

"THE CHAIRMAN: 'Urged American youth to fight the warmakers by supporting the political campaign against the Capitalist Parties.'" (N.T. #2, 90).

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"THE CHAIRMAN: Do you subscribe to it, or do you refuse to answer? . . .

"THE CHAIRMAN: 'A leaflet distributed by Students for DeBerry and Shaw, the SWP Presidential ticket, urged American youth to fight the warmakers by supporting the political campaign against the Capitalist Parties.'" (N.T. #2, 91).

The foregoing reflects a clear pattern of one dedicated to the purposes of castigating, embarrassing and maligning a student because of his exercise of the right of free speech and espousing a viewpoint different from that of the veterans' groups and the chairman. The chairman's bias, and fanaticism, was so evident that any failure to disqualify him from rendering a decision in this case will constitute a patent deprivation of due process of law.

D. ACADEMIC FREEDOM IS THE KEYSTONE OF THE EDUCATIONAL SYSTEM IN A FREE SOCIETY WHICH MUST NOT BE DESTROYED OR ABRIDGED BY FANATICAL PATRIOTS

To inform a committee of the Board of Public Education of the meaning of academic freedom should be unnecessary. However, it was evident from the two hearings before the committee that its chairman, as well as the veterans'

5/ We must not forget the chairman's conduct at the close of the second hearing when he struck, without provocation, a faculty member at the University of Pennsylvania, and said he would like to slap "him in the puss", complained that he was surrounded by "foreigners" and told a young girl if she did not like what she saw to "go back to Russia". (Copies of the newspaper articles reporting these incidents are attached hereto for reference).

groups, had no appreciation of the term's meaning and the importance of the concept.

Academic freedom is perhaps best understood by those closest to it, by those whose daily lives are spent on the campuses of our colleges and universities or who are otherwise closely connected with the educational process. It was, therefore, unfortunate that the chairman, a member of the Board of Education, was unable to accept the well qualified judgment of the eminent professors who appeared on Stetler's behalf with regard to their observations on academic freedom.

We cannot, as did the Chairman, dismiss in so cavalier a fashion the statement of Dr. Hugh Borton, President of Haverford College. This statement was unanimously approved by the Board of Managers of Haverford College and stated in part:

"Haverford College holds that open-minded and free inquiry is essential to a student's education development. Thus, the College recognizes the right of all students to engage in discussion, to exchange thought and opinion, and to speak or write freely on any subject. To be complete, this freedom to learn must include the right of inquiry both in and out of the classroom and must be free from any arbitrary rules or actions that would deny students the freedom to make their own choice regarding controversial issues.

Further, the College endeavors to develop in its students the realization that as members of a free society they have not only the right but also the obligation to inform themselves about various problems and issues, and are free to formulate and express their positions on these issues.

Finally, the College reaffirms the freedom of assembly as an essential part of the process of discussion, inquiry, and advocacy. Students, therefore, have the right to found new, or to join existing organizations, on or

off campus, which advocate and engage in lawful actions to implement their announced goals. . . .

The freedom to learn, to inquire, to speak, to organize and to act with conviction within the bounds of law, are held by Haverford College to be a cornerstone of education in a free society.

These principles of the College are relevant to the issue at hand . . . we (the College) do not regard the exercise of a person's rights as a citizen to speak or write freely on any subject, or to act in accordance with law and his conscience, as a proper basis for withdrawing a scholarship." (N.T. 69-70).

The Pennsylvania Division of the American Association of University Professors, an organization which has led the fight for academic freedom on the campuses, adopted the following statement at its April 18, 1964 meeting at Dickinson College:

"The Pennsylvania Division of the American Association of the University Professors believes in the right of freedom of speech of college and university students. Our society continually needs their criticism and vitality. From the exercise of their civil rights within the limits of law students receive a valuable introduction to the difficult role of the citizen, to the pressures of special interest groups, to the force of public opinion, and to the need for clear thinking, logical exposition, and responsible action. Punitive measures should not be exercised within the academic community against students because of the expression of political opinion." (N.T. 80).

The Haverford College Chapter of the American Association of University Professors adopted a resolution on April 29, 1964, in specific reference to this case. It was presented at the first hearing by Dr. Alfred Diamant, Professor of Political Science at Haverford College and President of that chapter, and provided:

The Haverford College Chapter of the American Association of University Professors believes that the College and academic community should actively protect the right

of students, individually or in groups, to hold and express views on social and political questions, domestic and international, and to participate in political and social action, without incurring academic sanctions. Such protection of the rights of students to express views or to take actions does not imply that the College approves or disapproves of these views and actions themselves. These activities can be an important part of students' education, for they constitute the most effective way known to develop in future leaders the courage and responsibility sufficient to take positions on controversial matters; the public interest is not served when any segment of the academic community fears discussion, controversy or dissent.

We urge the College now to reaffirm its belief in the individual conscience by witnessing against any attempt, by any group, public or private, to control or limit student freedom of speech or action by offering or withholding scholarship aid." (N.T. 78-80).

The Bryn Mawr College Chapter of the American Association of University Professors also unanimously adopted a resolution in regard to this case. It stated:

"Resolved that the Bryn Mawr College Chapter of the American Association of University Professors urges the Philadelphia Board of Education not to curtail the academic freedom of the scholarship holders by revoking scholarships on the basis of political beliefs or non-violent actions on the part of students." (N.T. 123).

This resolution was read by Professor Frederic Cunningham of Bryn Mawr College, for the chapter. His interpretation of the resolution includes the following remarks:

"Our own concern was to remind the Board of the damage which is done to the academic freedom of all scholarship holders when one scholarship is withdrawn under circumstances such as these."

"Education is not possible under colleges which restrict the student from freedom to hold and express such views as he may honestly arrive, however repugnant or erroneous they may be; by which I do not imply these views are erroneous or repugnant.

"In this context expression of views has to include any legitimate actions which evolve from those views. If a student is charged with harmful, illegitimate, or even illegal conduct, the determination of his guilt and the appropriate disciplinary control should be carefully confined to established procedures for dealing with such cases so as to avoid undermining the educational process." (N.T. 123-125).

Dr. Derk Bodde, Professor of Chinese Studies at the University of Pennsylvania, came forward in an individual capacity to speak at the second hearing. His testimony, which was well articulated, evidenced a reasoning and logic which, we submit, should be adopted by this committee. He stated:

"It is part of the educational process, it seems to me, to encourage students to speak forth their minds, to express themselves on public issues even if those expressions of opinion are in variance with the prevailing popular opinion.

"And I think it is admirable, therefore, that a man like Mr. Stetler has expressed himself in the way that he has on this burning question which is going to become more burning in the months to come. . . .

"However, the point that I would like to really emphasize is that in my opinion it doesn't matter whether Mr. Stetler is right or is wrong in the particular political views that he has on this part of the world. That is not the real issue. The issue here, it seems to me, is does a body like the Board of Education have the right to determine to whom scholarships will be given among students of educational institutions in this city on a basis not simply of their academic, their scholastic qualifications, but also on the basis of what they happen to think politically?

"Can we accept as a criterion the ideal that a student who has demonstrated his academic ability and has been given a scholarship on the basis of that ability should

a year later have that scholarship revoked because he has dared to express himself along unpopular lines on a matter of vital political concern?

"It is my contention that an organization like the Board of Education can only give such a scholarship on the basis of pure academic merit, and that if a man like Mr. Stetler or anyone else, any other such student, who expresses himself along political lines, should be judged by his own institution -- in this case Haverford College -- as to whether he has not done something wrong." (N.T. #2, 9-11).

Dr. Bodde concluded his statement by quoting from a letter which he wrote to President LaBrum on April 29, 1964:

"If institutions of learning in this country permit political orthodoxy to become a criterion for determining whether an individual is to be awarded a scholarship or is to have this scholarship revoked after it has already been awarded, then I cannot for the life of me see any valid difference between such a practice and similar practices decried by the United States and those countries which we term totalitarian such as the Soviet Union." (N.T. #2, 11).

Speaking on behalf of the American Civil Liberties Union at the first hearing, Harry E. Sprogell, Esquire, offered the following eloquent statement on academic freedom, and its importance to education in a democratic society:

"The principles on which we all love our country are easily taught by example. But what particular conduct is true patriotism at any given moment is a matter of opinion. That cannot be taught; it must be thought out. To try to channel that thinking in to a particular mold is to endanger our society and stultify the educational process.

"The School Board will serve education and democracy best by awarding scholarships to qualified young men for use in qualified colleges and then by letting education work. To take steps intended to discourage promising young men from questioning things as they are, or from engaging in lawful political expression and action, would be a disaster." (N.T. 116-117).

Mr. Sprogell's observations are well taken and can withstand any attack. They are reminiscent of the trust placed in education by the founders of our nation who were so acutely aware of the necessity of academic freedom in a democratic society. In a letter to William Roscoe, dated December 27, 1820, Thomas Jefferson stated:

"This institution will be based on the illimitable freedom of the human mind. For here we are not afraid to follow truth wherever it may lead, nor to tolerate any error so long as reason is free to combat it." R. MacIver's "Academic Freedom in Our Time", New York, 1955, p. 223.

If we consider the fanatical statement of Colonel McClain about the need to "silence" Stetler as representative of the basic ideology of the veterans group then they would undoubtedly reject as "unamerican" Adlai Stevenson's articulate pronouncement that:

"To strike freedom of the mind with the fist of patriotism is an old and ugly subtlety." Stevenson Speeches, New York 1952, p. 82.

Ambassador Stevenson's caveat cannot be ignored: that fear of an external danger must now cow us into disregard of internal threats and neglect toward the protection of our basic liberties. The chairman and the veterans groups would do well to heed the statement of Chancellor Hutchins of the University of Chicago in which he observed these internal threats to our freedoms, and stated:

"The danger to our institutions is not from the tiny minority who do not believe in them. It is from those who would mistakenly repress the free spirit upon which those institutions are built.

"The policy of repression of ideas cannot work and never has worked. The alternative to it is the long and difficult road of education. To this the American people have been committed." "Special Report", Seditious Activities Investigation Commission, State of Illinois, 1949, p. 21.

That education is of paramount importance to the preservation of a democratic way of life can hardly be denied, least of all by the Board of Education. So long as there is freedom to search for the truth there can be no subversion - the two concepts are mutually incompatible. Unfortunately, there are those, like Col. McClain and Mr. Lederer who reject this fundamental trust. They apparently subscribe to the philosophy of Representative Harold Velde of Illinois, former Chairman of the House Un-American Activities Committee, who warned, in a speech on the floor of Congress in March, 1950, that "The basis of communism and socialistic influence is education of the people." Donner's The Unamericans, New York, 1961, p. 35. It is even more frightening to note, however, that at least one member of the Board of Education, the chairman herein, actually entertains such notions and harbors such suspicion of the educational process.

After observing the distrust of education by overzealous patriots, such as those whom Stetler has had the misfortune to encounter in this matter, Virgil M. Hancher, President of the State University of Iowa, stated:

"I am often amazed at the lack of faith which Americans seem to have in the solidity and vitality of democratic institutions or of the values of free discussion and controversy. In many an American's mind there is an unacknowledged mental reservation that only that speech should be free which agrees with our point of view." MacIver's Academic Freedom in Our Time, p. 21.

His admonition is significant, for this case has disclosed some who, though they recite platitudes about free speech, at the same time seek to revoke Stetler's scholarship because of his exercise of the constitutionally protected right of free speech; they feel that only that speech should be free which agrees with their point of view.

Perhaps the most significant statement on academic freedom comes to us from the greatest scientific mind of our century, that of Albert Einstein. On March 3, 1954, Einstein, in a letter to Clark Foreman, Director of the Emergency Civil Liberties Committee,^{6/} wrote:

"By academic freedom I understand the right to search for truth and to publish and teach what one holds to be true. This right implies also 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 acts in such a way as to hamper the dissemination of knowledge among the people and thereby impedes rational judgment and action.

The threat to academic freedom in our time must be seen in the fact that, because of the alleged external danger to our country, freedom of teaching, mutual exchange of opinions, and freedom of press and other media of communications are encroached upon or obstructed. This is done by creating a situation in which people feel their economic positions endangered. Consequently, more and more people avoid expressing their opinion freely, even in their private social life. This is a state of affairs which a democratic government cannot survive in the long run." (Emphasis supplied).
Published in "Rights", March, 1954, p. 2.

6/ This is the same organization of which the chairman was so critical at the second hearing when he asked: "THE CHAIRMAN: Who is Russ Nixon? STETLER: Russ Nixon is a member of the -- an executive member of the Emergency Civil Liberties Committee. It defends people's right to speak. THE CHAIRMAN: Don't they only defend Communist people who are -- STETLER: (interposing) No. THE CHAIRMAN: (Continuing). . . who are prosecuted either by the State or Federal Governments? STETLER: No, sir." (N.T.#2, 50). "THE CHAIRMAN: Do you know if this Emergency Civil Liberties Committee organization is an organization which defends only Communists who are prosecuted by either the State Governments or the Federal Governments? If you don't know, say you don't know. STETLER: I do know. They defend many people who are not Communists. THE CHAIRMAN: Do they defend Communists?" (N.T. #2, 52).

The foregoing statements disclose the following salient points: first, that academic freedom means the right to search for truth; second, that it requires that an individual be accorded the right to reveal the results of his search without endangering his economic position; and third, that the right entails the duty of the individual to be intellectually honest, to present the entire truth predicated on his analysis of the problem. Unfortunately, the veterans' groups and the recipient of one of their awards, the chairman, fail to subscribe to these basic tenets of a free society.

The spirit of free inquiry is a cornerstone of our democratic society; it is upheld by tradition and law. The recent case of Sweezy v. New Hampshire, 354 U.S. 234 (1957) is particularly apposite to the situation at hand. That case involved a refusal, during a state investigation, to answer questions of belief and questions outside the scope of the inquiry as propounded by the Attorney General of New Hampshire. The questions related to a speech Sweezy had given at a state university in which he allegedly espoused Marxist beliefs. Sweezy's conviction for contempt in refusing to answer the Attorney General's questions was reversed by the United States Supreme Court. Mr. Chief Justice Warren, speaking for the Court, stated:

"The essentiality of freedom in the community of American universities is almost self-evident. . . . To impose any strait-jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation. No field of education is so thoroughly comprehended by man that new discoveries cannot yet be made. . . . Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.

Equally manifest as a fundamental principle of democratic society is political freedom of the individual. Our form of government is built on the premise that every citizen shall have the right to engage in political expression and association. This right was enshrined in the Bill of Rights. Exercise of these basic freedoms in America has traditionally been through the media of political associations. . . . History has amply proved the virtue of political activity of minority, dissident groups, who innumerable times have been in the vanguard of democratic thought and whose programs were ultimately accepted. Mere unorthodoxy or dissent from the prevailing mores is not to be condemned. The absence of such voices would be a symptom of grave illness in our society." 354 U.S. at p. 250-251.

With the foregoing analysis as a foundation in understanding the meaning of the term, academic freedom, an examination of the case at hand becomes appropriate. Stetler has spent the past year in scholarly research of the war in Vietnam. His methods have been those which exemplify a high standard of impartiality and intellectual curiosity; the sources for his controversial opinions are as conventional as the New York Times and the Christian Science Monitor. Upon completing his research, Stetler wrote an article with extensive documentation, entitled "Vietnam: The Whole Brutal Business".^{7/}

Besides writing and speaking on the subject of Vietnam, Stetler was instrumental in the founding of two political groups which expressed disagreement with American foreign policy in regard to South Vietnam. These groups are, as previously noted, the Student Committee to Send Medical Aid to the Front of National Liberation of South Vietnam and the May 2nd Committee.

^{7/} Copies of this manuscript have been in the Committee's possession since May 27, 1964. We trust that the article has been read and the Committee members can attest to the high quality of Stetler's research.

The Student Committee has as its principal function the offering of medical relief to those living in the areas controlled by the guerrillas in South Vietnam. It has received some unsolicited donations. It seeks to render medical relief by way of the International Red Cross if it can guarantee that the medical relief will be administered according to the stipulations of the Committee. Meanwhile, the Committee holds its funds in escrow.

The May 2nd Committee was formed at a student symposium at Yale University on March 14, 1964. Its function was to organize and hold public demonstrations protesting American policy in South Vietnam. The May 2nd Committee, chaired by Stetler, advocates a position held by Senators Wayne Morse of Oregon and Ernest Gruening of Alaska.

It is for these views and lawful actions that the Board of Education has launched this inquiry and exposed Stetler to such an ordeal.

In the Sweezy case the United States Supreme Court rendered the admonition that "Scholarship cannot flourish in an atmosphere of suspicion and distrust." Placing to one side the question of the economic recrimination involved if Stetler's scholarship is revoked, we are constrained to admit that the hearings themselves stand as a monument to the suspicion and distrust of the Philadelphia Board of Public Education on the matter of political unorthodoxy.

It should be unnecessary to reiterate that the function of education is to free men's minds from their preconceptions. Unfortunately, we find it necessary to remind the chairman and the veterans' groups that in a free society we trust each man to his own conscientious effort to apprehend the truth. Our education is not a catechism conducted by those who possess the absolute

truth. It is an attempt to equip a student with an open mind on which to rely in his pursuit of the truth. Its function is to give him confidence that he is vested with a sound mind to aid him in sorting glimpses of truth from false images. Education's purpose is to instruct in a method of rigorous impartiality; honest scholarship is encouraged because the truth need not be feared.

Even discounting the malicious insinuations which are contained in the chairman's final remark that no Communist will hold a city scholarship as long as he lives, the whole distrust of free inquiry which is behind that statement must be assailed. Chancellor Hutchins of the University of Chicago, weary of advice urging him to screen his applicants and to exclude those with left-wing views, affirmed his faith in free education by declaring that it would not be in the public interest to exclude such individuals from our universities, because "If we did they would never learn any better." Special Report, Seditious Activities Investigation Commission, State of Illinois, 1949, at p. 19.

The simple truth contained in that reply assumes even greater cogency when the student in question (in the chairman's hypothetical questions) is among the most brilliant in the entire city. If the chairman and the Board do not fear the truth, then they become duty bound to render aid to those most capable of apprehending it. If the Board subscribes to the proposition that education frees men's minds from misconceptions then it need not fear the truth. The Board must do more than revere our freedoms; it must be more than pious. It must act to preserve our liberty and fight to maintain freedom of thought in the academic community.

The Board must respect dissenters in the remembrance that the doctrine

of the indifferent, the conformists, the McClains and the Lederers, "Our Country Right or Wrong," transformed itself into the "Deutschland Uber Alles" of Hitler's Germany. The Board must not cringe in fear or capitulate to the desires of misguided patriotic zealots. It must continue to educate a brilliant mind, regardless of the unorthodoxies it expresses. It must never forget the crucial necessity of academic freedom in a democratic society.

As an institution of public education, the Philadelphia Board of Education has an obligation to uphold those high ideals of independence of thought in the scholarly community as expressed by Isaac Sharpless, and which are inscribed in a plaque on the wall of the Common Room of Haverford College:

"See you to it that no other institutions, no political party, no social circle, no religious organization, no pet ambitions, put such chains on you as would tempt you to sacrifice one iota of the moral freedom of your consciences of the intellectual freedom of your judgments."

IV. CONCLUSION

For all of the foregoing reasons a determination must be rendered affirming the right of Russell D. Stetler, Jr. to continue to receive the benefits of the scholarship awarded to him. Moreover, it is incumbent upon the Board and this committee to renounce those who would seek to abridge the right of any student to engage in political expression and association. Only through such a renunciation can the spirit of academic freedom continue to flourish.

Respectfully submitted,

RICHARD KIRSCHNER