his immoral character” attacking “the filth which is contained in the books” Russell had written, such as urging “temporary childless marriages” for college students (Kay v. Board of Higher Education, 1940, 826-7). Judge McGeehan argued that though he found Russell’s views on masturbation, nudity, religion and politics to be despicable, the court could not intervene for these reasons. And, although Russell endorsed the crime of adultery, this, the judge noted, was only a misdemeanor (Kay v. Board of Higher Education, 1940, 830). What ultimately justified judicial intervention was “Russell’s utterances as to the damnable felony of homosexuality, which warrants imprisonment for not more than twenty years in New York State.” Judge McGeehan quoted Russell’s writings: “It is possible that homosexual relations with other boys would not be very harmful if they were tolerated,

but even then there is danger lest they should interfere with the growth of normal sexual life later on” (Kay v. Board of Higher Education, 1940, 831).

Here, Russell was expressing a homophobic view, that homosexual behavior by boys should not be tolerated, because it may be harmful and it would interfere with “normal” sexual development. However, Russell (in words not quoted by the judge) had condemned the laws punishing homosexual behavior. It is not clear if the judge simply misread Russell and assumed that he was open-minded toward homosexuality, or if the judge felt that Russell’s condemnation of homosexuality was insufficiently harsh.

The Russell case showed that sexuality cannot be segregated from political forms of academic freedom. Any kind of subversive thinking, whether political or sexual, was merged together in the crusades against academic freedom. One interesting aspect of the Russell case is the way that homosexuality has been forgotten. Today, when Russell’s case is mentioned, it is typically asserted that Russell was fired for discussing “trial marriages” or adultery (Johnson, 1994). Even at the time of Russell’s firing, the topic of homosexuality was avoided. A commentator in the *Yale Law Review* defended Russell, declaring: “The statutes which outlaw rape and abduction seek to protect chaste females under eighteen. As report has it there are at City College no chaste females...there are no females at all” because “Women are barred from the School of Liberal Arts, where Dr. Russell would have delivered his lectures...” (Hamilton, 1941, 785).

Judge McGeehan’s decision was ultimately never challenged. Mayor La Guardia simply struck the lectureship from the budget without saying a word, and prevented an appeal of the decision, refusing to allow the Board to get their own counsel. Courts prohibited Russell himself from appealing the decision (Edwards, 1957, 255).

To the academic world, the Russell case was a deep embarrassment because it involved an internationally admired scholar. John Dewey noted, “As Americans, we can only blush with shame for this scar on our repute for fair play” (Edwards, 1957, 258). The AAUP’s Statement of Principles was in part academia’s revenge for the insult to Russell, and its force for self-protection.

The firing of a prominent scholar like Russell showed how vulnerable academic freedom was in America. The Russell case also foreshadowed more anti-subversive crusades. The investigation of Russell was among the early anti-subversive campaigns that would reign supreme during the era of McCarthyism. In response to the controversy over Russell, the Rapp-Coudert Committee was formed in New York, which would serve as a forerunner for McCarthyism. Although there had been previous anti-subversive legislative investigations, the Rapp-Coudert Committee was the first that led to mass firings. By 1942, 40 professors were fired or did not have their contracts renewed because of accused links to Communism or refusing to divulge their views (Ollman, 1984, 45). As Marjorie Heins noted, “The Rapp-Coudert investigation made it dangerous for scholars of history, literature, sociology, science, or religion to write or teach about Marxism, socialism, the Soviet Union, revolution, and indeed social change of any kind” (Heins, 2013, 115).

The Rapp-Coudert Committee revealed an early hint of what the McCarthy Era would bring to academia: a relentless attack on radicals in academia. It also revealed the powerlessness of the AAUP and other defenders of academic freedom in the face of a political crusade.

## The 1940 Statement of Principles

While anti-subversive movements were roiling academia, the AAUP was embarking on its most ambitious effort to establish tenure and protect academic freedom: the 1940 Statement of Principles on Academic Freedom and Tenure. Developed and issued in conjunction with the American Association of Colleges, the 1940 Statement soon became one of the most important documents in the development of higher education in America, and the foundation of campus protections for academic freedom. The words of the 1940 Statement became written into the policies of universities across the country. For the AAUP, the 1940 Statement was most important because it established the “7-year rule” for tenure.

But part of the reason for the widespread acceptance of the 1940 Statement was its devotion to the ideology of the Gentleman Scientist Model, which made its words much more palatable to colleges. The introductory comments spoke of “duties correlative with rights” and rejected individual rights in favor of “the common good” (AAUP, 1940).

The 1940 Statement of Principles granted “full freedom” in research, which was the area closest to the scientific ideal and which had caused the least controversy. But teaching and extramural utterances faced greater restrictions. Unlike the “full” freedom of research, faculty had “freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject” (AAUP, 1940).

The most extensive restrictions in the 1940 Statement came in the area furthest from scientific expertise: extramural utterances. The 1940 Statement declared, “When they speak or write as citizens, they should be free from institutional censorship or

discipline, but their special position in the community imposes special obligations” (AAUP, 1940).

Warning that “the public may judge their profession and their institution” by their words, the 1940 Statement required gentlemanly behavior: “they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution” (AAUP, 1940). The 1940 Statement of Principles was a great achievement of the Gentleman Scientist Model, but soon its flaws would become exposed by the Cold War.

## CHAPTER V

### MCCARTHYISM AND ACADEMIC FREEDOM

The 1940 Statement of Principles brought the Gentleman Scientist Model into the mainstream of campus life. But outside universities, the politics of the Cold War and the fight against Communism soon began to intrude upon campus life. The McCarthy Era, and the failure of the AAUP and higher education institutions to protect academic freedom, would reveal the flaws of the Gentleman Scientist Model, and eventually pave the way for the rise of the Liberty Model.

#### The Good War: World War II

Unlike World War I, the entrance of America into the Second World War brought no reports of campus repression. Cardozier notes that in World War II, "excesses were in no way comparable to those of World War I, particularly on college campuses" (Cardozier, 1993, 216). But academic freedom was still infringed. In 1943, Notre Dame reportedly dismissed an associate professor of philosophy who had spoken publicly in favor of Russia against anti-Semites and Fascists, and who refused to submit his speeches for prior review. Anti-war protest was rarely suppressed, but this was mainly because few people opposed the war. However, Cardozier notes, "There were several well-known

cases of infringement of academic freedom during the war--as before and since--but most of them dealt with questions unrelated to the war, such as lewd textbooks and the teaching of socialism” (Cardozier, 1993, 216).

The key reason for the lack of repression during World War II was the nearly unanimous support for the war. Pearl Harbor and the threat of Nazi Germany shocked even the most radical critics of the US government. Only a small number of religious pacifists opposed the war, and they had little connection to colleges, so campuses were never perceived as centers of dissent. Also, the war effort was so overwhelming that it effectively distracted most of the usual censors from focusing attention on colleges.

It is more difficult to say that organizations such as the AAUP were effective in promoting the ideal of academic freedom and free expression in America, or that this movement was effective in promoting intellectual liberty on college campuses. The McCarthy Era certainly challenged the idea that academic freedom was constantly progressing.

### The McCarthy Era on Campus

During the late 1940s and early 1950s, the McCarthyist crusade led to more than a hundred faculty members being fired from their jobs, and many more intimidated into silence. It remains the most shameful period in the history of American higher education, as administrators and sometimes even faculty actively joined in the purges and blacklists.

The name “McCarthyism” can give the misimpression that the repression of dissent in the late 1940s and 1950s should be blamed on one man. Sen. Joseph McCarthy was more a symbol of the era that bears his name, and far from the only perpetrator of injustice. The House Un-American Activities Committee (HUAC) began in 1938, and



was made a permanent congressional body by a narrow 207-186 vote on January 3, 1945 (Fosse, 1951 24). But with the end of World War II, the Cold War began and the anti-communist crusade in America gained momentum.

With regard to academic censorship, McCarthy himself was a relatively minor figure, merely adding professors to his list of usual suspects. McCarthy and the hearings he led focused on government employees, and occasionally Hollywood. Professors were simply too obscure and deemed too harmless to be regarded as a real threat by McCarthy, although they proved to be a useful whipping post and occasionally were dragged into hearings through the guilt-by-association tactics employed by McCarthy.

Sen. McCarthy had openly attacked professors, claiming that 28% of top collaborators in the Communist-front movement were college faculty. He said 3,000 professors had committed "guilt by collaboration" (Lewis, 1988, 12). McCarthy also raised the threat of "radicals" corrupting students: "Countless times I have heard parents throughout the country complain that their sons and daughters were sent to college as good Americans and returned four years later as wild-eyed radicals." He told his readers that the educational system must be "scrubbed and flushed and swept clean" if "America and Western civilization are to live" (Lewis, 1988, 12).

Contrary to common belief, the academic witchhunt of the McCarthy Era was not directed primarily at Communists, but at left-leaning liberals. Most of the professors dismissed by colleges and universities were not Communists, and many of them never had been Communists. Of those who were Communists, none fit the stereotype of the mindless party propaganda machine, incapable of independent thought or dissent, who sought violent revolution. Communist professors never were a threat to America. Not a

shred of evidence against a dismissed teacher involving any illegal activity was ever shown. No evidence against a "subversive" teacher for indoctrinating students was ever produced.

### Loyalty Oaths and the Communist Threat

Although McCarthyism was aimed far beyond Communists, they were the first threat targeted. However, because there were few Communists after World War II actually employed at colleges, the risk seemed small. The AAUP report of Committee A for 1947 described it as a "comparatively fair weather year": two complaints of interference with academic freedom, three teachers dismissed without due process, and eight-to-ten cases of indirect dismissal (Fosse, 1951, 26).

The key reason for the lack of political firings was the refusal to hire Communists. The journal *School Review* noted at the time, "Probably not a single known Communist was appointed to a college or university faculty during 1949, and probably a score or even a hundred people who were known to have close Communist affiliations were denied appointment for that reason alone" (Fosse, 1951, 129).

States took the early steps in enforcing loyalty. In 1948, Texas enacted a law ordering state college presidents to dismiss any teacher or student discovered to be a Communist (Fosse, 1951, 126). From these early attempts to ban Communists, it was only logical to create loyalty oaths that required new hires to disavow Communist beliefs.

Earl McGrath, the US Commissioner of Education, criticized loyalty oaths, but noted, "we should be willing and ready to sign loyalty oaths if present pressures of public opinion require them" (Fosse, 1951, 115). But the National Education Association (NEA)

delegates overwhelmingly supported the ban on Communists, and the NEA announced that it would not defend any avowed communists who were dismissed (Fosse, 1951, 116).

Although the AAUP failed, to its later regret, to investigate institutions that violated academic freedom during the McCarthy Era, the early stand of the AAUP was quite notable. As Fosse noted, "Criticism of the premise that all Communists had surrendered their intellectual integrity came from a minority of educators in public schools and the American Association of University Professors" (Fosse, 1951, 129).

At the University of California, 31 faculty refused to sign the loyalty oath in 1949 and were fired (Stewart, 1950). In the case of *Tolman v. Underhill* (1952), the California Supreme Court reversed the loyalty oath, but only on the narrow grounds that the legislature could not impose a special oath for faculty beyond the existing one for all state employees. The courts viewed loyalty oaths with great suspicion, but the Red Scare went far beyond loyalty oaths.

#### The Attack on Dissent

Political dissenters, and not just Communists, were the victims of the witchhunt. In many cases, faculty were fired purely for the political candidates they supported. Defenders of Henry Wallace for President in 1948 were especially susceptible to retribution. At Oregon State College, economics professor L.R. LaVallee was fired after working for the Wallace campaign, with the president concluding, "Why should the state pay a man who is trying to destroy the state in the interests of a foreign power whose interests are diametrically opposed to ours?" (Lewis, 1988, 209, 250). At the University of Miami, three professors in the Wallace for President Club were fired for "budgetary reasons" (Lewis, 1988, 209). Religion and philosophy instructor George Parker was

dismissed by Evansville College on April 8, 1948, less than a month after he had been given a contract for the next year, and two days after he presided at a meeting of Henry Wallace supporters. Parker was charged with actions “not generally considered by the majority of the constituency as beneficial to our society” (AAUP, 1949, 109). President Hale fired him for failing “to show good judgment” and because he “had seriously jeopardized the college” (Selcraig, 133; Lewis, 1988, 210). Wallace and his Vice Presidential candidate Glen Taylor were prohibited from speaking in 1948 at the University of Cincinnati, University of Iowa, University of Missouri, University of California, and University of Michigan (Goldstein, 2001, 313).

The anti-Communist movement suppressed all radicals who deviated from the conservative, patriotic doctrines of the times, and controlled liberals by accusing them of socialistic thinking. By turning dissenters into traitors, the anti-subversive movement tried to make criticism of conservative ideology forbidden in America. The dismissal of Communists was justified by the unproven claim that all Communists were forced to adhere to the party line on all issues, which denied the possibility of free thought as a precondition of academic freedom. J. Edgar Hoover noted in 1953, “No element of academic freedom is involved in the question of barring Communists from teaching jobs. A person, in order to be a teacher, ought to have a free intellect. You cannot have a free intellect if you are a Communist” (Bollinger, 1955). A national survey found that 89% of people said a Communist professor should be fired. Even among college teachers, 45% felt Communists should be fired, and only 35% disagreed (Lazarsfeld & Thielens, 1958, 431).

Many of the leading academic liberals of the era believed in the *a priori* disqualification of Communists. Harry Gideonse, who was investigated as a possible subversive by the Illinois legislature in 1935, declared in 1953, when he was president of Brooklyn College: "anyone who has embraced a totalitarian party line has also automatically adopted a form of human conduct which is itself—by definition—subversive of the standards of a free society dedicated to truth" (Gideonse, 1953, 588). Richard Hofstadter refused to condemn the University of Washington for firing Communists: "I dislike these Stalinists so--and I wonder what they would do for us or to us if they had control of things" (Novick, 1988, 326). Liberal historian Arthur Schlesinger, Jr. called them "contemptible individuals who have deliberately lived a political lie, pretending to be American liberals while secretly responding to the dictates of a foreign nation and of a totalitarian conspiracy" (Lewis, 1988, 45). By 1949, Paul Gates, the New York campaign treasurer for progressive candidate Henry Wallace, refused to defend the right of Communists to speak at Cornell: "The position of the American Communists is so utterly indefensible in terms of morality that I am not willing to make a fight for them on matters of civil liberties and freedom" (Novick, 1988, 323).

Others explicitly defended the anti-Communist witchhunts. Arthur Bestor urged the firing of every Communist because he was "no longer an intellectually free agent" (Novick, 1988, 326). Perhaps the most famous of these defenses was Sidney Hook's *Heresy, Yes, Conspiracy, No*. Hook sought a liberal "middle ground" between the most conservative anti-subversives and those who defended Communists. According to Hook, the most extreme anti-Communists had "attacked as a menace to American freedom and security men and ideas that are not only non-Communist but sometimes anti-Communist"

(Hook, 1953, 9). However, he said, the other side tended to "dismiss too lightly the conspiratorial character of the Communist movement" (Hook, 1953, 10).

Hook complained that any suggestion of professors being silenced was a "hysterical outcry" (Hook, 1953, 79). Robert Hutchins had written in 1951, "Everywhere in the U.S. university professors, whether or not they have tenure, are silenced by the general atmosphere of repression that now prevails" (Hook, 1953, 61). Hook responded that except for "a few members of the Communist Party," "no professor who was in the habit of speaking up five years ago has been silenced" (Hook, 1953, 61). As evidence that teaching was not "a terrorized profession," Hook pointed out that AAUP investigations had not increased during the Cold War period. But Hook ignored the fact that the McCarthy Era was a period when the AAUP simply failed to defend professors against the witchhunts, largely due to the incompetence of its leadership and the fear of opposing the anti-subversive movement (Hook, 1953, 63-64).

Unlike Hook, the AAUP defended the rights of communists. The AAUP declared, "The teacher has a right to be a Communist as long as other citizens have that right" (AAUP, 1948, 120). According to the AAUP, "The evidence that the Communist Party in the United States is subservient to the dictates of international communism, which means the Communist Party of the Soviet Union, is not conclusive" (AAUP, 1948, 123).

Actual evidence was unnecessary to Hook, who argued that anyone who remained a Communist provided "prima facie evidence that he is a hardened conspirator and that he accepts its orders and directives." Covering all bases, Hook concluded that anyone who was a Communist without being a "hardened conspirator" would be "ineligible on grounds of lack of intelligence for any responsible job" (Hook, 1953, 89). In doing so,

Hook removed any need to evaluate Communist professors individually. Since American Communists were members of "the international Communist movement" which is "a clear and present threat to the preservation of free American institutions and our national independence," they met the "clear and present danger" test Hook offered for revoking free speech rights (Hook, 1953, 109).

Hook also argued that "it is certainly overwhelmingly probable that members of the Communist Party attempted to indoctrinate whenever they could do so" (Hook, 1953, 186). The fact that no evidence of indoctrination was ever presented by Hook or any other Communist witchhunter, despite the thousands of students who must have taken classes taught by these Communists, showed how fragile the illusion of the "paramilitary" Communist was. When Hook noted that the 1,000 Communist teachers in New York City would mean that "every year one hundred thousand students in New York City alone would be subject to educationally pernicious indoctrination," he was inadvertently proving the opposite, since one suspects that at least one of these students would complain about the indoctrination (Hook, 1953, 209).

Hook made three errors. First, he misrepresented the conduct of Communist teachers and literally accepted the doctrine of guilt by association, despite the absence of evidence of indoctrination. Even in the case of open Communists, this assumption of a "Communist party line" was dubious. A hearing at private university in June, 1953 investigated a leftist philosophy professor who called himself "a non-Party Communist with qualifications" and expressed disagreement with some actions of the Soviet government (Lewis, 1988, 326). The idea that American Communist professors obeyed a party line was simply not supported by any data.

Second, Hook misunderstood the anti-Communist movement, believing that if liberals took the lead in the witchhunt they could control its abuses. Instead, anti-Communist liberals like Hook simply added ammunition to the attacks. Since Communist Front groups were equated with Communism, anyone who had signed a radical petition or belonged to a peace group became, in the minds of witchhunters, a Communist subject to all of the punishments Hook supported.

Finally, Hook, like many other liberals of the time, failed to see that the main victims of the witchhunt were never Communists, but radicals and liberals who challenged conservative ideology. By attacking the Communists who were being thrown out of universities, rather than the witchhunts going after them, many liberals gave their implicit approval to the McCarthyist cause. While intellectuals like Hook argued about whether a few active Communists ought to be teachers, they ignored the vast apparatus of repression against former Communists and non-Communist leftists. The mid-1950s Lazarsfeld & Thielens study noted, "almost all such incidents involved charges of past Party membership, most often in the 1930s" (Lazarsfeld & Thielens, 1958, 69). By focusing on the "Communist problem," Hook and others helped obscure the pervasiveness of McCarthyism. By joining the witchhunt and offering only half-hearted criticism of its excesses, Hook and many liberals aided a massive campaign of repression.

#### The McCarthy Crusade

Ellen Schrecker (1986) made two key arguments that changed the historical understanding of McCarthyism in academia: First, she noted that most of the victims of McCarthyism in higher education were not Communist Party members (because so few Communists actually taught in colleges), but instead were ex-communists or principled



liberals who refused to cooperate with McCarthyesque investigations. Second, Schrecker found that colleges and universities, far from resisting McCarthyism, actually cooperated and even instigated many of the efforts to remove dissenting faculty.

The myth of McCarthyism told in higher education was that colleges were victims of outside political forces, which they heroically fought off but could not always defeat: As Roger Geiger put it, "McCarthyism was essentially imposed on universities from outside" (Geiger, 1993, 38).

Schrecker shattered that myth, instead telling a story of administrators and faculty who were complicit with McCarthyism and failed to protect the ideal of academic freedom. Schrecker found: "Professors and administrators ignored the stated ideals of their calling and overrode the civil liberties of their colleagues and employees in the service of such supposedly higher values as institutional loyalty" (Schrecker, 1986, 340). Schrecker concluded, "The academy's enforcement of McCarthyism had silenced an entire generation of radical intellectuals and snuffed out all meaningful opposition to the official version of the Cold War. When, by the late fifties, the hearings and dismissals tapered off, it was not because they encountered resistance but because they were no longer necessary. All was quiet on the academic front" (Schrecker, 1986, 341).

Although earlier scholars had hit upon similar findings (Selcraig, 1982), Schrecker was the first to analyze McCarthyism in higher education nationally and understand the close links between colleges and the anti-Communist crusade nationwide.

Schrecker was condemned by conservative critics, but her findings were largely confirmed by Lionel Lewis in his systematic 1988 book *Cold War on Campus*. Lewis (1988) studied 126 cases on 58 campuses where professors were investigated for their

beliefs, and concluded that "academic authorities were as much a threat to faculty and to their academic freedom as were the ominous political forces off campus" (5). Fewer than 20% of the professors still had their jobs after the investigation was complete; the rest were fired or resigned under the pressure (Lewis, 1988, 61). Professors were investigated for being summoned before HUAC and other legislative investigating committees, for participating in the 1948 Wallace campaign, for refusing to sign a loyalty oath, and even for signing petitions asking amnesty for Communists convicted under the Smith Act (Lewis, 1988, 49).

Rarely did colleges show much support for academic freedom. Lewis noted, "In only three instances did an institution stand firm behind someone who could easily have been sacrificed without extensive repercussions" (Lewis, 1988, 76). Lewis concluded, confirming Schrecker's theory, that "external pressures were of little significance compared to internal imperatives to remove so-called radicals from the faculties of colleges and universities" (Lewis, 1988, 267).

Even when professors were not fired, the intimidation of radicals was readily apparent. Professors managed to save their jobs only when they cooperated with the university, never discussed unorthodox ideas in their classes, and avoided further controversy. The AAUP claimed that there was "nothing in the nature of teaching profession which requires the automatic exclusion of Communists, and the attempt to exclude them would threaten our educational system" (Lewis, 1988, 102), but the AAUP refused to print an account of any specific case during the McCarthy Era, and only investigated one firing of a professor, so that, as Metzger put it, "the first postwar

academic purges committed in the name of national security had gone unreported and unreproved” (Metzger, 1986, 29).

Many colleges followed the line of the Association of American Universities, an organization of the top 35 universities, which declared in 1953 that "since present membership in the Communist Party requires the acceptance of these principles and methods, such membership extinguishes the right to a university position” (Lewis, 1988, 15).

Radicals in the colleges were often regarded as a disease to wipe out. Former communist and FBI witness Louis Budenz wrote in the American Legion magazine in 1951, “Uncover a red doing his stuff on a college faculty and a hue and cry is raised over ‘academic freedom’: as though these people had a God-given right to infect our children with their made-in-Moscow virus” (Kille, 2004, 27).

Colleges and universities usually cooperated with state legislators and investigative committees, often in extensive ways. A representative of the California senate committee testified before a U.S. Senate committee that in one year, cooperation between California college presidents and the state senate committee led to the removal of more than 100 faculty, and a procedure was established to encourage the hiring of intelligence agents and to screen applicants before they were hired (Lewis, 1988, 255).

This cooperation was not limited to public colleges and universities. Robert Cohen, although unanimously recommended by the Philosophy Department and Yale College for an appointment, was rejected after an FBI-connected informant told administrators of Cohen's political activities (Diamond, 1992, 153). The FBI noted in its files that Yale had decided that "it is much better to look men over and know exactly

what they are before they are appointed, and that it is much easier to get rid of them by not appointing them than after they have been once appointed” (Diamond, 1992, 207).

On March 26, 1953, J. Edgar Hoover ordered FBI field offices to launch an immediate investigation of "Communist subversion" at 55 colleges and universities (Diamond, 1992, 243-4). The FBI already had cooperative relationships with many colleges. University of Washington president Raymond Allen asked an FBI agent if "it would be possible in certain cases for the Bureau to furnish the University information concerning members of the faculty or applicants for faculty positions” (Diamond, 1992, 251). In 1950, a UCLA administrative officer told the *Los Angeles Times* that "he checked FBI records in connection with interviews of applicants for faculty positions at UCLA” (Diamond, 1992, 259). George Stoddard at the University of Illinois--shortly before being fired by conservative trustees who attacked his liberal views--declared that while politicians "shout themselves hoarse about communism in the university, those of us in charge have worked quietly through our own security officers, the FBI, the State Department and the military establishments to make sure that no Communists are on the staff” (Diamond, 1992, 265).

And for many faculty who lost their jobs during the McCarthy Era, the blacklist would continue for more than a decade. Barrows Dunham was cited by the House for contempt in 1953, and was eventually acquitted by a federal district court. But he was dismissed by a unanimous vote of the Temple University Board of Trustees because the "false use of Constitutional privilege" violated his "cardinal duty" to the university (Schrecker, 1986) Like many other victims of the McCarthy witchhunt, Dunham was

kept out of regular employment for fifteen years (Schultz & Schultz, 1989, 129; McCumber, 2001).

The overall impact of McCarthyism cannot be easily gauged, since many teachers were quietly dismissed. In 1947, the president of Ohio State admitted dismissing two faculty members who had "Communist leanings." The president of Western Illinois State Teachers College privately said that one "liberalist" was dismissed and another resigned. The University of Illinois refused to renew two leftists' contracts (Selcraig, 1982, 146). If more than 100 faculty in California in one year were removed because of the McCarthyite crusades of the 1950s, then the total number of faculty nationwide directly affected with the loss of their jobs must have numbered far into the thousands during the McCarthy Era.

#### William F. Buckley's Yale

One of the formative works of the anti-Communist crusade in the universities was William F. Buckley's 1952 book, *God and Man at Yale*, a book still widely admired in conservative circles for its rejection of academic freedom. Buckley attacked Yale University because he believed it had failed to enforce a conservative ideology on its faculty and students; the problem for Buckley was not a lack of freedom on campus, but an excess of it. Buckley complained, for example, that the Religion Department did not have "a remarkably pro-religious bias" (Buckley, 1951, 9). He attacked the presence of an atheist professor because students might become "full of suspicions and doubts about religion" and a sociology professor who "subverted the faith" of students (Buckley, 1951, 13, 17).

Religion was not the only faith which Buckley felt was inadequately indoctrinated at Yale. Buckley criticized the American Studies department because it did not follow a major donor's demands for it to support "the preservation of our System of Free Enterprise" and be "opposed to a system of State Socialism, Communism and Totalitarianism" (Buckley, 1951, 101). Buckley added about the Economics department, "of the nine full professors in the department, only four are forthright defenders of individualism" (Buckley, 1951, 99). Buckley believed that Yale would not be set right until every economist on its faculty defended "individualism" against mainstream Keynesian theories of economics.

Individuals, Buckley wrote, do not have any academic freedom, except the freedom to quit: "no freedom has been abridged so long as he is at liberty to quit his job" and can "seek employment at a college that was interested in propagating socialism" (Buckley, 1951, 187, 189). Of course, no college was formally propagating socialism in the 1950s (nor are any today), so Buckley was effectively supporting a blacklist of "socialist" thinkers from universities. As Buckley bluntly put it, "the attitudes of the faculty ought to conform to the university's" (Buckley, 1951, 181).

Buckley supported strong measures to remove "the predominance of leftism at Yale" (Buckley, 1951, 112). He complained about President Seymour (who in 1937 urged a return to Christian values and who also refused to knowingly hire a Communist) because Seymour did not "exorcise the extreme secularism" at Yale by getting rid of liberal faculty (Buckley, 1951, 43, 225).

Buckley's criticisms of Yale bear a remarkable similarity to later attacks on political correctness. The complaint of "too many radicals" is frequently heard, with the

accompanying fear that students might not learn the proper patriotic values and will instead be corrupted by feminism, Marxism, and the other evils of academia. For Buckley, the dangers were Keynesianism and liberal religion, but his attack on radicalism is echoed in the current opposition to multiculturalism. Remarkably, Buckley's Yale of the 1950s, where liberals supposedly dominated and "many students manage to cruise through without learning very much"(Buckley, 1951, 32) has now been reinterpreted into a Golden Age of higher education, while Buckley's hope for a purge of leftist professors by conservative trustees and administrators continues to be the guiding philosophy of some who want to take over colleges and universities.

#### The AAC Joins the Crusade

The American Association of Colleges (AAC), a major administrative higher education organization, was much worse than the AAUP in its response to McCarthyism. In March 1953, the AAC issued its anti-Communist statement, declaring that a scholar "must have integrity and independence" and Communists should be fired for failing to meet this standard.

The AAC statement had an immediate impact. The *Reno Evening Gazette* cited it in an editorial on "Academic Freedom" on April 10, 1953 that proclaimed, "The universities have the right and obligation, as their leaders declared, to weed out Reds on their staffs" (Kille, 2004, 26). This was no theoretical claim. The University of Nevada was at that very moment attempting to purge liberal faculty.

In 1952, Minard Stout was appointed president by the Board of Regents of the University of Nevada. According to J. Dee Kille, "The leadership of the board made it clear to their new president that he was to bring a small cadre of outspoken faculty

members into line” (Kille, 2004, 4). Chairman Silas Ross had declared in 1945 that faculty should “stick to their classes” and not be involved in governing the university (Kille, 2004, 7).

Stout’s plan to purge dissidents was aided by state legislators, who heard “persistent reports that ‘something is wrong at the University of Nevada,’” and decided to investigate (Kille, 2004, 16). On March 10, 1953, a legislative investigating committee was given one week to examine the university, and its report blamed a “small dissident group” of faculty for the problem (Kille, 2004, 17).

That month, five tenured faculty (Frank Richardson, Thomas Little, Robert Gorrell, Charlton Laird, and Robert Hume) all received identical letters from Stout firing them for “engaging in ‘disturbing activities’ over a period of ‘several years.’” (Kille, 2004, 17). Ironically enough, one of the “disturbing activities” was accusing the administration of mistreating the faculty.

The five appealed in court, and charges were dropped against all but Richardson, the president of the campus AAUP chapter, who had challenged Stout’s efforts to lower admissions standards (Kille, 2004, 32). Richardson was found guilty of distributing an article on campus by Arthur Bestor titled, “Aimlessness in Education” (Kille, 2004, 18). Richardson was dismissed in June 1953, and novelist Walter Van Tilberg Clark, a lecturer in the department, resigned in protest (Kille, 2004, 32). Because Harold Brown, chair of the Department of Education, believed that Richardson had a right to distribute the article, he was punished by being stripped of the job as director of the summer school (Kille, 2004, 21). All five faculty were left off the university’s salary list, and were told they would have to sign a letter agreeing to the Board’s authority over them. (Kille, 2004,



19). These faculty had been given no salary increases, while large increases were given to faculty who testified against Richardson (Kille, 2004, 20).

### McCarthyism and the Gentleman Scientist Model

The McCarthy Era marked the beginning of the breakdown in the Gentleman Scientist Model as a functional system for protecting academic freedom. Academics were widely united in opposing the loyalty oaths that violated the gentlemanly norms of trust in higher education. However, this viewpoint did not prevent the mass firings at the University of California, or the wide sweep of loyalty oaths across the country.

Sidney Hook's attacks on communist professors also reflected the remnants of the Gentleman Scientist Model. By denouncing communists not as a political threat but because of their alleged inability to engage in free scientific thought, Hook stood firmly behind this traditional ideal of academic freedom. But the reality was that professors were being widely dismissed for their political ideologies, not because they were narrow-minded. The Gentleman Scientist Model not only failed to protect professors during the McCarthy Era, it was being used as the foundation for attacking academic freedom.

In contrast to the Gentleman Scientist Model of academic freedom stood the Liberty Model. According to the Gentleman Scientist Model, professors had the right to express themselves politely in their fields of scholarly knowledge. But the Liberty Model represented a much broader sense of academic freedom, in which professors were free to express their ideas on all political issues, even if it offended critics and embarrassed their institutions.

By 1953, the House Un-American Activities Committee under chairman Harold Velde had cost the jobs of hundreds of teachers and professors (Schultz & Schultz, 1989,

127). Lloyd Barenblatt and Chandler Davis served prison terms for refusing to answer questions in front of HUAC. Even the U.S. Supreme Court refused to protect the free speech rights of Communists during the early McCarthy Era, declaring in the Barenblatt case that it "has consistently refused to view the Communist Party as an ordinary political party," and so allowed the government to act in a manner that "in a different context would certainly have raised constitutional issues of the gravest character" (Barenblatt v. US).

However, the reaction against the excesses of McCarthyism on campus would lead to dramatic changes in the idea of academic freedom. The U.S. Supreme Court made a dramatic shift toward protecting civil liberties, and for the first time academic freedom became one of those judicially-enforced liberties.

Before the Supreme Court rulings of the late 1950s and early 1960s, private institutions were sometimes regarded as having the strongest protections for academic freedom, since they were more insulated from public opinion. Legislators intent on punishing leftist professors could not directly control private colleges, and had little funding power to take away. Donors could certainly influence private institutions, but individual donors held relatively little power. But McCarthyism hit both private and public colleges.

However, the judicial reaction to McCarthyism led the U.S. Supreme Court to transform the First Amendment and fulfill its meaning of protecting freedom of speech by created a right to academic freedom under it. Suddenly, the protections of academic freedom were much stronger in public colleges, where a professor fired for his political speech could file a lawsuit demanding reinstatement under the First Amendment. No

longer were professors at public colleges dependent upon censure and moral condemnation to maintain academic freedom. Private colleges competing for faculty needed to offer similar protections of academic freedom, and as a result began to develop more legalistic systems of due process following the AAUP guidelines.

Under the Gentleman Scientist Model, academic freedom depended upon the good faith of honorable administrators following unwritten academic norms. But a system based on honor simply did not work well. It was far too easy to get rid of troublesome faculty, and the Gentleman Scientist Model offered too many reasons to justify the firing of professors who deviated from academic norms. The Liberty Model did not suddenly appear, nor was it methodically created according to a detailed analysis. Instead, like the Gentleman Scientist Model it eventually replaced, the Liberty Model grew gradually, by the accumulation of smaller principles and practices.

The Liberty Model was a reaction to the failures of the Gentleman Scientist Model during the late 1940s and 1950s, when colleges and national organizations failed to defend academic freedom. It was also inspired by a series of Supreme Court cases defending freedom of speech, including in academia. The repression of the McCarthy Era helped spark a new era of academic freedom, one that would never permit widespread political firings to prevail again in academia. But the fight to establish this new model of academic freedom in the 1960s would not be won easily. It took a decade of struggle and debate before the Liberty Model would replace the Gentleman Scientist approach as the dominant idea of academic freedom.

## Academic Freedom After McCarthyism

The Gentleman Scientist Model of academic freedom had been falling apart, brick by brick, for years. The age of McCarthyism exposed how vulnerable academic freedom truly was on American campuses. The failure of the AAUP and other organizations to protect intellectual freedom during the McCarthy Era alarmed academics. One of the first responses was the 1958 Statement on Procedural Standards in Faculty Dismissal Proceedings, which was produced by a joint committee of the AAUP and the Association of American Colleges, and approved by both organizations in 1958. This lengthy document noted that “One persistent source of difficulty is the definition of adequate cause for the dismissal of a faculty member” (AAUP, 1958). The statement observed that “considerable ambiguity and misunderstanding persist throughout higher education, especially in the respective conceptions of governing boards, administrative officers, and faculties concerning this matter” (AAUP, 1958).

The procedural recommendations in the statement called for a faculty committee “elected by the faculty” to investigate the fitness of a faculty member, and if formal proceedings are needed, a faculty committee would conduct a hearing. It opposed all temporary suspensions unless “immediate harm” was threatened. (AAUP, 1958). It called for a right of counsel by the faculty member. It noted that “acceptance of the committee's decision would normally be expected.” And it urged that “public statements...should be avoided so far as possible until the proceedings have been completed.” (AAUP, 1958).

Overall, the 1958 Statement was a weak response necessitated by compromise with the AAC. It was meant only as a guide to colleges, not an official statement of what colleges needed to do. And while it emphasized faculty control, the administration and

the governing board always had the option of rejecting faculty advice. More importantly, the 1958 Statement did not alter the standards used for dismissing faculty. Although the 1958 Statement revealed some early, tentative steps toward the Liberty Model (by providing procedural rights for faculty and a right to counsel), the changes were small. The flaws of the Gentleman Scientist Model were apparent, but in the late 1950s, the AAUP still lacked the consensus to move away from it.

### Sexual McCarthyism

In 1950, Sen. Joseph McCarthy denounced “those Communists and queers who have sold 400 million Asiatic people into atheistic slavery and have American people in a hypnotic trance, headed blindly toward the same precipice.” At one secret 1953 session of McCarthy’s witchhunt, Roosevelt University trustee Eric Kohler was asked if he was gay, and then was asked, “Do you have any facts or do you know whether any of the members of that board have homosexual tendencies?” (Kohler, 1953). Sexuality and communism were intertwined in the anti-subversive campaigns of the McCarthy Era.

Like the repression of gays in government service during the McCarthy Era (Johnson, 2004), colleges and universities commonly engaged in discrimination. The most extensive attacks on gays and lesbians in education occurred in Florida, where for nearly a decade the infamous Johns Committee investigated and fired more than a hundred teachers in public schools and state colleges. By April 1963, 71 teachers had their teaching certificates revoked, and 39 professors and deans had been dismissed from universities. Hundreds of teachers were investigated, questioned, and harassed, and an untold number of students were expelled from college (Johnson, 2004).

In 1956, the Florida Legislature gave seven of its members \$50,000 and the power to investigate all organizations they considered a threat to the state (Braukman, 2012). The Florida Legislative Investigative Committee was authorized to investigate anyone "whose principles or activities include a course of conduct on the part of any person or group which could constitute violence or a violation of the laws of the state" (Braukman, 2012). With this broad mandate, the Florida Committee went after the state's most marginal groups--blacks, Communists, and homosexuals.

In 1957, Senator Charley Johns became chairman of the year-old Committee, focusing on "race groups and Communist infiltration." The Johns Committee--nicknamed for its segregationist chairman--began its work by attacking the NAACP. The committee declared in 1959 that the NAACP "has been the prime target of communist penetration for the past 30 years" (Woods, 2004, 122).

But the Johns Committee met strong and effective resistance from civil rights activists. NAACP employees refused to answer the investigators' questions and refused to turn over membership lists. The Johns Committee prevailed in a Florida Supreme Court ruling, but the NAACP appealed the ruling to the federal courts. The NAACP effectively blocked the committee's intrusive questioning, although many depositions were taken and reports compiled about NAACP activities. Facing resistance from civil rights activists, in 1958 the Johns Committee began to turn its attention to a more vulnerable target: homosexuals.

In 1959, the Johns Committee called the presence of homosexual faculty and students at the University of Florida "absolutely appalling." According to the gay and lesbian magazine *Mattachine Review*, 15 instructors and staff were dismissed and

homosexual tendencies and practices were found among 27 teachers (*Mattachine Review*, July 1959, 22). At the University of Florida, campus police used "young special agents" to loiter in campus toilets (*Mattachine Review*, March 1960, 19). But most of the students and teachers were identified by other gays and lesbians under interrogation from investigators.

The number of "practicing homosexuals" in schools and colleges "is much more substantial than is generally believed," warned a 1961 report of the Johns Committee. Even the most innocuous behavior was viewed suspiciously by the Johns Committee. In one case, a gay University of Florida senior identified a professor as possibly gay when he was interrogated in 1958: "He wears those French berets and he wears walking shorts and rides a bicycle in them. He may just be eccentric" (Anderson, 1993). Attacking the University of South Florida in an August 1962 report, the Johns Committee accused it of using "intellectual garbage" such as J.D. Salinger's *Nine Stories* and Gatland and Dempster's *The Inhabited Universe* (because it was too evolutionary) (*Mattachine Review*, October 1962, 2).

Ironically, the Johns Committee folded in 1965 after it produced the report, "Homosexuality and Citizenship in Florida," which was banned in Dade County because it included pictures of men kissing and boys wearing underwear (it ended up being sold in some adult bookstores). Florida's sex scare brought down its own investigating committee.

Although Florida had the most extensive public repression of gays and lesbians, practically all colleges and universities discriminated against homosexuals. It is impossible to know how many teachers were fired and students expelled because of

sexual orientation. Historian John D'Emilio reports just a few examples from "the gay and lesbian academic grapevine": "In 1959, at a small midwestern college, a student told her faculty adviser that one of her friends was a homosexual. The adviser informed a dean, who called in the student in question and pressured him into naming others. Within twenty-four hours, three students had been expelled; a week later, one of them hung himself" (D'Emilio, 1983, 149). Around 1960, "a faculty member at a Big Ten school was arrested in mid-semester on a morals charge....The police alerted the administration, and the professor was summarily told to leave the campus. He never appeared before his classes again" (D'Emilio, 1983, 149). D'Emilio adds, "At an elite college in the Northeast, male students in the 1960s were in the habit of training a telescope on the windows of the women's dormitories. In one instance, they spied two female students erotically engaged. The women--not the men--were disciplined" (D'Emilio, 1983, 149). In 1962, a psychology professor at Long Beach State College committed suicide after he was arrested on a morals charge and fired by his college (*Mattachine Review*, February 1962, 32).

The fear of male homosexuality spread even to women's colleges. Newton Arvin, a gay Smith College professor, was arrested September 2, 1960 for possession of photographs of nude men in his home (Werth, 2001, 5). Although a faculty committee ruled that Arvin's conduct did not justify dismissal, several trustees wanted to fire any professors involved in the scandal. In the end, Arvin was forced to resign, and two other professors who had been convicted were fired (Werth, 2001, 250, 262).

It is notable that the numerous heterosexual male professors at Smith who slept with their own students received, at worst, a warning if they were too flagrant in their



behavior (Werth, 2001, 270). It was not the protection of female students at Smith that motivated the crackdown, but the fear of any sexual subversion.

The AAUP rarely investigated any sexual cases, even when due process rules were violated, and sexuality is a category seemingly removed from the protections of academic freedom by the AAUP's Statement of Principles.

Yet the concept of academic freedom in America also has been shaped by disputes over sexuality. The 1940 AAUP Statement of Principles identified the very worst academic crime, which justified immediate dismissal without further payment of salary, as "moral turpitude," a vague term which encompassed serious criminal actions but also various kinds of sexual misconduct. It would be a controversy over sexuality, not politics, that ultimately pushed the AAUP to alter its most fundamental principles of academic freedom, and rapidly shift from the Gentleman Scientist Model to the Liberty Model.

#### How Leo Koch and His Letter Changed Academic Freedom

The man whose controversial actions pushed the AAUP to transform the concept of academic freedom was an assistant professor of biology at the University of Illinois in Urbana named Leo Koch. Koch's problems began when he wrote a letter on March 16, 1960 in response to a *Daily Illini* article published that day. Koch was responding to a forum titled "Sex Ritualized," which lamented how unfortunate men are obliged to be "smooching" with women in a sorority "until the one o'clock 'dong' relieves the males from their chivalrous duty." The authors reported, "Men are not so concerned with a girl as a living individual—as an organic complexity of personality and character, emotion and intellect, and passion and reason—as they are concerned with her as a simple female

sex unit.” They argued that “male-female relations on campus” have “stultified into a predetermined ritual” (Koch, 1960).

Koch's letter, which was over 2500 words long, chided the student newspaper for omitting “any reference to the social milieu which compels healthy, sexually mature human animals into such addictions (of which masturbation is likely the least objectionable) to unhealthy and degenerative practices” (Koch, 1960).

Koch noted in his letter, “Any one who insists on speaking about sex in public, say the orthodox moralists, (unless it is condemned soundly) must be a sexual deviate (a Queer) in their orthodox view.” Koch added, “The second, and by far the more important, hazard is that a public discussion of sex will offend the religious feelings of the leaders of our religious institutions. These people feel that youngsters should remain ignorant of sex for fear that knowledge of it will lead to temptation and sin” (Koch, 1960).

Koch wrote against “a double standard of morality which accepts as respectable premarital sexual experience for men but not for women.” Double standards were the focus of Koch's letter, which blamed “the hypocritical and downright inhumane moral standards engendered by a Christian code of ethics which was already decrepit in the days of Queen Victoria.” Koch attacked “the widespread crusades against obscenity which are so popular among prudes and puritanical old-maids” (Koch, 1960).

Not satisfied with insulting religion, Koch urged a “mutually satisfactory sexual experience.” Koch wrote, “college students, when faced with this outrageously ignorant code of morality, would seem to me to be acting with remarkable decorum, and surprising meekness, if they do no more than neck at their social functions.” Showing no meekness himself, Koch concluded: “With modern contraceptives and medical advice

readily available at the nearest drugstore, or at least a family physician, there is no valid reason why sexual intercourse should not be condoned among those sufficiently mature to engage in it without social consequences and without violating their own codes of morality and ethics” (Koch, 1960).

He signed the letter, “Leo F. Koch, Assistant Professor of Biology.” Koch's letter was published on March 18, 1960, and the firestorm began. There were banner headlines in the *Chicago Tribune* and other papers (David Danelski, personal communication, 2004). Belden Fields noted, “A right-wing anti-communist former missionary to China, whose daughter was a student at the university, campaigned in the state legislature and among other parents to pressure the university to fire Koch. The missionary claimed that Professor Koch was part of a communist conspiracy to destroy the morals of our youth” (Fields, 2001). A pamphlet denouncing Koch called his letter “an audacious attempt to subvert the religious and moral foundations of America” (Goddard, 1960).

The pressure was on the University of Illinois administration, and they quickly buckled. On March 28, the Executive Committee of the College of Liberal Arts and Sciences voted 5-0 that Koch’s letter was irresponsible and justified his removal from classes. On April 6, the same committee voted 5-1 to urge his dismissal, although the committee was split on paying his contract. On April 7, President Henry formally fired Koch from his job, and he never taught again.

Henry declared that Koch’s views were “offensive, repugnant and contrary to commonly accepted standards of morality and his espousal of these views could be interpreted as an encouragement of immoral behavior and that for these reasons he should be relieved of his University duties” (Koch v. Board of Trustees).

The immediate firing of a professor for allegedly espousing “immoral behavior” might seem to be a clear-cut violation of academic freedom, but in 1960 the question of freedom in extramural utterances was still up in the air.

Koch had few supporters on campus. On April 18, 1960, the Urbana-Champaign Senate Committee on Academic Freedom held a hearing, and issued a report on May 13, 1960. The six-member committee was united on two points: they hated Koch's letter, and they disliked the administration's violation of due process procedures, because the lack of a faculty hearing was “contrary to the standards of proper procedure in dismissal cases” (Urbana-Champaign Senate Committee, 1960, 5).

Campus AAUP leader Victor Stone described some of the members of the Senate Committee, many of whom were strongly prejudiced against Koch: E.I. Rabinowitch, co-editor of the *Bulletin of Atomic Scientists*, “was appalled that anyone would question authority.” Gilbert Fett, in engineering, according to Stone, “wasn't a political activist,” but he strongly defended Koch “speaking on principle.” Stone noted, “Glenn Salisbury believed that he was not made dean of the College of Agriculture because he had not controlled the committee,” even though Salisbury was one of the three members who strongly opposed Koch (Stone, personal communication, 2004).

The report from the committee noted, “This committee holds firm belief that the concept of academic freedom is fundamental to a democratic society, because it is only through the freedom to pursue truth without fear of reprisal or censure and through the unfettered competition of ideas that the democratic society can progress to higher intellectual and moral levels. This freedom cannot be reserved only for those who agree with majority beliefs and those who have the wisdom to be right. To so restrict academic

freedom would render it meaningless” (2). After this promising start, the committee went on to argue for restrictions on academic freedom that would render it meaningless: “A faculty member does not have the right to urge students, or any one else, to engage in illegal or immoral behavior or to violate University regulations” (3). The report added, “the faculty member, in keeping with his University association and his position as a man of learning, has the obligation to be accurate, to exercise appropriate restraints, and to show respect for the opinions of others” (3). Citing the AAUP documents, the committee declared: “Academic freedom does not mean unlimited license in either conduct or speech” (3).

The committee concluded, “Koch did commit a breach of academic responsibility, not because he publicly expressed controversial views on sexual mores, but because of the way in which he expressed them” (4).

At one point, the committee defended Koch's letter against some of the accusations being made against him: “it urges society to condone certain sexual behavior, and does not urge readers to engage in such behavior.” However, the report noted, “it could be interpreted...as encouraging students to engage in premarital sexual relations. Professor Koch did show poor judgment in publishing, in a student newspaper, a letter that lent itself to such interpretation” (4). It was a strange sort of logic, to blame Koch for something he had not written merely because what he had written could be misinterpreted. The Senate committee was worried about public relations, and reported that there was “a lengthy commentary by a Chicago publicist suggesting that Professor Koch’s letter and its writer were subversive” (2).

Still, the committee recognized the importance of “meaningful academic freedom”: “this freedom cannot be real unless its bearers have no doubts about their rights to exercise it and do not feel compelled to assume the attitude, ‘I had better be careful.’”(6).

The six-member Senate committee was evenly divided as to Koch's academic freedom, however: “Three members of this committee came to the conclusion that the discharge would be so excessive a penalty as to constitute a violation of Professor Koch’s academic freedom” (7). The other three felt that “Koch’s action was a sufficiently clear violation of academic responsibility to invalidate his claim to the protection of academic freedom” but added that academic freedom at the university “would not be served by his discharge” (8). The entire committee urged “that Professor Koch be reprimanded for his action and admonished to act in keeping with the dignity and responsibility of a scholar, but not be discharged.” The committee also called for a revision of university statutes (8).

According to the University of Illinois statutes at the time: “Cause for discharge shall consist of conduct seriously prejudicial to the University through deliberate infraction of law or commonly accepted standards of morality, neglect of duty, inefficiency or incompetency” (8). The Board of Trustees could also discharge faculty for other reasons “under exceptional circumstances” for “conduct which is clearly prejudicial to the best interests of the University” (8). This kind of vague language would allow any professor to be fired for almost any reason. And the resentment toward the administration's failure to consult the faculty before punishing Koch spurred the Senate Committee to make a more critical view of the university's actions.

Although the Koch case dealt purely with extramural utterances, there were hints that Koch's approach to his letters was mirrored in the classroom. The University of Illinois Senate committee noted how Koch claimed that he used a “shock treatment approach” in his teaching and in the letter (6). Still, the AAUP's sharp distinction between responsibility in the classroom and in extramural comments was often lost upon academia's external critics.

The Senate committee also addressed the issue of Koch's professional identification: “Professor Koch believes that although he has signed the letter ‘Assistant Professor Biology’ (How else, he said, could he have identified himself?), he was not expressing himself as a representative of the biology department. But he considered that he wrote the letter as a biologist” (7). Koch’s specialty was the study of moss, so it would be hard for him to claim any particular expertise in human sexuality (Stone, personal communication, 2004). Koch was a well published scholar with dozens of articles. He was also “a real liberal” active on issues such as the atomic bomb, racial equality, and women's rights, who believed in “humanism as a religion” (Danelski, personal communication, 2004).

The Senate committee invoked the language of the Gentleman Scientist Model: “In his role as citizen, the faculty member has the same freedoms as other citizens, without institutional censorship or discipline, although he should be mindful that accuracy, forthrightness, and dignity befit his association with the University and his position as a man of learning” (9). This gentlemanly call for “dignity” that befits a “man of learning” reflected the contempt toward faculty who expressed controversial views: “It is the opinion of this committee that Professor Koch’s letter did constitute a breach of

academic and professional responsibility. The letter is not a reasoned, detached document marshalling evidence or reason in support of a view held by the writer. It is rather an impassioned message” with “overstatement and ridicule” (14).

However, the key issue facing the AAUP and academia in the Koch case was not whether Koch would be condemned for his impassioned views, but whether he deserved to be punished with the loss of his job. The question was whether the “dignity” required by the Gentleman Scientist Model was merely a moral guide for faculty, or an enforceable job requirement.

Koch was not an ideal victim. One could imagine the AAUP responding to one of the many cases where faculty in the South were dismissed for their civil rights activism, which would make it almost impossible for anyone to defend the remnants of the Gentleman Scientist Model in the face of the injustices of Jim Crow.

Victor Stone was a leader of the AAUP at the University of Illinois and defended Koch, but Stone encountered problems with the national AAUP. The AAUP president was traveling in Asia at the time, and one person in the national AAUP office that Stone dealt with was a “traditionalist” and “very snobbish.” This individual believed that the AAUP “should not be doing this on behalf of an assistant professor.” The resistance continued, Stone said, “until I raised holy hell” and the AAUP sent in a committee to investigate (Stone, personal communication, 2004).

Stone noted, “I thought he was irresponsible, personally” and reported that “in other letters he had been intemperate” with “attacks on organized religion.” But Stone considered this particular letter a “very temperate, carefully drafted letter” (Stone, personal communication, 2004).



Although Koch was technically an assistant professor who had been teaching at the University of Illinois since 1955, he was informed in 1959 that he would not receive tenure, and agreed to sign a two-year terminal contract. The University told him, "Your professional advancement will best be served in a position which provides greater scope for your special interests than does your present program" (Leo Koch v. Board of Trustees, 1962). But the Koch case was about a larger question of whether faculty could be free to speak out. Koch claimed, "The majority of professors are badly suppressed. You can't step out of line, and that's a very bad situation" (Goddard, 1960). This fundamental truth about academia would cause the AAUP to transform some of its basic principles.

#### How Leo Koch Altered the AAUP

An AAUP ad hoc committee led by famed First Amendment scholar Thomas Emerson argued, "as applied to a faculty member having definite or indefinite tenure, making public utterances on matters of general concern to the community, the standard of 'academic responsibility' is not a valid basis for reprimand, dismissal, or other official discipline" (AAUP, 1963).

However, Emerson's interpretation was not fully accepted. Committee A declared in response, "In light of Committee A's understanding of the 1940 Statement, together with the legislative history of the document and its 'interpretation,' the Committee disagrees with the authors of the report that 'the notion of academic responsibility, when the faculty member is speaking as a citizen, is intended to be an admonition rather than a standard for the application of discipline'" (AAUP, 1963, 41).

If Committee A and much of the AAUP was not quite willing to give up the “responsibility” standard, the Koch case still appalled them. The firing of a professor, without any due process, for writing one controversial letter to the editor, was shocking. Committee A went on to call Koch’s dismissal “outrageously severe and completely unwarranted” and criticized the violation of due process (AAUP, 1963). Much like the Faculty Senate Committee, Committee A wanted to condemn both the University of Illinois and Koch for their actions.

The Koch case helped push forward the protection of controversial extramural statements under the umbrella of academic freedom. It did so not only by revealing the schism within the AAUP over the subject, but also by providing a key example that was difficult to dismiss. Those who wanted “responsibility” to remain as an academic freedom standard had to grapple with the fact that abuses like the Koch case were almost inevitable.

Despite all of the internal disputes over the theory of academic freedom, Committee A was united in condemning the University of Illinois' failure to follow due process and the extreme punishment given to Koch.

#### Censure of the University of Illinois

The censure in the Koch case had an immediate effect at the University of Illinois. According to Stone, President Henry would “never forgive” the national AAUP for censuring his institution. But in the wake of the censure, the University of Illinois moved to change its policies. The three senates from the University of Illinois system were brought together, financed by the administration, to propose changes. Stone noted, “we

emerged from that with the best statutes on academic freedom and tenure in the country” (Stone, personal communication, 2004).

With the changes in place, the University of Illinois sought to end the censure. Stone reported, “I did intervene to ask the national to remove it.” The key problem was the lack of compensation or reinstatement for Koch. Stone noted, “I wished for it” but “I was convinced we would never, never get any compensation” and “it could be an endless deadlock” (Stone, personal communication, 2004). Instead, with the amended statutes, the AAUP removed the sanction and the AAUP paid Koch a year's salary.

The first beneficiary of the new protections for academic freedom at the University of Illinois was Revilo P. Oliver. Oliver, Stone reported, “had fortified his basement to resist the communist hordes” and was “expelled from the Birch Society because he was too extreme,” even though Oliver had helped to found the John Birch Society. (Stone, personal communication, 2004). When Oliver publicly expressed his view in 1964 that John F. Kennedy “was executed by the Communist Conspiracy because he was planning to turn American” or “as part of systematic preparation for a domestic take-over,” there was widespread outrage (Oliver, 1964). But this time, the University of Illinois' policies protected academic freedom, and Oliver did not lose his job. The Board of Trustees condemned Oliver, but did not fire him. Oliver spent 32 years as a professor of Classics at the University of Illinois.

For Leo Koch, the results of his case were much different. He never got another job in academia. Danelski reported that to make money, Koch “began to sell books...bordering on the obscene,” with titles like *The Housewife Guide to Promiscuity*.

Koch's marriage broke up, and Koch left for a job in Santa Cruz, California, growing mushrooms (Danelski, personal communication, 2004).

Trouble followed Koch. In 1963, Koch took a job as a science instructor at the left-wing Camp Summerlane in North Carolina, where his presence sparked rumors of nudism and free love, and the camp was attacked in a violent raid by townspeople and state troopers. The local *Asheville Times* reported: “Violence flared at Summerlane Camp—a summer hideaway tucked back in a mountain cove--when outraged citizens of the Rosman and Brevard areas invaded the camp last night and this morning to protest alleged immorality and nudism on the part of the campers” (Elliston, 2008). Jon Elliston (2008) recounted the scene: “camp counselors who’d been beaten bloody tried to regroup. A gymnasium was burning to the ground; a cabin smoldered. A camp bus, its front window shattered, leaned in a ditch while its driver tried to pull himself together after bullets had been fired right by his head.” A letter before the attack from Leo Koch to his daughter noted how racial integration was a key factor: “A group of local yokels has told us that if we bring any 'niggers' here they will kill them” (Elliston, 2008). Ironically, the camp had been unable to recruit any black children. Koch himself wrote about the attacks, and noted the reports of “atheistic” activity and “sexual promiscuity,” but added that race was the underlying fear (Elliston, 2008). The same hysteria about sexuality and religion that had cost Koch his job at the University of Illinois resulted in the burning and closure of a summer camp.

#### Koch in Court

Leo Koch had far less luck seeking legal redress for his firing. Even getting a lawyer was a struggle. David Danelski, an attorney who taught civil liberties in the

Political Science department, defended Koch. Danelski recalled that he became involved in the Koch case when “this guy came into my office and said, ‘I’m Leo Koch. I need you to help me.’”(Danelski, personal communication, 2004). Danelski said he would find him a lawyer. But after searching through the University of Illinois law school and local lawyers, and being rejected at every turn, Danelski represented Koch himself because “nobody would take his case.” Later, an ACLU lawyer joined him. To help cover incidental expenses in the case, Danelski asked colleagues for money: “I would get envelopes under the door with \$20 in them, and a note saying, ‘I can’t tell you who I am.’” Danelski noted, “I was willing to lose my job, too” (Danelski, personal communication, 2004).

When the Board of Trustees met to fire Koch, Danelski reports that an administrator told him, “They had two votes. They voted whether to fire you.” The Board felt that Danelski was being disloyal to the university by defending Koch. According to Danelski, “it never affected my career negatively.” However, he was called in by the Political Science department chair because at the time he was being given a month’s pay in the summer after his first year of teaching, a tradition at the University of Illinois to help new teachers turn a dissertation into a book, and this happened to coincide with his defense of Koch: “They said I shouldn’t be doing this.” The University of Illinois attorneys convinced the Board of Trustees that Danelski was fulfilling an attorney’s duty to Koch, so that he would have legal representation (Danelski, personal communication, 2004).

However, Koch's lawsuit against the University of Illinois failed. The Illinois Supreme Court ruled, “When the plaintiff entered into his employment contract with the

University of Illinois, he voluntarily agreed to the University's rules and procedures for determining the causes of discharge, the quasi-judicial framework for determining the existence of those causes and the procedure whereby he might be discharged as a result of those causes” (Koch v. Board of Trustees, 343). According to Danelski, “the corrupt Illinois judicial system buried the case” (Danelski, personal communication, 2004).

The Illinois State Supreme Court ruled that “no constitutional issues were involved” and an appellate court dismissed the case. Murphy called the decision “palpably incorrect” and said it “simply demonstrates a judicial reluctance to recognize that a professor may have the same freedom of speech as other citizens” (Murphy, 1964, 37). But the reality was that academic freedom as a fundamental right had not yet been clearly identified by the U.S. Supreme Court, and the University of Illinois policies did, effectively, give the Board of Trustees the power to fire any professor for any reason they wanted.

Koch compared his case to the Scopes Trial and said, “I expect it to reach the Supreme Court, and I hope it does. Some kind of precedent has to be established” (Goddard, 1960). But on January 13, 1964, the U.S. Supreme Court refused to hear Koch's appeal. Koch's hope of changing the legal status of academic freedom fell short. But it was within the AAUP that Koch's case would have the greatest impact.

#### The Critics of Koch

Some commentators on academic freedom showed little sympathy for Koch's plight. Van de Haag (1964) declared that “Koch’s shopworn utopia scarcely commands sympathy. (He proposed reducing extra-marital sexual relations among students to cathartic gymnastics drearily—but sanitarily—performed under university auspices.) Yet

he would not have been dismissed had he expressed himself in favor of pre-marital chastity. Thus he was fired for professing dissent views. Academic freedom was violated” (88).

Van de Haag also wrote: “A case for the dismissal could be made in terms of lack of discretion....His letter to a student paper might well be understood by students, and more likely by their parents, as an authoritative expression of proposed university educational policy” (Van de Haag, 1964, 88). Van de Haag didn’t explain exactly how one professor’s opinion, obviously expressed as such, and so clearly opposed to conventional wisdom, could be taken as official policy.

Van de Haag criticized Koch using the language of the Gentleman Scientist Model: “Koch should have foreseen the potential harm his letter would cause the university—a harm clearly not offset by any potential scientific or practical merit. If he was unable to understand these likely effects, or deliberately disregarded them, he might not be intelligent enough or discreet enough for his position” (Van de Haag, 1964, 88). Van de Haag regarded “scientific” work as valuable enough to merit controversy, but not an ideological expression of a personal opinion. And the notion that a professor must be “discreet” to be employed as a faculty member was the embodiment of the gentlemanly tradition. However, Van de Haag admitted that this view did not “justify dismissal out of hand” (Van de Haag, 1964, 88). And that was precisely the problem with what remained of the Gentleman Scientist Model: if its language was allowed to remain in place as an enforceable provision, then faculty would be vulnerable to the whim of administrative retaliation for almost any controversial speech. As Van de Haag noted, the Koch case showed “the vulnerability of American universities, and the consequent precariousness of

the academic freedom they grant” (Van de Haag, 1964, 88). For the followers of the Gentleman Scientist Model, Koch was guilty of endangering academic freedom by trying to exercise it too freely when universities were vulnerable to a public backlash. It was a point of view shared by many in academia, including the AAUP, but this ideal of academic freedom was beginning to change.

#### The 1964 Statement on Extramural Utterances

The Koch case led to a substantial change in the University of Illinois’ procedures on academic freedom. But more importantly, it forced the AAUP to confront the flaws and contradictions in its guiding philosophy. The key issues surrounding the Koch case laid bare the fault lines in the AAUP’s approach to academic freedom, and in the Gentleman Scientist Model itself. Although bitterly divided about Koch himself and his letters, the AAUP recognized that it could no longer accept the threat of administrators to punish professors for their comments as citizens. Just after Committee A was expressing its ambivalence about Koch in 1963, the AAUP was moving forward with a new approach to extramural utterances.

By 1964, the early revolution in academia was beginning. The Free Speech Movement had shocked Berkeley, as well as the rest of higher education. In 1963, Committee A had been unwilling to give up the concept of “responsibility” for Leo Koch. By 1964, the AAUP as an organization embraced a radical new statement on extramural utterances that reflected the beginning of the end for the Gentleman Scientist Model and the rise of a new model, the Liberty Model.

The Statement on Extramural Utterances rejected the notion of a common academic ethic that bound the behavior of all professors, on and off campus, that had



formed the basis of the Gentleman Scientist Model. In its place was a radical individualism of the Liberty Model which held that each professor was accountable only to the conscience of the individual.

The Committee A Statement on Extramural Utterances, approved in October 1964, marked one of the most fundamental changes in the AAUP's approach to academic freedom. The 1964 Statement began with an important restatement of the 1940 Statement of Principles, claiming that it “asserts the right of faculty members to speak or write as citizens, free from institutional censorship or discipline” while adding that it “calls attention to the special obligations of faculty members arising from their position in the community: to be accurate, to exercise appropriate restraint, to show respect for the opinions of others, and to make every effort to indicate that they are not speaking for the institution” (AAUP , 1964, 32).

This opening summary did not quite fit the actual language of the 1940 Statement, which declared: “When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations” (AAUP, 1940, 4). The 1964 Statement changed “should be free” into “the right of faculty members to speak.” For the first time, the AAUP was using the Liberty Model language of the “right” to free speech. And the 1964 likewise transformed the original 1940 language of “imposes special obligations” into “calls attention to the special obligations of faculty members.” The 1940 Statement had emphasized an equivalence between the freedom of faculty to speak as citizens and the obligation imposed to be accurate and restrained. The 1964 Statement changed this into a

fundamental right of faculty to speak and a special obligation which rested on the conscience of individual faculty rather than being imposed by the institution.

In effect, the AAUP was unilaterally changing the meaning of the 1940 Statement in a dramatic way that had never been intended—and which Committee A had itself rejected only a year earlier in the Koch case.

However, Committee A explicitly recognized a problem with this revision in the 1964 Statement: the fact that the AAUP and the AAC agreed at a November 8, 1940 meeting to an interpretation of the 1940 Statement allowing the administration to file charges “if it feels that a faculty member has failed to observe the above admonitions and believes that the professor's extramural utterances raise grave doubts concerning the professor's fitness for continuing service” (AAUP, 1964, 32).

Van Alstyne called this a “trade-off” with the AAC in 1940 “to cultivate public confidence in the profession by laying down a professionally taxing standard of institutional accountability for *all* utterances of a public character made by a member of the profession” (Van Alstyne, 1972, 155).

The 1940 Statement of Principles brought the AAUP credibility and institutional acceptance, but it did so at the price of creating a dangerously vague standard of “responsible” behavior that would frequently be used to attack academic freedom in the decades to follow. The compromise of 1940 may have been necessary at a time when academic freedom was still vulnerable and the AAUP was anxious to have institutions adopt its standards for tenure and due process.

To get around this power, Committee A simply redefined the terms: “The controlling principle is that a faculty member's expression of opinion as a citizen cannot

constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness to serve. Extramural utterances rarely bear upon the faculty member's fitness for continuing service” (AAUP, 1964, 32). Moreover, Committee A added a new requirement that the faculty member's “entire record” must be weighed in judging a professor unfit to serve (AAUP, 1964, 32). To reinforce the defense of faculty, the 1964 Statement established that the “unfitness” of a faculty member must be judged by a faculty committee.

The 1964 Statement made subtle changes in wording to the official AAUP position, but it amounted to a transformation in the organization's approach to extramural utterances. Instead of the 1940 Statement's standard of “raise grave doubts” about a professor's fitness, the 1964 Statement required evidence that “clearly demonstrates” unfitness for the job, a nearly impossible standard to meet considering that Committee A had just declared that extramural utterances rarely have any connection to a professor's fitness to serve.

The 1964 Statement concluded, “In a democratic society freedom of speech is an indisputable right of the citizen. Committee A will vigorously uphold that right” (AAUP, 1964, 32). As the AAUP's enforcers of academic freedom, Committee A was declaring that they would no longer defer to institutions in interpreting the vague language of the 1940 Statement on extramural utterances.

But the Committee A Statement, although deeply influential (it is the only Committee A statement published in the AAUP's Redbook of important statements), did not represent the entire AAUP. Nor did it represent the official stand of other organizations, such as the AAC, who had a vital role in the 1940 Statement and its

embrace by colleges across the country. The AAUP had begun a dramatic step down the road toward the Liberty Model. But unless it could convince the rest of academia to follow, one statement by Committee A could transform academic freedom.

#### 1966 Statement on Professional Ethics

The Liberty Model values of the 1964 Statement on Extramural Utterances were extended only two years later in the 1966 Statement on Professional Ethics. The key paragraph of the document, later quoted in full in the 1970 Interpretive Comments, was this: “As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons, they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom” (AAUP, 1966, 171).

This marked an even more radical embrace of the Liberty Model and rejection of the Gentleman Scientist approach. Having “the rights and obligations of other citizens” was crucial, because although it retained the word “obligations,” the 1966 Statement eviscerated its enforcement. Other citizens, after all, had the rights of free speech, but no legally enforceable obligations of the kind that proved so onerous under the 1940 Statement. The only obligation was a moral one imposed by individual conscience and collective critique, not an enforceable obligation through formal discipline and sanction.

An enforceable right and an enforceable obligation cannot co-exist. One cannot simultaneously have the enforceable right to speak and the enforceable obligation not to speak. The Gentleman Scientist Model, embraced in the 1940 Statement of Principles, created enforceable obligations for extramural utterances. During the 1960s, the AAUP moved to the Liberty Model's approach of enforceable rights to extramural utterances instead.

The lack of enforcement in the 1966 Statement was re-emphasized in the phrase, “Professors measure the urgency of these obligations...” By giving the individual professor the power to “measure” an obligation, the 1966 Statement was seeking to remove it from the realm of administrative control altogether. To further emphasize the fact that professors no longer could be punished for their speech as a citizen, the 1966 Statement declared that maintaining the “conditions of free inquiry” was the highest obligation (AAUP, 1966).

If anyone tried to interpret the 1966 Statement on Professional Ethics as still requiring professors to meet obligations in their extramural utterances, the fact that there was an “obligation” to promote free inquiry would surely counteract it. How could any professor have an obligation to keep silent when free inquiry was itself an obligation?

The 1966 Statement did maintain the ancient prohibition on “speaking or action for their college or university” in their extramural utterances. But that requirement only really restricted faculty under the old Gentleman Scientist Model, where mentioning one's campus affiliation was regarded as an attempt to take cover under the protections of scientific inquiry. Under the Liberty Model, listing a campus affiliation was simply a way of clarifying who you were and where you worked; it no longer implied any claim of

university endorsement. It was a kind of phantom limb of the Gentleman Scientist Model, retaining the same formal language but without the baggage that had allowed it to be abused in the past.

The 1966 Statement put no special burden on controversial topics. To the contrary, it declared: “Their primary responsibility to their subject to seek and to state the truth as they see it” (AAUP, 1966, 171). Controversy, a dangerous threat to the institution under the Gentleman Scientist Model, was a beneficial and desirable part of education under the Liberty Model.

The 1966 Statement also began to expand the boundaries of academic freedom. In listing the responsibilities of professors as teachers toward their students, it noted: “They protect their academic freedom.” This was the first official recognition by the AAUP of the academic freedom of all students, suggesting a much broader notion of the idea than the Gentleman Scientist Model ever had. The Liberty Model's ideal of academic freedom for all had begun to replace the special privileges of professors.

Another part of the 1966 Statement raised one critical part of academic freedom that the AAUP's statements had largely overlooked, the right to criticize one's own institution: “Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision” (AAUP, 1966, 172). This provision also offered an unusual example of how far the AAUP was straying from the old Gentleman Scientist Model. By declaring that professors could rightfully and intentionally violate campus regulations if those limits violated academic freedom, the AAUP was striking out new territory for academic freedom.

The 1964 Statement on Extramural Utterances and the 1966 Statement on Professional Ethics were radical shifts in policy for the AAUP, although they attracted little publicity in a campus climate where dramatic shifts in student rights, campus protests, and academic culture were occurring. Moreover, although these statements reflected a new idea of academic freedom for the AAUP, the 1940 Statement remained as a monument to the Gentleman Scientist Model fully in force at most campuses and as the official policy of the AAUP. The AAUP needed to tackle the 1940 Statement directly, and update the way academic freedom was interpreted under it.

### Revisiting the 1940 Statement

When the AAUP sought to reform the 1940 Statement in the late 1960s, it encountered a problem: the leading associations of colleges and universities were not interested in expanding academic freedom by addressing the “responsibility” standards. Indeed, their main interest in revisiting the 1940 statement was to remove the “7-year rule” for tenure and allow colleges to hire faculty for additional years without providing them with tenure.

For the AAUP, the 1940 Statement was flawed, but the dangers of undermining tenure by creating a new statement could be even more hazardous. If the widely adopted 1940 Statement was abandoned, it could be replaced by something worse, or colleges could simply retain the older language indefinitely. The very success of the AAUP in getting the 1940 Statement adopted by universities and written into campus codes now proved to be a barrier to further progress when the AAUP wanted to alter its fundamental model of academic freedom.

To deal with this, the AAUP adopted a compromise: an “interpretation” of the 1940 Statement of Principles, which would allow the AAUP to update the meaning of the language without actually undertaking the burden of getting a consensus for a new statement or its adoption at colleges around the country. This innovative solution allowed the AAUP to make its new approach to academic freedom immediately adopted and enforced more effectively.

A joint committee of the AAUP and the AAC met in 1969 to reevaluate the 1940 Statement. What is most surprising about what this committee produced is not that the AAUP was adopting a dramatic shift in its approach to academic freedom, but that the administrator-oriented AAC would go along with these changes virtually without opposition.

However, by 1969, campus protests and disruptions had gained national attention and spread to campuses across the country. Administrators were themselves invoking the language of the Liberty Model to argue against campus strikes, disruptions of speakers, and attempts to ban military research and ROTC on campus. In comparison with the turmoil on campus, the Liberty Model approach of the AAUP no longer seemed so radical. Faced with the infamous 1968 takeover of the administration building at Columbia University, the Gentleman Scientist Model seemed like an impossible dream to maintain.

#### The 1970 Interpretive Comments

The 1970 Interpretive Comments marked the most dramatic turn in the AAUP's history when it came to academic freedom. And the text of the document made it clear that change was happening. The 1970 Comments argued, “the 1940 *Statement* is not a



static code but a fundamental document designed to set a framework of norms to guide adaptations to changing times and circumstances” (AAUP, 1970b). The notion of an evolving understanding of academic freedom represented only the first challenge to the Gentleman Scientist Model and its vision of academic freedom as a permanent, unchanging ideal.

The 1970 Comments included a recognition of “relevant developments in the law itself” and quoted the Supreme Court’s direct recognition of academic freedom as “a special concern of the First Amendment” in the 1967 case of *Keyishian v. Board of Regents*.

But the majority of the 1970 Comments consisted of footnotes to the existing 1940 Statement, amendments in meaning which nevertheless often transformed all previous interpretations of the words or effectively nullified them altogether.

The 1970 Comments noted that the AAUP and other professional organizations had made numerous statements “providing guidance to professors in their utterances as citizens” (AAUP, 1970b). This comment had two important implications. First, it suggested that the proper place for addressing extramural utterances was in the realm of professional ethics, not institutional enforcement. Second, it used the word “guidance” rather than enforcement, indicating that the ethos of the 1964 Statement on Extramural Utterances was being incorporated into—and directly countering—the 1940 Statement. In fact, the 1970 Comments quoted the 1964 Statement at length.

But the 1970 Interpretive Comments did not stop at extramural utterances, as it might have if it had been done in 1964. Instead, the 1970 Comments took direct aim at the heart of the Gentleman Scientist Model: the condemnation of controversy in the

classroom. The 1970 Comments footnoted the infamous 1940 Statement that “Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.” The 1970 wording declared: “The intent of this statement is not to discourage what is 'controversial.' Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster” (AAUP, 1970b). Of course, the intent of the 1940 Statement was precisely to discourage controversy. But the 1970 Comments were trying to change the intent, and strictly narrow its application: “The passage serves to underscore the need for teachers to avoid persistently intruding material which has no relation to their subject.” The 1970 Comments eliminate any special prejudice against “controversial matter” and adds a critical provision that the teacher must be guilty of “persistently intruding material”; the 1940 Statement had effectively allowed a ban on even the smallest deviation from the subject matter.

The 1940 Statement had originally declared, “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.” At the time, this was considered a significant advancement because it compelled religious colleges to declare any limits on academic freedom in advance and not restrict them further while a professor is employed. But the 1970 Comments declared, “Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 Statement, and we do not now endorse such a departure” (AAUP, 1970b). Not only did the 1970 Comments claim that most religious colleges did not wish to have any exemption from academic freedom, but it withdrew any such special treatment even for religious colleges that

wanted to maintain the 1940 Statement standards. This footnote not only showed how radical the changes were in the 1970 Interpretive Comments, but also the fact that they could overturn completely provisions in the 1940 Statement.

Another radical shift from the Gentleman Scientist Model to the Liberty Model in the 1970 Comments can be found in its declaration, “Both the protection of academic freedom and the requirements of academic responsibility apply not only to the full-time probationary and the tenured teacher, but also to all others, such as part-time faculty and teaching assistants, who exercise teaching responsibilities” (AAUP, 1970b). The Gentleman Scientist Model relied on expertise as the basis of academic freedom. But the 1970 Interpretive Comments were clearly founded upon the Liberty Model, where the professional role of the college teacher justified academic freedom. The extension of these protections to “teaching assistants” also marked the first time that the AAUP had ever suggested academic freedom applied to graduate students.

This statement in defense of all college teachers was all the more extraordinary because it was made at a time when the overwhelming majority of faculty were tenured or on the tenure track. This showed that the clause protecting all teachers was not motivated by a shift in the economics of the profession, but a new ideological approach to the idea of academic freedom itself.

The Gentleman Scientist Model was dead, and the 1970 Interpretive Comments delivered the killing blow. In its place was the new Liberty Model, founded upon the ideal of freedom for all teachers and researchers, not merely for scientific experts who obeyed the rules.

The 1970 Interpretive Comments were not without its flaws. By allowing the older language to remain in the Statement of Principles, the danger of abuse was still there. Despite the clear declaration to the contrary in the 1970 Interpretive Comments, many colleges would continue to use the “responsibility” language to justify punishment of professors for their controversial speech. But the fact that the 1970 Interpretive Comments were also endorsed by the Association of American Colleges gave heightened importance to their language.

#### The 1970 Statement on Freedom and Responsibility

The 1970 Statement on Freedom and Responsibility by the AAUP Council recognized the need for the AAUP to provide ethical guidelines for faculty in the face of the greater restraints on administrators who typically took the lead in disciplining faculty. The AAUP Council argued that “Evaluation of students and the award of credit must be based on academic performance professionally judged and not on matters irrelevant to that performance, whether personality, race, religion, degree of political activism, or personal beliefs” (AAUP, 1970a).

Still, this statement did invoke some of the old language that the AAUP had largely disparaged in its 1970 Interpretive Comments: “It is the mastery teachers have of their subjects and their own scholarship that entitles them to the classrooms and to freedom in the presentation of their subjects” (AAUP, 1970a). While the 1970 Statement on Freedom and Responsibility might seem like a partial step back to the Gentleman Scientist Model in its language, the truth is that it sought a voluntary model for improving faculty behavior. In fact, the contradictory aspects of the 1970 Interpretive Comments and the 1970 Statement on Freedom and Responsibility only make sense if the AAUP

was making a sharp divide between policy statements for how institutions should act, and ethical advice for professors. With the 1970 Interpretive Comments, the AAUP sought to free faculty from the repressive interpretations of administrators about how they should act. With the 1970 Statement on Freedom and Responsibility, the AAUP Council wanted to show that liberty did not mean complete freedom to do anything you wanted in the classroom. The AAUP was evoking its ancient aim of improving the way faculty behaved, but sought to do so without the harsh remedies that were often used. Beyond the assertion of faculty control over the disciplinary process for professors, the 1970 Statement on Freedom and Responsibility argued at length for “preventive” rather than “disciplinary” action, and urged the faculty to take “a more positive role as guardian of academic values against unjustified assaults from its own members” (AAUP, 1970a).

But the key was the final line of the statement, calling for “adherence to basic norms of professional responsibility so long as such efforts are consistent with principles of academic freedom” (AAUP, 1970a). In the debate between academic rights and responsibilities, one where the Gentleman Scientist Model had struck an uneasy balance, the Liberty Model espoused by the AAUP in 1970 made clear that the rights of academic freedom must always prevail, and responsibility would be debated and encouraged within that realm of freedom.

### The Revolution in Academic Freedom

The decade of the 1960s marked a revolutionary change in how academic freedom was understood, one that paralleled the dramatic changes in the nature of the university. The Civil Rights Movement helped to spark a new age of activism on campus

that, fueled by opposition to the Vietnam War, forced the AAUP and colleges across the country to rethink how they approached academic freedom.

From the time of Leo Koch's letter in 1960 to the Kent State massacre a decade later, the idea of academic freedom underwent the most dramatic changes in the history of the concept. And the AAUP's changes as an organization were equally dramatic.

In 1960, the AAUP was in a backward, weakened state. The failure to stop McCarthyism or even lead a forceful opposition had humiliated the organization, leading to a belated mea culpa in 1956 with several long-delayed reports on some of the worst firings. Worst of all, McCarthyism had exposed the flaws in the organization's principles of academic freedom. As an institution, the AAUP was ready for change and new ideas.

By 1970, the AAUP was a dramatically modernized organization. Along the way, it had embraced the 1964 Statement on Extramural Utterances, the 1967 Joint Statement on the Rights of Students, and the revolutionary 1970 Interpretive Principles.

The social changes that had shaken the AAUP and all of academia had devastating consequences to the AAUP's membership numbers. The Gentleman Scientist Model that was falling apart had also sustained the AAUP's high membership levels as the voice of the profession. By 1970, the academic profession was divided onto itself, and the AAUP no longer held any high ground as the sole voice of faculty. The AAUP could never have sustained the membership of such a high proportion of academics as disciplinarity came to dominate the profession and faculty saw themselves increasingly as researchers in a particular field rather than members of the academic profession. Nor did the AAUP seem as essential for faculty by 1970 as courts began to recognize the rights of free speech for faculty at public colleges.

For many of these changes, the AAUP was simply swept along, unable to resist the tide of academic revolution in the 1960s. Unionization was almost an accident, forced upon the AAUP by the activism of a few chapters, against which the AAUP had only tradition rather than sound principles to oppose. Unionization was the most controversial stand of the AAUP, and the final break with the Gentleman Scientist Model that sparked a dramatic decline in membership. But the AAUP's radically modified principles on academic freedom also played a role in alienating some members.

No one can ever know if the shift from the Gentleman Scientist Model to the Liberty Model caused the AAUP's membership drop. It's more likely that the AAUP's evolution in its principles of academic freedom was a necessary response to remain relevant to the group's members. If the AAUP had held onto to the Gentleman Scientist Model, it would have suffered a long and steady decline toward irrelevance.

The full embrace of the Liberty Model with the 1970 Interpretative Comments did not solve the problems afflicting higher education. Academic freedom, now as then, is under regular attacks and requires constant vigilance. Economic shifts in the academic profession in the 1970s and beyond, as dramatic as the expansion that helped make the Liberty Model dominant, threatened the idea of tenure itself as the core protection for most faculty, and without this bedrock principle academic freedom grew more vulnerable.

Nor did the 1970 Interpretive Comments end the debate about the meaning of academic freedom. The Liberty Model may have gained a temporary supremacy, and revolutionized higher education in ways that could not wholly be reversed, but the threats

to academic freedom remained. Within the AAUP itself, more conservative times caused the organization to back off from its more radical principles.

The Liberty Model never achieved the kind of widespread acceptance that the Gentleman Scientist Model had enjoyed for so many years. The Professional Model evolved as an alternative approach that emphasized the “academic” part of academic freedom, where the Liberty Model emphasized the “freedom” side.

As for the professor who helped push the AAUP toward dramatic change, Leo Koch may have lost his job, lost in the courts, and only received half-hearted support from his colleagues and the AAUP in defending academic freedom. But ultimately, Koch's view of the rights of a faculty member prevailed only a few years later. Koch would be the last professor whose extramural utterances were held to the Gentleman Scientist standard of academic responsibility by Committee A.

Koch later had a job teaching in a private school, and then working in gas station in New York. Danelski lost track of Koch in 1967, when the former star biologist was working in a junkyard in the Mohave Desert (Danelski, 2004). Koch's movements after that have been lost to history. But the importance of his case to the AAUP and to the meaning of academic freedom were fundamental.

Koch died in Glendale, California in 1982, a forgotten man. But his vision of academic freedom became the one embraced by the courts, the AAUP, and colleges around the country. As Koch declared in 1960, “My view is that academic freedom should become a full and equal parallel to freedom of speech” (Goddard, 1960). Koch lost his case, his job, and his career, but his vision of academic freedom ultimately prevailed.



CHAPTER VI  
CONCLUSION: OVERVIEW OF THE STUDY, IMPLICATIONS, AND  
RECOMMENDATIONS FOR FUTURE RESEARCH

This chapter presents an overview of the present study including brief statement of the problem, purpose of the study, research questions, summary, implications for the study, and recommendations for future research.

Overview of the Study

This study sought to understand the meaning and history of different theories of academic freedom in America, and how these theories have evolved over the past century. This study examined the origins of the concept of academic freedom in America and how the idea of academic freedom evolved during the past century.

Statement of the Problem

In this study definition of academic freedom reflected different interpretations of the meaning of academic freedom. Understanding the history of academic freedom is critical to the development of policies and institutions which can protect the intellectual inquiry that is the core purpose of higher education.

The purpose of this historical study of academic freedom in American higher education was threefold:

1. To explore the ideal and practice of academic freedom and how they changed during the past century;
2. To define academic freedom in a way that can protect the values of intellectual inquiry that under gird the concept of academic freedom; and
3. To suggest how conflicts within higher education over academic freedom can be resolved.

### Research Questions

This study was guided by the following research questions:

1. What were the origins of the concept of academic freedom in America?
2. How has the idea of academic freedom reflected changing circumstances in American colleges and universities during the 20<sup>th</sup> Century?
3. How has the definition of academic freedom, both in its ideal and its practical application, evolved over the past century, and what are the implications of this change?

### Summary and Conclusions

Academic freedom is a battleground. The combatants in today's arguments about the university each invoke academic freedom as their justification, and appeal to dramatically different conceptions of academic freedom. Examining the history of academic freedom in America, and how it evolved over the past century, reveals the foundations of this debate over the meaning of academic freedom. One of the key findings of this study is that academic freedom is not a static concept, invented in its final form in 1915 by the AAUP and then gradually accepted over time. Instead, academic freedom is an idea undergoing constant change and debate, particularly within the AAUP, during the past century.

Conservative critics of the university often invoke an idea of academic freedom in its earliest existence, when it was severely limited and struggled for survival with a series of compromises by its defenders (Horowitz, 2006, xxvi). Liberal critics of the university invoke an idea of academic freedom which evolved over the years and was finally formalized in the 1960s, but which struggles to survive in an era of growing administrative control and the corporate restructuring of the university away from the tenure-track model (Nelson, 2010, Gerber, 2014).

The vision of academic freedom embraced by many of today's conservative critics of academia is called the Gentleman Scientist Model of academic freedom. It represents the earliest formalization of what academic freedom meant, and dominated the ideals of the AAUP in its earliest form. The vision of academic freedom embraced by many on the left is called the Liberty Model. It reflects an idea of academic freedom that protects individual rights, defends political speech, and requires due process. In between is a more moderate version of academic freedom, the Professional Model, which emphasizes the collective power of faculty and the embrace of professional values in academia.

The problems facing academic freedom today are not simply the result of inept or cynical application of the idea of academic freedom. The problems are also rooted in a philosophical debate over the core meaning of academic freedom that has been going on for more than a century. Understanding that philosophical debate requires not only a thorough investigation of the opposing sides in the contemporary argument, but a study of the history which undergirds these arguments, a history of academic freedom that is often forgotten along the way or reduced to a handful of anecdotes which fail to inform today's disputes over academic freedom.

## Future Research

Because of the broad scope of academic freedom, this study could only focus on a small part of its history. There are many areas for future study of the topic, including specific historical events and periods. In particular, the 1960s and early 1970s represent a crucial turning point in academic freedom, and although many histories of higher education during this period have been written, no comprehensive history of academic freedom during this tumultuous time has yet appeared. Although this study focused on many aspects of the AAUP, it did not attempt an institutional history of the AAUP, which no one has systematically researched.

This study also did not examine the legal definitions of academic freedom in depth. Although the decisions of courts about academic freedom cases reflect a force outside of the academia, these legal cases had a dramatic influence on how academic freedom was understood, and played a critical role in the creation of certain approaches to academic freedom, such as the concept of “institutional academic freedom.” This study did not explore the complex origins of “institutional academic freedom” and why it should not be considered one of the core competing theories of academic freedom, and it did not address how legal theories of academic freedom influence the AAUP and how individual thinkers approach the moral concept of academic freedom.

## Race, Gender, and Academic Freedom

As a concept, the Gentleman Scientist Model was never the neutral and unbiased ideal that it pretended to be. Buried deep within this model were assumptions about race and gender that shaped the meaning of academic freedom.

Metzger noted about the AAUP statements, “The persona idealized in these documents looked a lot like the white Anglo-Saxon, Protestant, middle-class men who produced it. But the values these academics gave praise to—civility, collegiality, rationality, tolerance, scholarly poise, mutual respect—were not, I would argue, ethnocentric; they were—dare one say so in this era of perspectivalism?—universal” (Metzger, 2000, 81). In reality, none of these concepts exist in a universal, neutral sense. The meaning of words such as “civility” “collegiality” “rationality” and “scholarly” may have been perceived and intended as universal, but they were rarely codified in reality with equal application to all groups. Thus, we need to study how this rhetoric surrounding academic freedom was actually used and applied to different groups on campus.

In all of the discussions about academic freedom, the systematic exclusion of African-Americans, Jews, and women from many parts of academia were never mentioned. The Gentleman Scientist Model was strictly an individualist approach to academic freedom. Even among liberal-minded members of the AAUP who strongly opposed segregation and discrimination in all its forms, it never occurred to anyone to describe this bigotry as a violation of academic freedom.

Yet for the individuals burdened by discrimination, the impact was exactly the same as a violation of academic freedom: an unjust denial of job opportunities for ideological reasons that had no basis in academic merit. Overwhelmingly, the victims of what were framed as violations of academic freedom were white, male, Christian, and privileged.

One reason why few members of underrepresented groups can be found in the traditional history of academic freedom is that they may have lacked the power to take

controversial stands. Well aware of the discrimination they faced, these individuals would be less likely to speak out publicly in ways that would have assured their dismissal. But the most prominent reason why few members of underrepresented groups are discussed in the history of academic freedom is simply their widespread exclusion from academia. The massive violations of academic freedom against underrepresented groups, ironically enough, prevent them from being visible in the history of academic freedom. Thus, future studies could examine the history of underrepresented groups in academia, and identify examples of attacks on academic freedom that have largely been ignored.

The growing literature on race, gender, class, and sexuality has barely impacted the field of academic freedom, and new concepts are needed to re-examine the past from neglected perspectives. One aim of this dissertation is to broaden the categories of academic freedom and go beyond the traditional theories and anecdotes about academic freedom. Tierney (1993). noted, “We must constantly remind ourselves that previous ideas of community often based themselves on notions that absented women, people of color, and others from the community” (548). The same is true of the idea of academic freedom. By re-examining the history of academic freedom to reveal what (and who) was excluded from its protections, a clearer picture will emerge of how academic freedom often did not live up to its theoretical billing.

#### Additional Areas for Future Research

Typically, academic freedom addresses only tenure rights and the political expressions of faculty in public. Future study of academic freedom should also include rarely analyzed historical topics, such as student rights to free expression. The question of

whether students have academic freedom is hotly contested in the literature, and this study did not examine student rights in depth.

The transformation of the professoriate has had dramatic effects on academic freedom, with the growth in non-tenured faculty, and the question about to what extent academic freedom protects members of these groups. The decline in the importance of tenure, as adjunct faculty increasingly replace tenure-track positions, raises the question of how academic freedom is being affected (Gerber, 2010). The AAUP's entire history has focused on tenure and academic freedom as deeply interconnected, but the actual consequences for academic freedom caused by the decline of tenure has not been systematically studied.

Unionization of faculty on campus has been a central focus of the AAUP in recent decades as it has become a collective bargaining group. Although studies have been done of unionizing in higher education and the AAUP's role, one missing element is the question of whether academic freedom includes the right to unionize on campus. Another topic rarely examined is whether unionized campuses increase the academic freedom protections for faculty, both in policies and in practice.

In addition, academic freedom studies typically focus on elite universities, ignoring the majority of colleges where faculty work and students study. By looking at community colleges, religious colleges, and other institutions in addition to the elite universities that receive the most media and scholarly coverage, a more accurate picture of academic freedom in American higher education can be described.

The subjective nature of academic freedom and the violations of it also raise the question of whether academic freedom can ever be studied using quantitative criteria.

This study could not attempt to make a quantitative measure of academic freedom over time, but attempting to measure what academic freedom is would make be a dramatic step in understanding the history and current state of academic freedom.

Finally, this study focused almost exclusively on academic freedom in the United States. But because most research on academic freedom examines the United States, the question of how academic freedom is understood, interpreted, and protected in other nations has been largely neglected in the literature about freedom on campus. The global understandings of academic freedom are among the most important aspects of the future of international higher education.

#### Implications for the Study

Although this study examined the history of academic freedom in America, it also provided a theoretical and historical model for understanding many current controversies involving academic freedom. The dismissal of Steven Salaita at the University of Illinois in 2014 revealed the ongoing importance of these academic freedom models to understanding the conflicts on campus, and how these different models often guide radically different approaches to academic freedom.

Salaita was attacked for writing tweets that harshly condemned the Israeli government and its supporters. The logic of the University of Illinois Board of Trustees and Chancellor Phyllis Wise in overturning Salaita's appointment before final approval reflected the continuing influence of the Gentleman Scientist Model.

Wise wrote, "What we cannot and will not tolerate at the University of Illinois are personal and disrespectful words or actions that demean and abuse either viewpoints themselves or those who express them" (Wise, 2014). The University of Illinois Board of



Trustees wrote, “Disrespectful and demeaning speech that promotes malice is not an acceptable form of civil argument if we wish to ensure that students, faculty and staff are comfortable in a place of scholarship and education” (Kennedy, 2014). Words like “disrespectful,” “demean,” and “civil,” when used for academic evaluation, are hallmarks of the Gentleman Scientist Model.

And as with many academic freedom cases over the past century, the invocation of the “civility” tenets of the Gentleman Scientist Model may have been a cover for a decision motivated by politics and economics. Emails uncovered by the Freedom of Information Act revealed that many large donors threatened to withhold money if Salaita’s appointment was confirmed, and Chancellor Phyllis Wise regularly met with development officials to assess the economic damage of a Salaita appointment, but had almost no meetings with academic officials to scrutinize Salaita’s academic qualifications for the job (Jaschik, 2014). One of the key failings of the Gentleman Scientist Model was that it allowed political pressure to influence decision-making under the guise of promoting “gentlemanly” behavior.

Under the Professional Model, Salaita’s tweets should have been protected extramural utterances since they occurred outside of his academic work. With respect to extramural utterances, the Professional Model and the Liberty Model are identical in protecting professors in their role as members of the public. The fact that Salaita was not hired reflected the fact that the Gentleman Scientist Model has an ongoing influence on higher education, even though the AAUP abandoned it a half-century ago.

It is notable that Cary Nelson, one of the leading advocates of the Liberty Model, prominently argued for Salaita’s firing (Nelson, 2014). Nelson, an outspoken opponent of

critics of Israel such as Salaita, contended that normal academic freedom rules do not apply to hiring decisions. If Salaita had already been hired with a finalized contract, Nelson argued, then his academic freedom would be fully protected (Nelson, 2014). Thus, Nelson did not embrace the Gentleman Scientist Model instead of the Liberty Model; he simply argued that academic freedom does not apply to hiring decisions. But this argument would eviscerate important aspects of academic freedom; it would, for example, allow administrators to announce a total ban on hiring communists.

Nelson's reasoning effectively abandoned the Liberty Model in the Salaita case, but Nelson did not alter his academic freedom model in general. However, one advocate's failure to follow a model does not negate the model itself. A large number of professors spoke out in defense of Salaita's academic freedom and in particular his right to speak on political matters, reflecting the influence of the Liberty Model within the profession.

The University of Illinois' sudden invocation of "civility" as a core value in hiring decisions, something unmentioned in the University of Illinois Statutes, suggested that history was repeating itself in the Salaita case.

In this study, it was argued that the University of Illinois' decision to fire Leo Koch for his extramural utterances marked a dramatic turning point for the meaning of academic freedom and prompted the AAUP to abandon the Gentleman Scientist Model and embrace the Liberty Model. Will the firing of another scholar by the University of Illinois, more than a half-century later, have a similar effect on the path of academic freedom? The Salaita dismissal has provoked an outpouring of outrage and petitions to

condemn and boycott the University of Illinois, something rarely seen in the recent history of higher education.

For years, the American professoriate relied upon the AAUP to be the defender of academic freedom, trusting the organization to investigate and speak out when violations occur. The Salaita case might be an indication that faculty recognize that academic freedom is too important to be left to the AAUP exclusively to protect. The defense of academic freedom requires new organizations that can reinforce the concept, union organizing to protect faculty rights, and new techniques for protecting academic freedom.

Attacks on tenured faculty such as Salaita are only the slowly-melting tip of the iceberg of academic freedom. Because tenured faculty are the most visible, and threats to their academic freedom are announced and explained, they receive the overwhelming attention from the AAUP, the media, and faculty colleagues.

The most dramatic long-term threat to academic freedom comes from the increasing reliance of higher education on adjunct faculty, who can easily be discarded without an explanation if they cause controversy. The corporatization of higher education means that tenure is eroding, and with it goes many of the traditional institutional protections of academic freedom. The question is whether academic freedom will slowly disintegrate under these pressures, or whether its defenders can mobilize a new social movement to defend it by reinforcing the idea that academic freedom is more important than ever.

To understand future threats to academic freedom, it is necessary to look at the past and examine how the idea of academic freedom has evolved.

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