

***The Montana Professor Debate***

**February 14, 2007**

**University of Montana at Missoula**

**University Theater**

I want to thank President Dennison, Linda Gillison, Dick Walton, and *The Montana Professor* for making this evening possible. It is indeed a pleasure to be part of this vital discussion on academic freedom. You are to be commended for realizing that there are generally at least two sides to any issue and for putting into practice tonight what ACTA recommends be done as a matter of course.

We've now heard from my friend Roger who – for better or for worse – has laid out his side of the argument. Now let me have a go at it.

In the interest of full disclosure, I think it is worth sharing how this debate got named. Both interlocutors were asked to suggest a title. I proposed “Academic Freedom, Academic Responsibility.” A perfectly reasonable title, I hope you will agree.

But Roger wanted a more contentious title. And that's we have tonight: “Institutional Autonomy and Academic Freedom: Should Colleges and Universities be Left Alone by Non-academics?”

One of the fine professionals I have been working with at Montana described the proposed title in an email to me as “um, polemic[al].” I would agree.

I would also note that Dr. Bowen does not see much room for debate on the matter as he has framed it. According to Dr. Bowen, nonacademics -- such as my organization, the American Council of Trustees and Alumni, an organization of thousands of engaged trustees, alumni, and yes, even academics, around the country --we “nonacademics” should just darn well leave him and his fellow doctorates in the Ivory Tower alone. “Nonacademics” includes me --a woman with two Harvard degrees, years of service as General Counsel and senior policy advisor to the National Endowment for the Humanities, and a player on the field of higher education for nearly two decades. “Nonacademics” also includes a far larger group, many of whom are in the audience -- namely, parents and taxpayers, students, and of course, legislators.

Now, I should make it very clear: We at ACTA agree that the responsibility for ensuring academic freedom and excellence should fall first and foremost to colleges and universities themselves. We agree that the law is a blunt instrument and state legislatures and the federal Congress are not well positioned to prescribe specific remedies. We have said as much many times, and have elaborated on this point at length in our report *Intellectual Diversity: Time for Action*, copies of which are in the back of the room.

But a problem arises when colleges and universities fail to ensure academic freedom and academic excellence on campus—even after numerous cases, lawsuits, and studies show that there is a systemic, ongoing problem. When reasonable calls for action are ignored, when public outcry is dismissed, and when the academic establishment denies that anything is wrong (much as Dr. Bowen has denied it here), we “nonacademics” who care deeply about higher education simply cannot bury our heads in the sand. We must not shrink from taking this issue on. Most

importantly, we should make it crystal clear that universities must be accountable if they wish “nonacademics” to stay out of their business.

In the old days, Dr. Bowen’s organization, the American Association of University Professors, agreed. But as I will relate, the current AAUP is seriously confused about what academic freedom means and what academic responsibility entails. That confusion is amply demonstrated by tonight’s topic, with its paired suggestions that “institutional autonomy” means freedom from accountability and that “academic freedom” is impaired by nonacademics’ concern for the quality of American higher education.

The enormous intellectual and pedagogical autonomy that faculties are granted in the name of academic freedom is premised on the assumption that professors perform according to professional scholarly standards. That autonomy represents a compact, if you will, a trust, given on the condition that universities make academic decisions on academic grounds -- not on partisan or other prejudicial grounds. It is a trust conveyed with the understanding that academic freedom entails both a right and a responsibility-- or to use the AAUP’s terms -- “corresponding duties” and “correlative obligations.” In its 1915 Declaration of Principles, the AAUP declared that:

*The university teacher, in giving instruction upon controversial matters, while he is under no obligation to hide his own opinion under a mountain of equivocal verbiage, should, if he is fit for his position, ... in dealing with such subjects, set forth justly, without suppression or innuendo, the divergent opinions of other investigators; he should cause his students to become familiar with the best published expressions of the great historic types of doctrine upon the questions at issue; and he should, above all, remember that his business is not to provide his students with ready-made conclusions, but to train them to*

*think for themselves, and to provide them access to those materials which they need if they are to think intelligently.*

Originally, then, the AAUP concerned itself not only with professors' academic freedom to teach, research and speak; but also with students' academic freedom to learn about all sides of controversial issues. This right was articulated again in the 1940 AAUP academic freedom statement as well as in other AAUP comments pertaining to Faculty Professional Responsibilities and Professional Ethics.

Students' academic freedom to learn was foundational to the AAUP's conception of the rights and responsibilities of faculty. But—tellingly--the 1915 statement no longer appears on the AAUP website. And while the other references to academic freedom can be found on the site, successive generations of AAUP statements and interpretations have increasingly centered less on professors' obligations to ensure students' free inquiry and more on professors' rights when making public statements, as well as institutions' responsibility not to censure – or censor – professors' speech. Over time, the principle of the disinterested search for the truth has been supplanted by a conception of academic freedom that frequently views professors more as individual political actors than as teachers.

This perspective was vividly on display last fall when various elite college faculties, as well as the AAUP, submitted briefs opposing the Solomon Amendment, which, you will recall, denies federal funding to colleges and universities that fail to give equal access to military recruiters. These briefs consistently and reflexively invoked academic freedom and faculty autonomy as a foundation, *not* for the objective search for the truth, but as a foundation for espousing a particular political viewpoint.

According to the AAUP, the Solomon Amendment interferes with faculty academic freedom and with collective academic governance. By requiring equal, rather than adequate, access for military recruitment, the AAUP argues, the Solomon Amendment improperly discriminates against the viewpoints of faculty who oppose “don’t ask, don’t tell.” By this logic, faculty academic freedom includes the right to deny students equal access to military recruiters, until—and here I quote from Bowen--“such time as the U.S. military changes its anti-discrimination policies to accord with the more enlightened of the academy.”

A unanimous Supreme Court found that opponents’ arguments were arrogant and fanciful; justices from left, right, and center concurred that the case against the Solomon Amendment was grounded more in ideological commitments than in constitutional law. The Court unequivocally found that requiring colleges and universities receiving federal funds to allow military recruiters on campus had **NOTHING to** do with academic freedom, freedom of association or faculty governance. “A military recruiter’s mere presence on campus does not violate a law school’s right to associate,” said the Court, “regardless of how repugnant the law school considers the recruiter’s message.”

And yet, even after a unanimous Supreme Court made it perfectly clear that academic freedom is not involved, Dr. Bowen has kept up the claim that it is. On numerous occasions since the decision was reached last spring, Dr. Bowen has let it be known that the professoriate knows better than the U.S. Congress and the U.S. Supreme Court. As he wrote in a recent issue of *Montana Professor*: “The threat [of the Supreme Court’s ruling] is real, punitive, and undemocratic: it says endorse the values of the conservative majority in Congress, or operate your universities without benefit of the people’s money.”

Pardon me. Perhaps Dr. Bowen should read the Court opinion again.

It is a sorry state of affairs when the traditional defenders of free inquiry invoke academic freedom to favor one view – the view opposing military recruiters, described by Bowen as the “more enlightened [view]of the academy” -- rather than to acknowledge the existence of multiple perspectives and to uphold the academic obligation to enable students to decide for themselves what they think, what they believe, and for whom they wish to work after graduation. Viewpoint discrimination of the sort endorsed by the AAUP destroys the integrity of the university.

If we are to have a meaningful dialogue about academic freedom today—and if we are to protect academic freedom for the future—we must recognize that the AAUP should be regarded neither as the main arbiter of academic freedom nor as its most trustworthy protector. We must recognize that, following the AAUP’s lead, numerous academics are abusing the concept of academic freedom. We must recognize that the debate surrounding academic freedom is riddled with confusion on the part of academics and non-academics alike.

Recent examples include:

- University of Wisconsin lecturer [Kevin Barrett](#), who invoked academic freedom to teach bizarre conspiracy theories about 9/11 in a course about Islam;
- Faculty at the [University of Tennessee at Chattanooga](#), who have attempted to use academic freedom as a reason to avoid assigning graded work prior to the midpoint of the semester;
- The University of California, which cut from its [academic freedom statement](#) a prohibition against using the classroom as a “platform for propaganda” on the grounds

that there is no longer a difference between the “interested” and “disinterested” scholarship;

- The recent statements of [Bowen and AAUP president Cary Nelson](#) that the AAUP’s founding document, the 1915 “Declaration of Principles,” is outdated. According to folks at the AAUP, students are no longer immature and vulnerable, they have opinions on just about everything from the get-go. Of course, that’s not the point. The point is professors have an obligation to teach according to scholarly standards precisely because students do not know the subject and cannot be expected to challenge, engage, or outthink the professor in a meaningful way.
- Recent statements by Roger Bowen in *The Montana Professor* that academic freedom and institutional autonomy means boards should not appoint “nonacademics to presidencies and chancellorships;” and
- Recent statements by Bowen that academic freedom is harmed by “problems plaguing the wider market economy ...including [an] inadequate health care system, ... mindless adoration of and inappropriate fiscal support for competitive sports and their coaches, extravagant salaries for presidents, and the capture of governing boards by corporate managers...” [This bullet is a bit confusing – some of the things listed seem clearly located in the wider market economy, while others seem to speak specifically to issues of higher ed governance; also, the list is made up of odd apples and oranges – corrupt collegiate athletics and extravagant compensation for presidents is one sort of issue that ACTA and AAUP can agree on, while the question of who should be on governing boards is not ... Clarify? Simplify? Cut?]

As these examples indicate, the AAUP has drifted rather far from its founding ideals. Even AAUP members are saying so. Robert Post, former general counsel of AAUP and now a visiting law professor at Harvard recently warned that it was time to “return to first principles.” “The function of academic freedom is not to liberate individual professors from all forms of institutional regulation,” he wrote, “but to ensure that faculty within the university are free to engage in the professionally competent forms of inquiry and teaching that are necessary for the realization of the *social purposes* of the university.”

As Post sees it, the professoriate has come “all too easily to assume academic freedom as our ‘God given right’ and [has] become oblivious to its distinct justifications and limitations.” Far from releasing faculty from restraints, within or without the university, Post argues, “the traditional ideal of freedom of research can be sustained only if existing institutions of peer review interpret these professional norms in a manner that maintains their internal legitimacy. ... academic freedom does not now, nor has it ever, protected the autonomy of professors to pursue their own individual work, free from university restraints.”

Likewise, William Van Alstyne, former general counsel and president of the AAUP recently wrote to me to express his sense that ACTA is providing a necessary corrective to an AAUP that has lost its way:

“As a former national President of AAUP (as well as its former general counsel and chair of committee A), while not uniformly in agreement with all of the particular positions you and your organization have taken, I find a very great deal in your own presentations and your work to admire,” he wrote. “Far from being an undue threat to academic freedom, I have found a substantial part of your criticisms to be well-taken. Much of it is in fact closer to the views well



reflected in the original (1915) AAUP Statement of Principles, and, indeed, quite well-grounded also in the widely-endorsed 1940 Joint Statement, than has been fairly credited to you.”

You and I just heard Dr. Bowen. He said that ACTA is just a group of know-nothings who believe the professoriate is too liberal; he said that cases of preaching in the classroom are merely isolated incidents, and that conservative students complain because they don't want to have their beliefs challenged. **In non-academic lingo, this is what he is saying: “Legislators, taxpayers, parents, students: Give us your money, give us tenure, give us tax breaks, and three months off every year – but then leave us alone. Because we alone can understand and enforce our professional norms. Trust us to do the right thing. And butt out.”**

Now – since it's Valentine's Day – I hope you will indulge me here: Roger, you are my friend, you are my colleague, but frankly, Roger, if I continue to trust you, I simply won't respect myself in the morning.

It's crucial to be clear here: Institutional autonomy of the kind Roger envisions would give the university the right to become its own police state and to deny outsiders the right to challenge the situation, no matter what the abuse. It's also crucial to remember that institutional autonomy does not mean freedom from accountability -- which, is what Roger's prescription amounts to.

ACTA insists on that accountability. We believe in academic freedom and academic excellence. We believe in liberal education and the transformative power of ideas. We believe that higher education serves the greater public good -- to promote knowledge, to prepare informed citizens, effective workers, and lifelong learners. Yet, we also believe that higher education – like the rest of us – must be accountable. You might say our mantra is “trust but verify.”

Our goal is not to take issue with certain fields of study, as Roger suggests, but rather to convince ourselves—and the “nonacademic” public we represent--that higher ed is doing what it claims to be doing. In our study, *How Many Ward Churchills?*, for example, we didn’t go into the classroom; we didn’t tape professors’ classes, and we conceded in the report that we could not comment on what happens in the classroom. In other words, we did not intrude. But we did look at the publicly available course descriptions on which students base their decisions about what courses to take. And what we found was case after case, example after example, at school after school, of professors openly and tendentiously pushing a political agenda in the name of critical thinking.

In 2004, After hearing from Roger and others that there was no intellectual diversity problem in higher ed, that professors left their politics at the classroom door, ACTA commissioned the Center for Survey Research and Analysis at the University of Connecticut to study students’ perceptions of their academic experience and to find out what they had to say.

We found that

- A shocking 49 percent of students at the country’s top 50 colleges and universities say that their professors frequently inject political comments into their courses, even if they have nothing to do with the subject.
- 29 percent felt they had to agree with their professors’ political views to get a good grade.
- 48 percent reported campus panels and lecture series on political issues that seemed “totally one-sided.”

- 46 percent said professors “used the classroom to present their personal political views.”
- And 42 percent faulted reading assignments for presenting only one side of a controversial issue.
- Meanwhile, 83% said student evaluation forms did not ask about a professor’s social, political, or religious bias.

We confronted the academy with this evidence, and we were dismissed out of hand. Nearly two years ago, Roger and I debated in Washington, and I asked him: “Can the academy offer any proof that the students are wrong? Has it conducted its own surveys to test the claim that campuses are becoming biased? Has it tried to determine whether students’ educations are being impaired by the classroom climate? Has it taken concrete steps to ensure that academic freedom is understood, promoted, and encouraged? Has the AAUP ever placed sanctions on a university where these kinds of violations occur?”

I regret to say, both now and then, the answer was no. Rather than addressing this critical issue, the AAUP did the usual: It dodged the question and attacked the messenger, even going so far as to contend in its house magazine that ideological imbalance doesn’t matter since students aren’t really influenced by their professors. But if that were true, there would be no reason for college to exist.

A little over a year ago, ACTA published a booklet entitled *Intellectual Diversity: Time for Action* in which we called upon the academy to take internal, procedural steps to warrant public confidence. Our message was clear – the academy should not expect to retain institutional

autonomy and the public support necessary to sustain it unless it provides clear evidence that it is abiding by professional standards.

This is much the same message sent by the late Kermit Hall, to whom the current issue of *Montana Professor* is dedicated. Shortly before his death, he wrote that “Only when higher education is willing to address squarely the question of ... political imbalance in faculties ... or the existence of an oppressive campus orthodoxy, will we command full legitimacy.”

Since 1995 when ACTA was founded, there has been a growing consensus that attention is needed -- from *the inside and outside* -- if American higher ed is to remain the finest in the world.

And this is the point with which I will conclude. Don't let Roger fool you. The answer to the question he himself posed--“Institutional Autonomy and Academic Freedom: Should Colleges and Universities be Left Alone by Non-academics?”--is a resounding no. And don't just take it from me. Take it from some academics. *Excellence Without a Soul*, by former Harvard dean Harry Lewis, and *Our Underachieving Colleges*, by current Harvard president Derek Bok, depict shocking cases of preaching in the classroom, colleges and universities that lack a cohesive curriculum, students who cannot write and have little understanding of what it means to be an American, trustees asleep at the switch – and they are written not for an academic audience, but for the public at large.

My message is simple nonacademics -- alumni, trustees, parents, students, and the public--can and must help address these problems. If I may quote from Professor Lewis: “The stakeholders can force change....Universities were never truly ivory towers ... they are privileged with

independence and public support because they serve society. Thus public scrutiny is appropriate and important.”

The American Council of Trustees and Alumni was launched a decade ago to mobilize thoughtful citizens on behalf of rigorous general education, good teaching, high standards, and academic freedom. Alumni and trustees in our national network understand that, to remain competitive, our institutions of higher learning must remain focused on academic standards, academic excellence, and procedural transparency. They are seeking appropriate oversight of an educational system that relies on their support. They are thus reasserting the proper role of trustees as fiduciaries of the academic and financial well being of institutions of higher learning.

And as awareness increases, we are beginning to see some positive changes.

Strong public pressure has led Columbia University president Lee Bollinger to issue new grievance guidelines in response to students’ complaints about intimidation in the classroom. The University of Colorado is tightening up its hiring and promotion procedures in response to the public outcry over Ward Churchill; Colorado has also announced plans to address grade inflation. In recent years, the board of the State University of New York system has overseen general education curricular reform and launched an initiative on teacher quality. American University, in the face of unchecked presidential expenditures, has revamped its governance procedures to ensure greater board oversight and transparency.

And, as I have shown, distinguished figures within the academy are beginning to acknowledge that higher education is failing to live up to its essential responsibilities. They are also recognizing that outside input of the sort promoted by the American Council of Trustees and Alumni is a crucial corrective to the academy’s internal failures.

If higher education is to recommit to its public purpose—if it is to return to its primary responsibilities of teaching and scholarship—academic leaders must relinquish the assumption that outside input is bad input. Happily, recent events suggest that this essential shift in outlook is already happening.