

ACADEMIC FREEDOM IN CHURCH-RELATED ACADEMIC INSTITUTIONS:
THE MANAGEMENT OF TENSION

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During the summer of 1991, Loma Linda University dismissed three faculty members including Dr. Stewart W. Shankel, chair of the Department of Medicine, for conduct that was against the policy of the university. Two other colleagues, Dr. George Grames and Dr. Lysle W. Williams, were implicated when they came to his support. Loma Linda University provides an example of a church-related institution that has come into conflict with the established perceptions of what academic freedom needs to be in an American educational facility. The roots of this conflict can be surmised to be the influence of the religious body that sustains it: a religious organization that seems determined to maintain control of its academic institutions so that it can further its religious mission. Loma Linda was founded by the Seventh-day Adventist Church to provide medical practitioners to its hospitals, and the university continues its relationship with the church. The university is accredited by the Western Association of Schools and Colleges (WASC); however, the school had been on public probation since 1988. The major concerns of WASC were the “financial instability and deficient faculty participation in governance.”¹ These unresolved concerns festered into an incident that strained the tension between the educators and the administration.

Dr. Shankel was motivated to criticize the university because of severe financial problems in his department and “the shabby treatment by the administration of two researchers.”² After a report by a faculty grievance committee, a group hand-picked by the president, the three were dismissed. The administration of Loma Linda rejected any attempts by the American Academy of University Professors (AAUP) to investigate the dismissals and declared that the “membership in a union³ like the AAUP violates the tenets of the Seventh-day Adventist Church which sponsors Loma Linda University and to which these individuals claim to belong. . . . Your organization is not welcome.”⁴ The ground was set for a battle over the academic freedom in a church-related university setting. The dismissal of each of these academics became another incident in the ongoing debate concerning the tension between the rights of a faith-centered university and the rights of an educator to participate in the academic profession under the *aegeis* of academic freedom. A key ethical issue revolves around the breadth and efficacy of academic freedom that is set in a religious institution. A relevant question that needs be asked is whether a religious college or university has the right to a greater level of academic censure than a non-sectarian post-secondary institution? An equally important concern should be the level of control—if any restrictions are acceptable—that frames the work of an academic in a society that demands a quality educational product. The tensions between the academic freedom of the institution, educator, and student also demand an analysis. The intent of this paper is to argue for the respect of the claims of religious universities that demand that professorial academic freedom must be responsible to the mission of a religious institution. However, the institution must honor its agreements with the external authorities and provide a reasonable level of academic freedom

¹ “Academic Freedom and Tenure: Loma Linda University (California),” *ACADEME* (May-June 1992): 43.

² *Ibid.*, 44.

³ It must be noted that the AAUP is not a union.

⁴ *Ibid.*, 42.

to its educators. Although this paper will concentrate on academic freedom within the college or university setting, the topic has relevance for all levels of educational activity.

Historical Backdrop

The history of academic freedom is littered with examples that stretch back as far as humans have recorded their attempts to instruct the next generation. While the name of the concept has changed with the languages and the times, the tension between the regulators of educational content and the teacher has been a necessary struggle that can be documented under the rubric of Academic Freedom. The first eloquent description of this already ancient debate seems to be the Platonic defense of Socrates in his Apology where Plato's mentor has been charged as one who "searches into things under the earth and in heaven, and he makes the worse appear the better cause; and he teaches the aforesaid doctrines to others."⁵ The citizens of Athens were determined to control their orthodox thinking even if it cost a scholar his life. However, even Plato took the liberty to deride and recommend laws⁶ restricting educators, such as Homer or Pythagoras⁷, when, in his judgment, they only produce "trivia compared to truth and trafficks with a trivial rather than with the best parts of the soul."⁸ The following centuries continued determined efforts to create boundaries around educators. Christian church history is punctuated with 'heretics' like Origen⁹ and Marcion¹⁰ who presented ideas that were rejected by the dominant culture. The western world was irreparably changed by Wyclif, Hus and Luther who were "regent masters respectively at Oxford, Prague, and Wittenburg when their views came under fire."¹¹ It is important to realize that the entire academic community—secular and religious—has struggled, and will continue to struggle, between the poles of perceived orthodoxy and academic freedom. The university, shaped in the Middle Ages as centers of "clerical learning,"¹² formalized the interaction between the community, the educator, and the student; however, it constantly struggled against the perception that it was a "*gymnasium haereticorum*."¹³ In the minds of the eventual winners, those who argued for the ideals of the Enlightenment, the title was shifted from heretic to reformer. However, the impact was still the same: an academic had proposed something that required change to implement; and the educational structure, usually dominated by ecclesiastical control, rebelled at that possibility.

The Church—pre-Reformation and post-Reformation¹⁴—has struggled to retain control of critical sections of its teaching from being promulgated by individuals who were not

⁵ Plato, "Apology," *The Works of Plato*, trans. by B. Jowett, Vol. 3 (New York: The Dial Press, n.d.), 103.

⁶ Plato, *The Republic*, trans. and ed. by Raymond Larson (Arlington Heights, IL: Harlan Davidson, Inc., 1979), 262.

⁷ Homer was defined by Plato as a great educator in *ibid.*, 256.

⁸ *Ibid.*

⁹ A prodigious scholar and head of the catechetical school in Alexandria in the 3rd century. See Kenneth S. Latourette, *A History of Christianity*, Vol. 1 (San Francisco: HarperSanFrancisco, 1975), 148-51.

¹⁰ *Ibid.*, 125-28.

¹¹ William J. Courtenay, "Inquiry and Inquisition: Academic Freedom in Medieval Universities," *Church History* 58 (June 1989): 168.

¹² Richard Hofstadter and Walter P. Metzger, *The Development of Academic Freedom in the United States* (New York: Columbia University Press, 1955), 3.

¹³ H. Anstey, *Munimenta Academia, or Documents Illustrative of Academic Life and Studies at Oxford* (London, 1868), 208-11 cited in Courtney, "Medieval," *CH*, 169. Means "A place for philosophical discussion of false doctrine"

¹⁴ By extension, much of the tenor of the arguments carries throughout the multitudes of faith-communities. The

convinced that the orthodox way was the correct way. The educational institutions that were developed were primarily seen as a critical appendage of the church with the educators serving as the essential fingers of the enterprise. This assumption of control is a critical problem in western educational facilities that have found professorial academic freedom to be an effective defense against institutional interference. From the original papal decrees to the *magisterium* in the present day Roman church and now to the presidents and boards of trustees of the various Protestant universities, religious control of vital teaching is seen to be critical to the mission of the institution. A struggle arises when an academic's search for truth exceeds the boundaries that structure many religious beliefs. With the educator's attempts to correct inaccuracies in a current paradigm, pressure is brought upon the institution to adjust or reject sections that are perceived by the academics to be contextually defective. This struggle will be evaluated further in a later section since it is now critical to set the academic debate of American universities in the framework that has sought to define and defend it: the Constitution and its subsequent interpretations.

A Brief History and Legal Status of American Academic Freedom

The Puritan influence on early American universities resulted in institutions such as Harvard College (1636) that were dedicated "to be the orthodox instrument of the community and its faith."¹⁵ Even Harvard's placement in Cambridge was so it could come under the watchful eye of a local preacher, Thomas Shepard, who had a reputation for keeping Newtown "spotless from the contagion of the opinions."¹⁶ But American colleges did not follow the example of the continental counterparts with its centralized great centers of higher education; rather, they chose to place small colleges wherever the population was located and placed lay leadership at the helm of most of these institutions. The private college, often denominationally-tied educational centers, also had another element not found in Europe: "a modest admixture of state supervision."¹⁷ The lack of private resources for these early colleges forced the state to support most of them; however, that support also served to offer the state a mechanism of control that was jointly held with the church. This formed what was in effect a "church-state complex"¹⁸ with the magistrates and ministers cooperating.

The modern concept of academic freedom did not exist in this environment in pre-Civil War America. In 1840, with the publication of Josiah Quincy's *The history of Harvard University*, the first major appeal for intellectual freedom was offered.¹⁹ Quincy and other presidents begged for a "spirit of tolerance, the right of conscience, . . . [and] clauses in college charters against religious discrimination."²⁰ It is ironic that it was due to the infringement of religious liberty and, less often, the political views of professors and college presidents that the early issues concerning academic freedom in America arose.²¹

literature is most mature in the English language for the Christian church but the thinking has a universal component for all religions.

¹⁵ Hofstadter, *Academic Freedom*, 81.

¹⁶ Samuel E Morison, *The Founding of Harvard College* (Cambridge, Mass., 1935), 175-76 cited in Ibid.

¹⁷ Ibid., 114.

¹⁸ Ibid., 144.

¹⁹ Josiah Quincy, *The History of Harvard University* Vol. 1 (Cambridge, Mass., 1840), 444-46 cited in Ibid., 262.

²⁰ Ibid., 263.

²¹ Ibid.

A celebrated example of an early case dealing with academic freedom is Thomas Cooper, president of South Carolina College in 1820, who had come to America as a refugee in search of freedom. This non-sectarian college had a reputation as one of the finest educational institutions in the United States.²² Earlier in Cooper's academic career, he had been ineligible to take his degree at Oxford because he would not sign the Thirty-nine Articles. While teaching at SCC, he refused to teach Mosaic geology and held classic Deist positions on religious issues.²³ When challenged by trustees and parents, he turned to the state constitution that offered "the freedom of religious belief and profession without discrimination or preference."²⁴ He felt that these freedoms did not stop at the front door of the college but must be respected in the entire state. Cooper also saw in the Constitution of the United States the freedoms required to break the rule of the civil and ecclesiastical authorities who were opposed to the truth that was being evidenced in the college. He believed, incorrectly, that it was "a settled matter in the United States that 'actions only and not opinions, were the proper objects of legal control.'"²⁵ Cooper was vindicated and kept his position; however, the decrease in students in subsequent years forced him and his entire faculty to resign.²⁶ The conflict between the ideals of the Enlightenment that Cooper embodied and the religious orthodoxy of the broad community was not settled and the struggle continued in the attempt to obtain freedom to present one's beliefs.

At the turn of the twentieth century, the modern concept of academic freedom was still in an embryonic state; its foundation, the First Amendment, was perceived so narrowly as to be virtually impotent. In 1907, Justice Holmes had written a narrow opinion of the First Amendment regarding written speech that stated that the "main purpose of such constitutional provisions is 'to prevent all such previous restraints upon publications as had been practiced by other governments,' and they do not prevent the subsequent punishment of such as may be deemed contrary to the public welfare."²⁷ The prevailing opinion was that when one's speech was restricted as a condition of employment, the First Amendment was not involved because one had the choice to accept or reject the job. An acceptance bound the parties to their commitment.²⁸ This view, the employment waiver rationale, held sway until after the Second World War. In the early twenties, the infamous Scopes trial was held with its defendant John Scopes attempting to test the rationale.

Scopes, a Tennessee public high school teacher, had taught theories that denied the divine creation of man as found in the Bible, and he was cited as being in violation of a state statute that mandated the subject.²⁹ Scopes was subsequently convicted and fined after a full jury trial.³⁰

²² Ibid., 264.

²³ Ibid., 265.

²⁴ Ibid., 266.

²⁵ *The Case of Thomas Cooper . . . Submitted to the Legislature and the People of South Carolina*, December 1831 (Columbia, SC, 1831), 3 cited in Ibid.

²⁶ Ibid., 269.

²⁷ *Patterson v Colorado*, 205 US 454, 462 (1907) cited in William W. Van Alstyne, "Academic Freedom in the Supreme Court of the United States: An Unhurried Historical Review," *Freedom and Tenure in the Academy*, William W. Van Alstyne, ed. (Durham, North Carolina: Duke University Press, 1993): 83.

²⁸ Van Alstyne, "Academic," *Freedom*, 83-4.

²⁹ *Scopes v. State*, 154 Tenn 105, 289 SW 363 (1927).

³⁰ Van Alstyne, "Academic," *Freedom*, 85.

The court clearly upheld the supremacy of the employment waiver rationale.³¹ Scopes taught in a public institution, and it is interesting to note that any institution not receiving public funds, and therefore private, could provide academic freedom at that time if trustees—and only the trustees—determined that it was needed.³² The First Amendment was not an issue. Academic freedom doctrine developed in the private setting without the benefit of hard cases offered by legal opinion. The accepted practice in most institutions was to establish community guidelines for its teachers; the trustee or the legislator who did not offer restraining boundaries for the educator would be seen as being irresponsible.³³

The first Supreme Court use of the term ‘academic freedom’ occurred in a dissenting opinion offered by Justice William Douglas in a 1952 case, *Adler v. Board of Education*.³⁴ The issue in *Adler* turned on whether a public employee could be terminated for advocating the violent overthrow of the government, an activity that was a breach of a New York statute. Douglas placed the issue of academic freedom squarely within the first amendment when he stated that “[t]here can be no real academic freedom in [the] environment’ of exclusion and of teacher fear.”³⁵ He objected to the state sponsored “system of spying and surveillance with its accompanying reports and trials”³⁶ and felt that this was in conflict with the environment of freedom that an academic must enjoy. Academic freedom now became a subset of the First Amendment. This identification was further filled out by Justice Felix Frankfurter in *Wieman v. Updegraff*³⁷ where a state statute had attempted to demand that the state’s employees offer a “broad disclaimer oath as a condition of employment.”³⁸ The court struck down this statute as unconstitutional, and Frankfurter, concurring with the majority, wrote a separate opinion that specifically dealt with teachers. He felt that a disclaimer oath caused two effects: first, it narrowed the pool of possible candidates who could be hired, and second, it had a compounding result with its dampening of the academic freedom of all those personnel who were hired. Frankfurter clearly articulated the purpose of universities by stating, “The functions of educational institutions in our national life and the conditions under which alone they can adequately perform them are at the basis of [first and fourteenth amendment] limitations upon State and National power.”³⁹

Five years later in *Sweezy v. New Hampshire*, a 7-2 decision, Chief Justice Warren continued to build the precedent case law for academic freedom. Paul Sweezy, a classic Marxist and socialist,⁴⁰ was subpoenaed to answer a variety of questions about lectures that he had given at the University of New Hampshire. He refused, was cited for contempt of court, and was jailed. Warren ruled that the petitioner’s right to lecture and his right to associate had been abridged.⁴¹ He continued, “The essentiality of freedom in the community of American

³¹ *Scopes*, 109-12.

³² Van Alstyne, “Academic,” *Freedom*, 85.

³³ *Ibid.*, 86.

³⁴ *Adler v. Board of Education of the City of New York*, 342 US 485, 508 (1952) (Douglas dissenting).

³⁵ *Ibid.*, 510 cited in Van Alstyne, “Academic,” *Freedom*, 106.

³⁶ *Ibid.*, 511.

³⁷ *Wieman v. Updegraff* 344 US 183 (1952).

³⁸ Van Alstyne, “Academic,” *Freedom*, 108.

³⁹ *Ibid.*, 197.

⁴⁰ Van Alstyne, “Academic,” *Freedom*, 109.

⁴¹ *Sweezy v. New Hampshire* 354 US 234 (1956) 249-50.

universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. . . . Teachers and students must always remain free to inquire, to study and to evaluate, to gain maturity and understanding; otherwise our civilization will stagnate and die.”⁴² Frankfurter pressed the point in his concurring opinion when he stated that there was a “dependence of a free society on free universities. This means the exclusion of governmental intervention in the intellectual life of a university.”⁴³ Warren firmly entrenched the right of the professor; however, it is interesting to note that the courts also placed the academic freedom of the student on a par with the teacher. In 1967, the dissenting argument of Douglas in *Alder* finally became the majority voice.

In *Keyishian v. Board of Regents*,⁴⁴ (9-0), the teacher loyalty oaths from the New York statute were now deemed unconstitutional. For academic freedom, Justice Brennan strengthened the concept again with this statement:

Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom. . . . The classroom is peculiarly the “marketplace of ideas.” The Nation’s future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth “out of a multitude of tongue, [rather] than through any kind of authoritative selection.”⁴⁵

Those who might impinge on academic freedom were also informed that teachers must be clearly informed of what will be proscribed so that their rights, found in the First Amendment, can be safeguarded.⁴⁶

Students and others came to the aid of their professors whose academic freedom had been compromised in *Baggett v. Bullitt*.⁴⁷ This Washington state law had demanded an affirmative oath from the faculty at the University of Washington so that they would “promote respect for the flag and the institutions of the [United States and the] State.”⁴⁸ Students, faculty, and staff brought suit to lift the law and the court did invalidate the statutes on first and fourteenth amendment grounds; however, a comment by Justice White dealt with the downstream effects of chilled speech. He stated that “the interests of the students at the University in academic freedom are fully protected by a judgment in favor of the teaching personnel.”⁴⁹ Since students had claimed that the oath “compromised the professional interaction”⁵⁰ between faculty and students, their claim to academic freedom was now much clearer even if they had not been a party that was threatened with the recitation of an oath. Now both faculty and students were shown as two parties mutually seeking an “educational environment in which the good faith

⁴² *Ibid.*, 250.

⁴³ *Ibid.*, 262.

⁴⁴ *Keyishian et al v. Board of Regents of the University of the State of New York et al* 385 US 589, 609.

⁴⁵ *Ibid.*, 603.

⁴⁶ *Ibid.*, 604.

⁴⁷ *Baggett v. Bullitt* 377 US 360 (1964).

⁴⁸ *1955 Act*, Wash Laws 1955, ch 377, *1931 Act*, Wash Laws 1931, ch. 103.

⁴⁹ *Baggett*, 366.

⁵⁰ Van Alstyne, “Academic,” *Freedom*, 116.

critical professional skills of the faculty are not foreclosed by hostile state action from being available to in the manner of instruction they receive and their professional interaction with faculty.”⁵¹

The issue of the narrowing of academic freedom in religious schools became important during the late 1960’s and onward, but this topic will be dealt with later in this essay. The final case in the expansion of the legal concept of academic freedom in America is found in the case of *Edwards v. Aguillard*.⁵² In this case, decided 7-2, the issue from the *Scopes* trial was resurrected. The state’s right to determine the curriculum was tested when the Louisiana legislature enacted a law demanding that if evolution were taught, then, for the sake of ‘academic freedom,’ “creation-science”⁵³ must also be taught as a counterweight; if evolution were not taught then there was no need for this alternative. The law was struck down primarily on the grounds that it advanced “the religious belief that a supernatural being created humankind.”⁵⁴ Justice Brennan also chastised the state for framing its law under the rubric of academic freedom. Their equation of ‘fairness,’ teaching all the evidence, with academic freedom, “the freedom of teachers to teach what they will,”⁵⁵ had the net result of undermining “the provision of a comprehensive scientific education.”⁵⁶ Creation science had always been an option but now it was a mandatory requirement. The state was chastised for using the concept of academic freedom to “structure the public school curriculum in order to advance a particular religious belief.”⁵⁷ This case ends the development that the court has offered in its clarification of the concept of academic freedom; a refining process that is likely to continue into the future. As a result of the various cases, the concept has been closely tied to the first amendment, and the empty doctrine that was found in the beginning of this century has been elucidated so that academic freedom is essentially secure for the majority of educational institutions. However, any conceptual or practical insecurity that remains for academic freedom in the United States is principally a result of other constitutional rights that religious institutions have been offered.

Constitutional Protections of Religious Freedom

Although Justice Powell and Justice O’Conner joined with the majority in *Edwards v. Aguillard*, they felt it necessary to reply to some of the religious issues that had surfaced in this case. They reminded all of the test found in *Lemon v. Kurtzman*⁵⁸ that has three elements that must be present for acceptable legislation when it confronts religion: it must have a secular purpose; it must neither advance nor retard religion; and it must not entangle government with religion. But Powell felt it necessary to affirm that a religious purpose may be present in legislation but it must not “predominate.”⁵⁹ He went on to deal with academic freedom. He stated, “The ‘academic freedom’ of teachers to present information in public schools, and

⁵¹ Ibid., 117.

⁵² *Edwards v. Aguillard* 482 US 578 (1987).

⁵³ This is defined as the understanding that all things “were created *ex nihilo* and fixed by God.” See “Creationism Act,” *La Rev Stat Ann* 17:286.1-286.7 (West 1982).

⁵⁴ *Edwards*, 2575.

⁵⁵ Ibid., 2579.

⁵⁶ Ibid., 2575.

⁵⁷ Ibid., 2586.

⁵⁸ *Lemon v. Kurtzman* 403 US 602 (1971).

⁵⁹ *Edwards*, 2586.

students to receive it, is broad. But it necessarily is circumscribed by the Establishment Clause.”⁶⁰ After a short history of the clause, Powell restated various statements that presented the religious issues that the Court had dealt with during its tenure:

“This nation’s history has not been one of entirely sanitized separation between Church and State.” *Committee for Public Education & Religious Liberty v. Nyquist*, supra, 413 U.S., at 760, 93, S.Ct., at 2959. . . . The Court properly has noted “an unbroken history of official acknowledgment . . . of the role of religion in American life.” *Lynch v. Donnelly*, 465 U.S., at 674, 104 S.Ct., at 1360, and has recognized that these references to “our religious heritage” are constitutionally acceptable. *Id.*, at 677, 104 S.Ct., at 1361.⁶¹

Powell goes on to allow the proper use of religious documents in the nation’s schools and encourages teachers to inform students of “the Nation’s religious heritage.”⁶² With his remarks, Powell seems to be affirming the possibility of allowing religious content in the schools; however, he was not clear on how academic freedom is circumscribed by the Establishment Clause. The door is certainly open for future tension on this topic.

The seeming clarity of the academic freedom doctrine in Supreme Court documents is not as clear in the secondary literature. There is confusion, articulated by Julius G. Getman and Jacqueline W. Mintz, in a number of areas: “To whom does it belong? Can academic freedom be claimed by institutions in dealing with the outside world, faculty in dealing with administrators, or faculty in dealing with peers?”⁶³ These questions recognize the tensions inherent in the topic that should be balanced for a coherent Academic Freedom policy statement. However, there are other parties involved in the protection of academic freedom who must be recognized. When attempting to formulate or to refine a policy on this topic, colleges and universities have usually relied on the work of the American Association of University Professors.

Academic Freedom in the Public University

As a result of the intolerance exhibited by the boards of trustees at most universities and colleges at the turn of the twentieth century, as well as “judicial defense to trustees’ authority,”⁶⁴ a group of college professors met to draft an effective statement on academic freedom. In 1915, the American Association of University Professors (AAUP) was formed and drafted their first reports. The purpose of the AAUP was clear: “To facilitate a more effective cooperation among teachers and research scholars . . . [and] to increase the usefulness and advance the standards, ideals, and welfare of the profession.”⁶⁵ The main body of its work has concentrated on academic freedom, yet it admits that the “protections and liberties needed to safeguard the institutional integrity of colleges and universities have been left mainly to those educational

⁶⁰ *Ibid.*

⁶¹ *Ibid.*, 2589-90.

⁶² *Ibid.*, 2590.

⁶³ Julius G. Getman and Jacqueline W. Mintz, “Foreword: Academic Freedom in a Changing Society,” *Texas Law Review* Vol. 66, Num. 7 (June 1988): 1249.

⁶⁴ Steven G. Olswang and Barbara A. Lee, Faculty Freedoms and Institutional Accountability: Interactions and Conflicts, *ASHE-ERIC Higher Education Research Report No. 5*. Washington, D.C.: Association for the Study of Higher Education, 1984, 7.

⁶⁵ “Constitution of the Association,” *AAUP Bulletin* 53 (Summer 1967): 243-45.

associations which draw them together.”⁶⁶ The original professorial intent of the committee is evidenced in their early years by their exclusion of deans from membership and the exclusion of students from statements concerning academic freedom.⁶⁷ While both of these issues were eventually remedied, the history of incursion into the freedom of academics necessitated a strong organization that could protect academics from the dictates of those controlling the educational institutions.

During the first fifty years of the AAUP’s efforts to protect the liberties of its members, the association received three thousand complaints in the area of academic freedom and related areas. With each complaint, the offending college or university receives notice of any issues that have come to the attention of Committee A, and the committee encourages the institution to remedy the defects. Most problems have been resolved without public awareness; however, failure to correct unsatisfactory conditions of academic freedom and tenure will likely result in a vote of censure during the annual meeting of the organization. National and local press notices of the event are released and the findings are documented in the association journal: the AAUP Bulletin, *ACADEME*.⁶⁸ Persuasive pressure or the threat of pressure from the majority of the academic community is the weapon that the association has found to be the most effective in obtaining compliance with its recommendations to offending institutions.

Academic freedom is only one element in the protection of academics. For the AAUP, academic freedom is tightly aligned with tenure and due process to provide “effective protection of [a professor’s] economic security”⁶⁹ and to allow for the pursuit of the knowledge that motivates the entire enterprise. They have defined academic freedom in the document titled 1940 Statement of Principles on Academic Freedom and Tenure where there are three major areas of concern: first, “full freedom in research and publication of the results”; second, freedom in the classroom in discussing the academic’s area of competence but careful not to introduce unrelated controversial topics; and third, the recognition that the professor is “a citizen, a member of a learned profession, and an officer of an educational institution.”⁷⁰ The second statement also contained a statement directed toward religious schools: “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.”⁷¹ In 1970, the association decided that church-related institutions no longer required this caveat and the statement was dropped.⁷² With any institution that has incorporated the 1940 statement or any other AAUP statement into its faculty handbook, the “courts have ruled that such policies are part of the college’s employment contract with the faculty member.”⁷³ Even with educational institutions that have not assimilated the statements, the courts have “interpreted them as a kind of ‘industry practice’ based on widely held norms and

⁶⁶ Louis Joughlin, *Academic Freedom and Tenure: A Handbook of the American Association of University Professors* (Madison: The University of Wisconsin Press: 1967), 3.

⁶⁷ John Apczynski, ed., *Theology and the University: The Annual Publication of the College Theological Society* 1987 Vol. 33 (New York: University Press of America, 1990), 213.

⁶⁸ Joughlin, *Academic Freedom*, 22-4.

⁶⁹ *Ibid.*, 6.

⁷⁰ *Ibid.*, 35-6.

⁷¹ *Ibid.*, 36.

⁷² American Association of University Professors & Association of American Colleges, “Interpretive Comments (1970)”, reprinted in *American Association of University Professors, Policy Documents & Reports* 5 (1984), 5.

⁷³ Olswang, *Faculty*, 9.

beliefs.”⁷⁴ The importance of the contribution of the AAUP toward academic freedom is immense when it is realized that during the first half of this century the court involvement in the topic was negligible.

The Supreme Court has defined the role of faculty in the university environment. In *NLRB v. Yeshiva Univ.*, 582 F.2d 686 (1978),⁷⁵ the court refused to force Yeshiva University to bargain with the labor union that was representing the professors. The court defined faculty as management, not employees as defined by the National Labor Relations Board. The recommendations of the faculty were routinely accepted by the administration; therefore, the faculty was effectively a part of the management of the university.⁷⁶ The definition was stark, “The faculty is the school.”⁷⁷ This definition is strongest for tenured faculty since untenured professors may be at-will employees, at risk of summary dismissal unless contractually protected.⁷⁸ Although professors may have different contractual levels, may be tenured or untenured, the provisions of academic freedom is ideally equal for all.⁷⁹

The academic freedom of students,⁸⁰ although not defined as a formal legal concept, was covered in the 1964 Statement on the Academic Freedom of Students. Students were “encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth.”⁸¹ Committee T on College and University Government developed a statement called the 1966 Statement on Government of Colleges and Universities that recognized that there is in a university an “inescapable interdependence among the governing board, administration, faculty, students and others”⁸² that requires a joint effort to succeed as an effective institution. It was recognized that any institution may have external constraints that demand recognition: the public institution may have statutory provisions and the “church-controlled institution may be limited by its charter or bylaws.”⁸³ Fair notice was also served to these external organizations that any tampering with course content or the methodology of research or instruction would “impair the educational effectiveness of the institution.”⁸⁴ All three components—professors, students and administration—were recognized as critical to the effective implementation of the university’s mission but external authorities were viewed with the jaundiced knowledge of a history filled with external interference in the academic process.

Academic freedom has always been seen as critical to the pursuit and “advancement of truth”⁸⁵ in the academic setting. The pursuit of truth by an academic requires a “personal liberty

⁷⁴ *Greene v. Howard University* 412 F.2d 1128 (D.C. Cir. 1969) cited in *Ibid.*

⁷⁵ *NLRB v. Yeshiva Univ.*, 582 F.2d 686 (1978), *aff’d* 444 U.S. 672 (1980)

⁷⁶ Ronald B. Standler, *Academic Freedom in the US*, assessed from <http://www.rbs2.com/afree.htm> on February 2, 2008.

⁷⁷ *NLRB v. Yeshiva*, *Id.* Note 4 at 676 and note 10 at 681.

⁷⁸ Standler, “Legal barriers,” *Academic* assessed from <http://www.rbs2.com/afree.htm> on February 2, 2008.

⁷⁹ *Ibid.*, “terse remarks about tenure.”

⁸⁰ See the discussion on the German definition of academic freedom that is defined in two words: *Lernfreiheit*, a student free to roam; and *Lehrfreiheit*, a professor free to examine and report; in Hofstadter, *Development*, 386-87.

⁸¹ Joughlin, *Academic*, 66.

⁸² *Ibid.*, 92.

⁸³ *Ibid.*, 93.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*, 34.

to pursue the investigation, research, teaching, and publication of any subject as a matter of professional interest without vocational jeopardy or threat of other sanction, save only upon adequate demonstration of an inexcusable breach of professional ethics in the exercise of that freedom.”⁸⁶ The academic makes a special claim to “limited accountability”⁸⁷ within the field of his or her competence. This claim should not be susceptible to erosion by societal or institutional standards but should be measured by the professional integrity that creates a fiduciary standard—a standard dependent on truthful disclosure and reasonable care. Immunity from institutional coercion is claimed when exercising this freedom; however, there is the recognition that the institution retains the right to allot funds that may impinge on the desires of an academic to explore topics of personal interest.⁸⁸ While the professor may state opinions or ideas without fear of retaliation, the institution retains the ability to censure an academic if there is cause for “charges of insubordination, neglect of duty, or interference with the efficient operation of the institution.”⁸⁹

Yet the restrictions of academic freedom are not always as clear as defined charges against a specified code of conduct. The restrictions that come attached to ‘academic freedom’ force the realization that there is not an ‘academic right.’ A ‘freedom’ can be defined as a “liberty marked by the absence of restraints or threats against its exercises” while a ‘right’ can be defined as “an enforceable claim upon the assets of others.”⁹⁰ Academic freedom may then be interpreted as a qualified right because of its attachment to a specific group of people: academics. This qualified right does not have a universal quality nor is it a general human right. Its failure to be defined as a general right means that the qualifications that are attached to the qualified right are constantly in a state of flux and open to interpretation. The individual who enjoys this right can only exercise it in the institution of higher learning and is therefore constrained on two grounds: to conform to the obligations that the institution imposes, and to abide by the rules and standards that the institution deems to be necessary for the mission of the institution. Other implicit or explicit constraints also exist. The internal and often intrinsic protocols of a department or division can create traditions that are often difficult to itemize yet can forcefully impinge on the assumed freedom of an academic. The labeling of a topic by the broad academic or social community as ‘politically incorrect’ can chill any additional scrutiny from occurring even if it is in the area of competence of a qualified educator. Internal or external practices—such as the hiring of a new dean—can create political ramifications that can restrict freedom in the classroom or laboratory and they certainly shape the structure that an academic finds herself or himself placed. The socialization of any new academic narrowly focuses this individual down a path with its demands that the young academic master established truths, discover new truths, and have a global respect for truth in teaching.⁹¹ And yet the socialization ties the individual to the community of knowledge so that truth that is found can be compared to the truth of the ages. But in recent times, there seems to have been a shift away from discovering truth that may be

⁸⁶ William Van Alstyne, “The Specific Theory of Academic Freedom and the General Issue of Civil Liberty,” *The Concept of Academic Freedom*, ed. Edmund L. Pincoffs (Austin: University of Texas Press, 1972), 71.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Olswang, *Faculty Freedoms, Executive Summary*, 2.

⁹⁰ Van Alstyne, “Specific Theory,” *Concept*, 71.

⁹¹ Shils, “Need Academic Freedom,” *American Scholar*, 190.

under the debris of all thought to a more general right of expression.⁹² If truth were to become simply an opinion, the enterprise of learning could quickly atomize to expressions of individuality.⁹³ The risk of excessive individuality may be a threat in the non-sectarian setting, but the dominant issue in the religious educational institutions is the extent of corporate involvement in the practice of the academic.

Academic Freedom in the Religious University

The legal warrant for an individual to join with a community to form an expression of faith flows from the Establishment Clause in the First Amendment. The restriction of the government from the establishment of a national religion has allowed for a free market religious economy that has spawned not only a diverse milieu of religious institutions, but also a equally broad spectrum of religious educational institutions that have often been initiated to transmit the educational material that a religion deems to be critical to its existence. These educational institutions are often conceived to support the transmission of the faithful's beliefs to subsequent generations. Few faiths have succeeded in allowing their educational facilities to expand to the point where they are diverse universities. The attempt to maintain a balance between the religious educational needs and the academic freedom needed by faculty is fraught with hazards. American history records the names of the schools that are considered the failures of many faiths—primarily of Christian origin—that have attempted to control the content of the religious message: Harvard, Yale, Chicago, Boston U. or USC, to name a few. While all of these schools continue to have a religious component in their curriculum, they no longer serve as a center where the mission of the institution is structured around the theological needs of the original founders. But there are a few notable exceptions of universities that have continued the struggle: Notre Dame, Brigham Young, Pepperdine, and Baylor. All of these schools continue to allow their theological underpinning to be an essential part of their mission. While there may be a wide diversity in the level of academic freedom at any of these institutions, it is fair to conjecture that all would react vigorously if a faculty member attempted to propagate a belief that was opposed to its religious tenets.⁹⁴ While there are many colleges that are religiously affiliated,⁹⁵ they have chosen not to become a university with research programs and graduate level seminars because of the documented risk that the schools would eventually drift away.

An examination of the constitutionally protected limits on academic freedom offers a framework to evaluate how faith-related educational institutions can restrict their academics. A principle requirement that religious schools demand is that they have the freedom to select faculty according to preset standards that maintain a faith tradition. This allows for a core group of educators who willingly commit themselves to support the beliefs of the institution. This selection also narrows the paths that the academic can explore. Douglas Laycock boldly states that “all religiously affiliated institutions must have the constitutional right to interfere with the academic freedom of their incumbent faculty.”⁹⁶ Laycock finds support for his assertion in

⁹² Edward Shils, “Do We Still Need Academic Freedom,” *The American Scholar* 62, Issue 2 (Spring 1993): 188.

⁹³ One would wonder if academic expression will go the way of religious expression with its atomization. See Sheilism in Robert N. Bellah et al, *Habits of the Heart* (New York: Harper & Row, Publishers, 1985), 221, 235.

⁹⁴ A viable example would be a faculty member in a institution's medical school or other related department that recommended an abortion to students as a method of birth control. It is my opinion that this person would risk immediate censure, loss of privileges and probable dismissal at any of these schools.

⁹⁵ A 1978 survey was sent to 801 religious post-secondary education schools.

⁹⁶ *Ibid.*, 20.

*Jones v. Wolf*⁹⁷ where the Court limited itself to resolve internal church disputes only by “applying neutral principles of law to church documents, provided that they can do so without encountering questions of faith or practice.”⁹⁸ All external legislative or judicial powers are “precluded from imposing sanctions on the institution, or ordering reinstatement of the faculty member, or awarding compensation to the faculty member, on the basis of any alleged duty imposed on the institution from the outside.”⁹⁹ However, the decision to discharge a faculty member carries a considerable cost that must be weighed into the calculation. Accreditation by external bodies that regulate educational facilities is a goal that the vast majority of faith-centered colleges desire. The benefits that come with accreditation insure that a college is recognized as offering a quality educational product that graduates can use to accomplish personal goals. With the offering of accreditation, an external organization now has leverage to insure a high cost if academic freedom is infringed. However, the risk of the loss of accreditation is not the only cost for an offending institution. There is also the hardship that is imposed on the faculty member in the trauma of the event. As well, any attempts to recruit new top-level faculty may be jeopardized if these educators arrive with the recognition that they will only be granted a restricted form of academic freedom. If the institutional restrictions around academic freedom are too great, the public censure of the AAUP and other bodies will be a humiliating experience for all concerned. But after all the calculations have been tabulated and the decision is made, “the Free Exercise Clause should protect them”¹⁰⁰ from legal repercussions. However, the leverage that they have voluntarily offered external agencies may result in greater devastation that would preclude an institution from narrowing academic freedom.

The right of religious schools to operate under the shield of the free-exercise clause is limited by the case of *Bob Jones University v. United States*.¹⁰¹ Bob Jones University had the “genuine belief that the Bible forbids interracial dating and marriage.”¹⁰² The Supreme Court, in an 8-1 decision, agreed to allow the tax-exemption status of Bob Jones University to be removed because the institution was not acting “charitably” in the common-law sense. The entitlement to the tax exemption status depends on whether a charity serves “a public purpose and not be contrary to established public policy.”¹⁰³ The discrimination that Bob Jones employed was so contrary to the compelling interest of the state in its desire to eradicate racial discrimination that the financial penalty imposed on Bob Jones University was outweighed.¹⁰⁴ The long history of racial discrimination assisted in defining the compelling interest of the state. In the future, legal entanglements may occur when issues with a shorter—but no less compelling—history become an interest of the state. One can envision that a future desire by the state to remove sexual discrimination may cause significant disturbances in religious institutions.

⁹⁷ *Jones v. Wolf* 443 US 595(1979).

⁹⁸ Douglas Laycock and Susan E. Waelbroeck, “Academic Freedom and the Free Exercise of Religion,” *Texas Law Review* Vol. 66 (June 1988): 1460-61.

⁹⁹ *Ibid.*, 23.

¹⁰⁰ *Ibid.*, 21.

¹⁰¹ *Bob Jones University v. United States* 461 U.S. 574, 103 S.Ct. 2017 (1983).

¹⁰² *Ibid.*, 580. It is not known if the institution changed its doctrine as a result of this case. It is only known that they held it at that time.

¹⁰³ *Ibid.*, 586.

¹⁰⁴ *Ibid.*, 575. It was noted that no other method of achieving governmental interest was available. The racial discrimination could continue without interference but the benefit would be forfeited.

The presence of academic freedom as a determining feature for government grants was shown to be important in *Tilton v. Richardson*.¹⁰⁵ In a 5-4 decision, funds for secular buildings on the property of church-related colleges were approved because the buildings would be used for religiously neutral activities. The Court also found that the colleges in question also exhibited an “atmosphere of academic freedom rather than religious indoctrination.”¹⁰⁶ It was also noted by the Court that many church-related colleges have a high degree of academic freedom as a result of their college and postgraduate programs. The attempt to have the Establishment Clause used to restrict governmental funds from supporting sectarian building programs failed. However, the internal tension in the First Amendment between the Free Exercise Clause and the Establishment Clause continues.

Religious institutions are under extraordinary pressure to conform to the provisions of the 1940 Statement of the AAUP and its 1970 revision. Educators, such as Father Charles Curran formerly of Catholic University, have argued that even in religious schools that are closely tied to a sectarian ideology, academic freedom is beneficial for the institution.¹⁰⁷ However, the primary reason that the prestigious, usually Protestant-derived, colleges and universities of America have shifted from a religious mission to a secular standing is often attributed to the professionalization of faculty. This feature, with its accompanying academic freedom, is often seen as the death knell of an institution since it allows the ‘infecting’ of students with ideas that drive them from the faith community. But can there be ‘freedom’ in an institution that is closely controlled by a religious commitment?

It is critical to clarify the meaning of the term ‘freedom’ in an academic setting with a Jewish or Christian world-view. Four points become important: first, both theological strains agree that the ultimate source of truth is found in God who becomes the “end of all theological inquiry;”¹⁰⁸ second, any freedom that a person has discovered is balanced with a responsibility toward others; third, an acquiescence to a confessional statement does not free a person of the “requirement for responsible liberty of conscience;” and finally, the standards must be set in an institution that has “a genuine concern for liberty of mind and spirit in theological teaching.”¹⁰⁹ The seeming contradiction between the needs of the institution and the individual can be perceived as complementary realities that must be integrated and recognized. Neither institutional authoritarianism nor individual libertarianism creates a healthy academic environment. Excesses of either pole seem more dangerous than an attempt to integrate both into an educational setting. This type of freedom has a new dimension as ‘freedom’ becomes ‘freedom for’ as well as ‘freedom from.’ Christian freedom should contain the possibility of a paradox without the risk of totalitarianism.¹¹⁰ Academic freedom that includes a responsibility toward others is a valid addition to the concept of academic freedom that flees from the constraints imposed upon the individual. Secular academic freedom could be conceived as a

¹⁰⁵ *Tilton v. Richardson* 403 US 672 (1971).

¹⁰⁶ *Ibid.*, 682.

¹⁰⁷ William W. May, *Vatican Authority and American Catholic Dissent: The Curran Case and Its Consequences* (New York: Crossroad, 1987), 3.

¹⁰⁸ “Academic Freedom and Tenure,” in *Policy Statements, Bulletin 37*, Part 5, 1986, The Association of Theological Schools, 3.

¹⁰⁹ *Ibid.*, 4.

¹¹⁰ Romans 6:22 (RSV).

“blank space to be filled in”¹¹¹ whereas faith-derived academic freedom has to be seen as a circle that contains a designated space in which an academic is allowed free range. A possible model that might be more realistic to both groups is that of a semi-permeable circle.¹¹² The secular academic would be forced to realize that there are reasonable constraints in every institution and that academic freedom is not an unlimited license to pursue any path regardless of its societal distaste. And well, the faith-derived academic could sense that the circle has holes in it that, for the creative explorer, can lead to new territory that the academic and the institution can explore individually or jointly.

With this clarification of faith-related freedom, the mission of the institution becomes the next step to an effective policy of academic freedom for a church-related institution. An institution must want to accomplish something with the resources that it has at its disposal. The dreams of its original charismatic visionaries¹¹³ galvanized an institution into existence. Successive leaders sought to guide it carefully through the changing times and needs of the community it serves. Yet the institution must have a goal that it is striving to attain. It is a business truism that one cannot hit a target if one does not aim at something. With this goal in mind, faculty members are offered the freedom to assist in the accomplishment of the institutional goals from within their field of specialty.¹¹⁴ However, freedom must also be available to the institution for it to achieve its goals, objectives primarily centered around their faith tradition. An effective administration of an institution needs to be able to coordinate the multiplicity of parts that form a functioning unit and the administrators have a responsibility that the organization remains a “cohesive whole.”¹¹⁵ This management can easily impinge on professorial academic freedom when issues like research, teaching facilities, support staff, or new faculty compete for scarce funds. With the integration of faculty and institutional goals, the two parties can augment their respective efforts. It is also necessary for the leadership of an institution to be sensitive to the winds of academic research that may show a new, more favorable direction. A healthy relationship between the institution and the faculty allows for the interchange that will allow both parties to remain vigorous. Only when the goals of the institution have been proven to be compromised should there be reins applied against the direction of an academic’s pursuits. Even in this case, correction should be along preset guidelines that allow for the faculty member to convince others of the validity of new theories.¹¹⁶ It remains a valid concern that the history of faith-related institutions has proven that they are

¹¹¹ Larry C. Ingram, “Sectarian Colleges and Academic Freedom,” *Review of Religious Research* Vol. 27 (June 1986): 311.

¹¹² Ibid.

¹¹³ See Max Weber, “The Sociology of Charismatic Authority,” From *Max Weber: Essays in Sociology*, trans. and eds. by H. H. Gerth and C. Wright Mills (New York: Oxford University Press, 1958): 245-52.

¹¹⁴ Samuel T. Logan, “Academic Freedom at Christian Institutions,” *Christian Scholar’s Review* 21 No. 2 (1991): 169.

¹¹⁵ Eugene B. Habecker, “Academic Freedom in the Context of Mission,” *Christian Scholar’s Review* 21 No. 2 (1991): 176.

¹¹⁶ Some branches of the Amish have a policy that conflicting parties must mutually resolve differences before the issue can be implemented. While this is perceived as ‘tyranny of the minority,’ it has beneficial features to *Robert’s Rules of Order* that allow for ‘tyranny of the majority.’ In the former, the creative individual is recognized as an equally important contributor to the social machinery of the group. In an academic setting, a time and place must be allowed for the formulation of new policies. Shifts in paradigms may take a moment or a lifetime but they are always occurring. A wise administration will plan to change and offer the structure that minimizes its impact on the community.

often excessive in their use of authoritarian power. However, if an institution is allowed to offer the same level of correction that an academic expects from colleagues in the dissemination of concepts without prior restraint, then there is the possibility that the mission of the institution can be attained with normal academic freedom being offered to the educator.

Guidance in the development in an academic freedom policy in church-related institutions is offered by the Association of Theological Schools. It should be noted that the faith-related educational community takes its soundings from a communal declaration of the schools while the non-sectarian colleges and universities rely on the freedoms developed by the AAUP—an organization primarily focused on attempting to protect the individual. The differences concerning academic freedom point to the structural differences between the grounding of the faith communities and their secular counterparts. There are six principles that are critical to this organization: first, the inquiry for truth is paramount both communally and individually; second, a confessional standard may be required of faculty members with additional guidelines on dissent and a reasonable judicial mechanism needs to function for any breach of those standards; third, freedom for academic duties as they are agreed upon with the school; fourth, freedom to discuss subjects in the classroom that they are competent to offer; fifth, freedom as individuals citizens with the proviso that there is a recognition that the institution is being represented even if only tacitly; and finally, care should be exhibited towards each other's academic freedom to insure an orderly academic process.¹¹⁷ There is the obvious inclusion of institutional concerns within these principles; however, the tensions that are inherent between institutional and professorial academic freedom are clear. Unfortunately, the missing elements in this relationship are the students and supports of the institution.

An effective analysis to yield an academic freedom policy for church-related schools must contain the tensions created by students and benefactors. In the vast majority of documents detailing academic freedom, the rights and responsibilities of students are usually absent. It is a reasonable axiom that those who contribute a significant portion of the income to an organization demand services for their payment and may demand a voice in the management of the organization. This leads to a desire for the streams of knowledge that the professor can offer but it may also lead to the rejection of that person and his or her information. Academic freedom may protect the search and dissemination of knowledge but the marketplace in which that knowledge is offered cannot be controlled by the academic. In a recent small study,¹¹⁸ Larry Ingram found that the major client constituency was shown to be the students as they contributed from 46 percent to 62 percent of the income.¹¹⁹ With enrollment-driven schools, the primary tools for attracting and maintaining target enrollment are academic majors that appeal to a diverse population. Student pressures in this area “generally favor enhancement of academic freedom”¹²⁰ so that quality faculty can be drawn to fill the departmental desires. Consideration must also be given to the academic freedom of students so that they can pursue the same truth that their professors desire.

¹¹⁷ “Academic,” *Policy*, 4-5.

¹¹⁸ Ingram, “Sectarian Colleges,” *Review*, 306. 6 schools: 2 Baptist, 2 Church of Christ, 2 Presbyterian were compared. Not statistically significant data but illuminating.

¹¹⁹ *Ibid.*, 309.

¹²⁰ *Ibid.*

A significant portion of the funding from non-student sources comes to these schools from denominational coffers. Ingram concluded that this source of income allows the denomination to continue to demand recognition in the policy development of the institution. As endowment income grows,¹²¹ the pressure from denomination sources could lessen. Endowments are driven by the continued health of an institution that can generate a graduate base that can support scholarships. The end result of this shift is that there will be reduced links to denominational sources. As well, the longevity of an institution will assist in integrating the school with the social community so that local grants and funds can be pursued for campus improvements. Additionally, parental pressure is often applied to develop programs that will offer secular success for their children. The obvious result of this demand is that an institution will acquire faculty who can prepare students for non-sectarian professional schools.¹²² However, none of these pressures are important enough to reduce the faith-derived mission of the institution to a point of irrelevance.

A church-related school that is able to manage all of these points of tension and form them into a coherent vision that serves the denominational aspirations as well as the secular requirements should be able to create a reasonable educational environment. However, it is incumbent on the leadership of the administration, faculty, and students to realize that no societal structure is ever in balance; it is constantly reacting to the forces that impinge upon it. The wisdom of leadership—individually and corporately—must constantly seek to place countervailing forces in place to re-stabilize the mechanisms of the institution. Excessive denominational demands may require emphasis on endowment funding. Excessive faculty demands may require new departments or greater expressive opportunities to allow for controlled change. Excessive student demands may require increased parental involvement to stabilize the situation. The potential springs that hold an institution together are as diverse as the people who populate the academic community; however, they are definable, they can be managed, and they can have their independent freedom. Academic freedom is a critical component and must be protected but only to the limits that allow the institution to remain viable. The whole is not the sum of its parts; it is the potential of the sum of its parts and there can be vast freedom in the pursuit of that potential.

¹²¹ Less than 10% in all schools.

¹²² *Ibid.*, 310.

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