What matters academic freedom?

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Like all the terminology of liberty, the phrase "academic freedom" is difficult of definition. In this paper, I shall use the definition recognized in Canada at present, that adopted by the Canadian Association of University Teachers :

> Academic freedom includes the right within the university to decide who shall teach, who shall be taught, and what shall be studied, taught, or published. Because a university's essential concerns are intellectual, academic freedom involves the right of appointment of staff or admission of students regardless of race, sex, religion, or politics. It involves the right to teach, investigate, and speculate without deference to prescribed doctrine. It involves the right to criticize the universiy.

The statement containing the definition goes on to refer to the significance of academic freedom for students, without expanding on that subject. In fact, the C.A.U.T. repeatedly urged the Canadian Union of Students to develop a comparable statement about academic freedom as it concerns students, and was actively assisting in such a development when the collapse of C.U.S. occurred. One reason for regretting deeply that collapse lies precisely in the fact that instead of a definition and statement that might have embodied a distillation of student thought on the subject, we have had a great deal of confusion of both thought and action that has not helped the cause of either clarity or freedom. That, however, is a separate if related subject. As the definition indicates, academic freedom is inextricably involved with university self-government, and I shall refer briefly to the latter near the end of this paper. Mainly, however, my intention is to write about academic freedom as it concerns the university faculty members in Canada, nothing particularly the penultimate sentence of the definition quoted.

Sidney Hook's recent claim may be justified (though his definition of academic freedom is not the one I have quoted) that the freedom to teach has never been in a healthier state than now.[1] According to the *Chronicle of Higher Education,* (July 5, 1971) the Supreme Court of the United States has agreed to hear this fall a case "involving a non-tenured college teacher who claimed his contract was not renewed because of his political activities." Perhaps the outcome may do something to modify for Canadians the decision of the Privy Council a few years ago that the relation between

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a university and a faculty member is simply a master-servant relation. Perhaps we may even have a Canadian opinion on the matter, some day. The groundwork for one was laid recently in a remarkable article by Yves Ouellette, who examined closely the relation between universities and the law with special reference to the old (now largely abandoned) device of the "Visitor". He concluded that :

> Il est clair que le régime juridique auquel sont actuellement soumis les étudiants et professeurs d'université est inacceptable et risque de compromettre l'exercice de la liberté académique. C'est pourquoi l'adoption de règlements disciplinaires qui définissent les droits et obligations des étudiants et des professeurs et leur accordent des garanties procédurales en cas de répression, comme le droit de se faire entendre devant un forum impartial, doit être considéré comme une mesure positive. "The history of liberty has largely been the history of observance of procedural safeguards" a dit le juge Frankfurter, et des textes imposant une procédure conforme au droit demeurent la meilleure garantie de la liberté académique.[2]

We customarily refer to academic freedom (as Ouellette does) as though it were not traditional, but essential to the life of universities. History provides ample room for doubt on both points. It is probable that here and there, from time to time, in the European medieval universities freedom to "teach, investigate, and speculate without deference to prescribed doctrine" existed, but what one reads of the records, in Rashdall and elsewhere, makes it difficult to say where or when.[3] One would like to suppose that the long struggle to establish the respectability of the new elements of Aristotelian philosophy in the thirteenth century universities, led in particular by Aquinas, was a disinterested search for enlightenment and for many a scholar it was so. But from the time of Abelard in the preceding century it was accompanied by a good deal of harassment in the interest of prescribed doctrine. This included, Christopher Dawson tells us, a series of Papal pronouncements "against the study of the physics and metaphysics of Aristotle at the University of Paris, which had now become the acknowledged centre of Western thought." [4] But what was heretical became orthodox with a vengeance. By the year 1500 the Faculty of Theology in the University of Paris had, in the words of Hofstadter, "virtually supplanted the Inquisition as the judge of heresy for Paris and Northern France" [5] — and three decades later played a critical role in deciding the fate of Joan of Arc. A century afterward, Montaigne made himself liable to castigation by the Dominicans through suggesting that torture is not really a very good way of getting at truth.

Remembering our definition, let me insert here a caution. It is important to recognize that within the bounds of prescribed doctrine — I do not here limit the word to theology — it is entirely possible for intense speculation to proceed and fierce intellectual debates to be held. Not surprisingly, it is often precisely those who are most deeply committed to a belief or theory who are most passionately disputatious about its refinements and exegetics.

As Aristotelianism made its way, there appear to have been some attempts to allow the lamb of faith and the lion of reason to lie down together in the uncomfortable

but commodious field of double truth. C. H. Haskins writes as if this were a rather casually adopted device.[6] Gilson, on the other hand, denies that any respectable medieval philosopher would ever have maintained "that two sets of conclusions, the one in philosophy, the other in theology, could be, at one and the same time, both absolutely contradictory and absolutely true." Then he goes on to a comment that has engaging implications for anyone concerned about speculating without deference to prescribed doctrine :

> As so many men who cannot reconcile their reason with their faith, and yet want them both, the Averroists were keeping both philosophy and Revelation, with a watertight separation between them.[7]

One must of course accept Gilson's statement of the facts. But there is no denying the fierce, centuries-long conflict that developed between the claims of revelation and the claims of reason as sources of truth.

At the beginning of the seventeenth century Francis Bacon, after paying due deference to prescribed doctrine by noting that "all knowledge is to be limited by religion, and to be referred to use and action," observed that :

> To conclude, the prejudice hath been infinite that both divine and human knowledge hath received by the intermingling and tempering of the one with the other ; as that which hath filled the one full of heresies and the other full of speculative fictions and vanities.

It may be that Bacon was simply keeping his compartments watertight ; perhaps, however, as Basil Willey has said, "Bacon's desire to separate religious truth and scientific truth was in the interests of science, not of religion." He was "pleading for science in an age dominated by religion." [8]

Not all who recognized the compartmentalization found it troublesome. A few years after Bacon's death, the good Norwich physician Sir Thomas Browne acknowledged that "in philosophy . . . truth seems double-faced" and expressed his delight in "those wingy mysteries in Divinity and ayery subtilties in Religion" that prompted him to pursue his reason "to an *oh altitudo.*" Bacon had been a student at Cambridge ; Browne at Oxford, Montpellier, Padua, and Leyden. To what extent they had been obliged to keep their speculations within acceptable bounds we do not know ; nor how suddenly the bounds might alter. Bacon's near contemporary at Cambridge, Christopher Marlowe, heard discussed there and very probably read the writings of Ramus, of the University of Paris, who, with "many singularly learned professors and teachers of good artes," was murdered on St. Bartholomew's day for his heretical attack on Aristotelian orthodoxy.

Two years after Browne published *Religio Medici,* a Cambridge graduate wrote one of the most eloquent of all pleas for liberty of thought, in the course of which he said,

> For who knows not that truth is strong, next to the Almighty ; she needs no policies, nor stratagems, nor licensings to make her victorious ; those are the shifts and defences that error uses against her power . . .

But added, a little later,

> Yet if all cannot be of one mind, as who looks they should be? this doubtless is more wholesome, more prudent, and more Christian, that many be tolerated than all compelled. I mean not tolerated popery, and open superstition, which as it extirpates all religions and civil supremacies, so itself should be extirpate....

It is scarcely surprising that writings of John Milton were for many years on the Index. As for the role of universities, it is worth reflecting on that on July 21, 1683, after a Convocation at Oxford had been dissolved,

> the vice-chancellor, bishop, Drs. and Mrs. in their formalities, went into the School quadrangle, where a bonfier being prepared in the middle thereof, were several books, out of which those damnable tenets and propositions were extracted, committed to the flames by Gigur, the Universities bedell of beggars. The scholars of all degrees and qualities in the mean time surrounding the fire, gave several hums while they were burning.

Into the flames went, among other volumes, at least some of the political writings of John Milton, though *Areopagitica* seems not to have been one of them. Later in the same year, a fellow of Lincoln College was "ejected" for commending Milton to one of his pupils.

The nature of prescribed doctrine had changed somewhat, as had the direction of required deference. Prescriptions and deference remained, nevertheless. Towards the end of his recent book, *Scholars and Gentlemen,* after showing how in the sixteenth and seventeenth centuries the British universities were dealt with as tools of rival political and social groups — "establishments" of varying composition — and used consistently to support the social elite of the moment," Hugh Kearney observes :

> The universities also acted as the instrument by which the medieval division of society into clergy and laity was perpetuated. The image of the scholar which the universities fostered was that of the clerical scholar. Scholarship itself was associated with theology, and even classical studies fell into place in their presumed relationship to divinity ... University scholarship was 'guided' scholarship, always liable to be called to account by authority.[9]

The result, as Kearney proceeds to point out, was the rise of the lay scholar, who became the leader of intellectual life : universities were not receptive to intellectual challenge. In 1811 two Oxford undergraduates, Shelley and his friend Hogg, were expelled "for contumacy in refusing to answer certain questions put to them" in connection with the publication of a pamphlet on atheism, the authorship of which neither denied ; and it was sixty years later — just one hundred years ago now — before the Test Acts which is effect had made it impossible for Roman Catholics, Jews, Non-conformists, atheists, in short anyone but a professing Anglican, to hold fellowships in the universities of Oxford, Cambridge, and Durham, were abolished. One might wish that when Matthew Arnold expatriated on the attachment of Oxford to so many beaten causes, he intended his words to have a more ironical bite than is commonly supposed.

To sum up, there is nothing to suggest that through centuries of European history "academic freedom" was conceived of as a principle to be defended, much less as an indispensable condition of university life. In some European countries in the past century the principle has been recognized and defended, but one may wonder how effectively so. The lehrfreiheit and lernfreiheit of the German universities, much referred to in current discussions of academic freedom, did not impel those universities to play a notably enlightened role in the time of the Kulturkampf and the concentration camp. It did not need a Lysenko controversy to make it clear that academic freedom was not to exist in the Soviet Union — in biology or elsewhere. In Spain, in Portugal, in Greece, academic freedom has been practically non-existent for decades, if it ever existed at all. Yet the fact is that in those countries universities exist and presumably flourish, as they existed and flourished in Western Europe through the Middle Ages ; students learn, professors teach, researchers find their way to the moon, or to the centre of the atom, or to the solemn documentation of truths that poets have been singing through the ages. What matters academic freedom ?

To find the notion of academic freedom first stated as a principle necessary to the life and well-being of a university, and therefore to be nourished and protected, we have in fact (though the idea will doubtless displease some Canadian Kulturkampfers) to turn to the United States. Hofstadter has told the story in detail. The new colonies were products and homes of dissent. In the beginning their institutions of learning were established for the strengthening of sectarian groups ; yet by the closing years of the eighteenth century — partly because of the Revolution itself — principles of liberalism and toleration were widely upheld. A kind of climax (of intention, at least) may have been reached with Jefferson's role in the founding of the University of Virginia. It is not surprising that a man who had "sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of man" should call for a university 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 freedom is left to combat it.

Regrettably, Jefferson was (or became) less confident than he here sounds of the desirability of following truth in some matters. What if its pursuit should happen to lead in the direction of his political opponents ?

Hofstadter tells us,

> In the year of the university's opening (Jefferson) wrote to a fellow trustee that while they ought not to presume, like trustees elsewhere, to prescribe textbooks in the sciences, still there was one branch of knowledge "in which we are the best judges, in which heresies may be taught, of so interesting a character to our own state and to the United States, as to make it a duty in us to lay down the principles which are to be taught" — the field of government. To James Madison he wrote in 1826 that "In the selection of our law professor we must be rigorously attentive to his political principles." [10]

The founding of the American Association of University Professors in 1914 was an enormous step in the history of academic freedom, for it meant the formal assertion of academic freedom as a recognized principle of higher education, requiring public recognition and protection, not merely as a condition to be tolerated at the will of the prescribers of doctrine — whether religious, political, economic, or whatever else. That assertion took its clearest and firmest form in the presidential address of Fritz Machlup, fifty years later.[11] The founding of the A.A.U.P. meant also the formation of an organization of professional academics committed to the protection and extension of academic freedom, so understood. In the beginning the organization was practically without resources or weapons, and it had to evolve, through long and painful experience of many years, those now well-known devices : tenure, due process, and public censure.

If and when the history of academic freedom in Canada comes to be written, there need be no lack of accounts of betrayals and indignities, and of bullying demands for deference to prescribed doctrine. Eventually, as in the United States, it was the organized professoriate that set about defining academic freedom — eventually in the words with which I began — and protecting it by the devices that the A.A.U.P. had already developed, to which Canadians at once added another : the reform of university governance in such a way as to ensure a degree of faculty authority in policy-making that is as full as may be found anywhere, at least in public universities.

In effecting changes in the area of governance, Canadian universities were strengthening their ability to continue as universities. No one need pretend that institutions of such size and complexity, dependent almost wholly on public funds, can or should be wholly autonomous. Yet universities need, if they are to survive at all, some rights that are special to them : to decide policies of admission, programs, examinations, and the like, which no outside body is competent to determine, in the long run. As the definition with which I began indicates, these rights and the freedom of the teacher are inextricably joined.

The distinctive feature of academic freedom as we now define it is its inclusion of the right not merely *to refuse deference* to prescribed doctrine, but freely *to attack* prescribed doctrine, whether it happens to be marxism, capitalism, Christianity, atheism, anarchism, democracy, evolutionism, or whatever. It is essential to note, however, that the identity of prescribed doctrine at a given moment will tend to be determined by the locus of authority at that moment. The example of Jefferson is instructive. He was intellectually a liberal man, so clear about the necessity of freedom in religion, for example, that he could advise his young friend Peter Carr to "question with boldness even the existence of a God ; because, if there be one, he must more approve of the homage of reason, than that of blindfold fear." To question the essentials of Jeffersonian political thought in the University of Virginia would be a different matter, however : the doctrine was prescribed — implicitly, it is true, but prescribed nonetheless.

In our own time and jargon, prescribed doctrine means of course the doctrine of the "Establishment", whatever elite or combination of elites that may comprise :

governmental bureaucracy, military-industrial complex or vertical mosaic. Herbert Marcuse has argued that in western countries in this century, the establishment maintains itself as the locus of authority and privilege partly by sustaining and indeed encouraging a degree of tolerance that in the long run facilitates repression. Tolerance in this hypothesis is an aspect of intolerance, and it follows that academic freedom is nothing more than a minor manifestation of "repressive tolerance" that serves the purposes of the current North American elite.[12]

In one way, Marcuse may be right. It is not difficult to believe that some scholar in the not-very-distant future may note that academic freedom was a peripheral and somewhat curious adjunct of the age of liberalism. Marcuse's logic, however, by which a useful old analogy between the state and a biological organism is dealt with as an accepted fact, is another matter ; as is his Rousseau-like view of man as a creature needing only to rid himself of institutions in order to attain (by means of technology, moreover) something like perfection. The way is harder than that.

Universities, insofar as they are committed at all, are committed to the proposition that knowledge is good, that seeking truth is a worthy activitiy and therefore that teaching and research, learning and criticism, ought to be worthy activities. That the activities are not always worthy goes without saying ; but that fact does not invalidate the commitment, it merely underlines the risks that attend the freedom it requires.

Whether academic freedom is secure is a different question. At least one of the traditional devices for defending it is under attack from many quarters : the device of tenure. The holding of tenure by a university teacher means simply that he has been given an appointment of indefinite length and that the university undertakes not to terminate the appointment without particular and sufficient cause, established through careful investigation by his peers — that is, through due process. Since such an undertaking is a very serious one, universities before making it ordinarily assert the right to have a fair sample of a faculty member's work, and they do so by appointing him for a limited period — normally from two to five years.

Tenure is attacked on the one hand because, it is said, it protects mere incompetence. It is attacked on the other hand because, it is said, it fails to protect the junior faculty member who is precisely the person most likely to need protection. I have no doubt that there is a degree of justification in both claims, and it seems to me that tenure is a somewhat crude device for the purpose for which it is intended. One alternative to having it in its present form would be to grant it to every faculty member from the moment of his being appointed. This would of course deprive the university of any opportunity to gain immediate first-hand knowledge of a faculty member's work, and it is hard to see how it could fail to increase the number of incompetent professors, duly protected. On the other hand, simply to do away with tenure would equalize the risk — and maximize it at the same time. This does not, I confess, appeal to me as promising strategy. Thirty years ago, well before tenure had come into use in Canada, one of the best known and most highly respected Canadian professors was asked to

resign from his university because of public statements he had made. He was saved from having to do so — or from dismissal — by the fact that a formidable group of his colleagues wrote out their own resignations, to be effective on the day of his departure. Of course this is admirable. It is, unfortunately, unreliable. The device of tenure is a good deal more sure, despite its deficiencies.

The attack on tenure is not the only source of danger, needless to say, or even the principale one. The increasing dependence of universities on governements, especially their direct dependence on provincial governments, contains ominous possibilities. The provincializing of Canadian education seems bound in the long run to mean the provincializing of thought, as the provinces diverge increasingly in their objectives and as inequities deepen. The devices that are accompanying the process — formula financing in some provinces, for example — may readily become means of manipulating academic programs. The accumulation of centralized files of information about individual faculty members may be only the application to them of processes that are overtaking every citizen — or it may be much more. Recently the newspapers carried a statement by the Solicitor-General that the federal cabinet would soon be reconsidering the question of surveillance of university campus by the R.C.M.P. — something that the C.A.U.T. fought determinedly a few years ago, and persuaded Prime Minister Pearson to put an end to. Have the campuses become more subversive since then ?

Perhaps an understandable concern about the effects of provincialization contributes to the current wave of nationalist rhetoric to which we are being subjected, bringing questions of the ownership of property into a curious alignment with questions about the growth of culture. Presumably, this is intended to be constructive ; so far, I have seen little evidence of anything but the accuracy of Bertrand Russell's observation, made many years ago, that nationalism dries up the springs of humanity.

In spite of the efforts of faculty organizations to protect academic freedom through the past two decades, the attitude of Canadian universities is far from clear. The brief called *Toward Two Thousand,* submitted by the Committee of Presidents of the Universities of Ontario to the Commission on Post-Secondary Education in that province, a few months ago, takes note of the growing authoritarianism in Canadian life and its inevitable effect on the universities, and predicts that that growth will continue. It expresses no concern ; it offers no recommendation. Perhaps in oblique reference to the episode of thirty years ago that I have mentioned, it brushes aside tenure as "something of an absurdity" which "has not had a particularly long history in Ontario."

Whatever the value of tenure may be, the security of academic freedom cannot be taken for granted. A year ago, in his address on the occasion of his installation as President of the University of Manitoba, Ernest Sirluck spoke of the "distressingly thick file of letters and telephone messages demanding that the University of Manitoba fire certain professors and expel certain students who, in the opinion of the writers, have in the past few weeks violated the War Mesures Act or given support to a proscribed organization." And he affirmed decisively the right of the University to "do no such

thing." A few months earlier, a series of astonishing events at l'Université du Québec, constituante de Montréal, had demonstrated dramatically that not all threats to academic freedom come from outside the universities. If we care about it, we need to look to its defences. When Jefferson said that truth is great and will prevail, he added "if left to herself" and went on to state tersely the case for freedom of discussion. The impulse not to leave her to herself, but in one way or another to exact deference to prescribed doctrine, must have been widespread long before the death of Socrates, that great academic hero. Without envying his fate, university teachers may well wish for a touch of his spirit in our time ; yet it was, after all, a great Greek scholar of the early part of this century who noted, through the mouth of one of his characters, that a professor is never a hero, no matter how long he reads the classics.

Notes

1. Sidney Hook : *Academic Freedom and Academic Anarchy.* New York, Cowles Book Company, 1970.
2. Yves Ouellette, « Le contrôle judiciaire sur l'université », *The Canadian Bar Review* XLVIII, 4 (December, 1970), 631-650. 647.
3. Hastings Rashall. *The Universities of Europe in the Middle Ages.* New revised edition. Powicke & Emden. Oxford, Clarendon Press, 1936.
4. Christopher Dawson. *Medieval Essays.* Garden City, New York. Image Books, 1959, p. 132.
5. R. Hofstadter & W. Metzger. *The Development of Academic Freedom in United States.* New York, Columbia University Press, 1955, p. 42.
6. C. H. Haskins. *The Rise of the Universities.* New York, H. Holt & Co., 1923, pp. 52-53.
7. Etienne Gilson. *Reason and Revelation in the Middle Ages.* New York, C. Scribners Sons, 1938, p. 58.
8. Basil Willey. *The Seventeenth Century Background.* London, Chatto & Windus, 1934, p. 29.
9. Hugh Kearney. *Scholars and Gentlemen :* Universities and Society in Pre-industrial Britain, 1500-1700. London, Faber, 1970.
10. Hofstadter, *Op. cit.,* p. 241.
11. Fritz Machlup, "In defense of academic tenure," *A.A.U.P. Bulletin* 50, 2 (Summer, 1964), 112-124.
12. Herbert Marcuse, "Repressive Tolerance." In Wolff, Moore & Marcuse. *A Critique of Pure Tolerance.* Boston, Beacon Press, 1965. (Paperbook edition, 1969. pp. 81-117)