



ACADEMIC FREEDOM AND
THE MODERN UNIVERSITY

THE EXPERIENCE OF THE
UNIVERSITY OF CHICAGO



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BY JOHN W. BOYER



INTRODUCTION

This little book on academic freedom at the University of Chicago first appeared fourteen years ago, during a unique moment in our University's history.¹ Given the fundamental importance of freedom of speech to the scholarly mission of American colleges and universities, I have decided to reissue the book for a new generation of students in the College, as well as for our alumni and parents. I hope it produces a deeper understanding of the challenges that the faculty of the University confronted over many decades in establishing Chicago's national reputation as a particularly steadfast defender of the principle of academic freedom.

Broadly understood, academic freedom is a principle that requires us to defend autonomy of thought and expression in our community, manifest in the rights of our students and faculty to speak, write, and teach freely. It is the foundation of the University's mission to discover, improve, and disseminate knowledge. We do this by raising ideas in a climate of free and rigorous debate, where those ideas will be challenged and refined or discarded, but never stifled or intimidated from expression in the first place. This principle has met regular challenges in our history from forces that have sought to influence our curriculum and research agendas in the name of security, political interests, or financial

1. John W. Boyer, *Academic Freedom and the Modern University: The Experience of the University of Chicago: Occasional Papers on Higher Education*, vol. 10 (Chicago: The College of the University of Chicago, October 29, 2002).

considerations, to name a few desired ends. When I wrote this book, the challenge came from a national climate of fear and innuendo about the shape of liberal-arts curricula. This took forms that were strikingly new (such as anonymous denunciations on websites constructed to police classrooms) and depressingly familiar (such as threats to withhold financial contributions if faculty members pursued an unfavorable line of teaching). But it amounted to an effort to influence the content of our teaching and writing by pressuring the administration to censure or at least pressure individual behavior.

We need to revisit these commitments today because we are again in a climate that questions the value and scope of academic freedom. It is important to note that many of the recent challenges to this principle have been raised in the interest of pursuing some public good. Academic freedom requires a robust tolerance for disagreement and criticism, a willingness to have one's assumptions questioned, and an openness to new ideas that may prove offensive. This tolerance always has the potential to conflict with other virtues and causes, so it needs to be defended repeatedly and vigilantly. Critics may find reasons for ceding ground to the political interests of the moment, but it will be at the cost of sacrificing a more essential value.

The most pressing questions about academic freedom today come from internal protests over what kind of speech is acceptable and intellectually edifying on campuses. These protests have drawn intense participation at colleges and universities across the country, which have seen efforts to suppress speech that has the potential to alienate or cause discomfort to individuals and groups. In recent years colleges have seen demands to have certain texts and lecture topics removed from syllabi or tagged with "trigger warnings" that announce in advance their disturbing content; protests organized to disinvite or disrupt speakers whose views are controversial; petitions to fire instructors who are seen as insufficiently sensitive to certain student perspectives; and calls for registries, where students can post anonymous complaints about "microaggressions" or disagreeable classroom experiences connected to faculty and staff. This is merely an abbreviated list, but it reflects a wider range of causes intended to suppress free speech in the name of creating a more

politically congenial, and what some would argue to be a more nurturing academic environment for our students.

Unsurprisingly, this new moment in the history of academic freedom has inspired a vast popular literature. We see commentaries about the dimensions of the debate regularly in the *Atlantic*, the *New Yorker*, the *New York Times*, and the *Wall Street Journal*, among other publications, which show the complex connections between academic freedom, protest and other aspects of student life. One recent article in the *New Yorker* has insightfully suggested a paradox in the mission of elite colleges, which admit an ever more exclusive yet ever more diverse student body. Here, it argues, conflict is written into the promise to provide an increasingly rarified education that prepares students for entry into the upper-middle class, while also promising to draw out the furthest reaches of their subjective individuality.²

Scholars attuned to these debates have suggested a generational divide between (largely) baby-boomer faculty and their students. Erwin Chemerinsky and Howard Gillman of the University of California, Irvine, have outlined this divide in an article based on their experiences with a recent, co-taught course on free speech. The older generation, socialized in the era of civil rights and antiwar protests, has experienced free speech as a positive means to hold public institutions accountable and has seen restrictions on speech—for example, in the interest of public peace—lead to abuses of power. This is not the experience of today's students. Sensitized as children to bullying and intimidation, they have a compassionate instinct to protect their peers from the psychological harm that comes from intolerant speech, are more trusting of public institutions to regulate expression, and have not personally witnessed a connection between free speech and the protection of dissent. Chemerinsky and Gillman conclude that advocates of free speech need to reframe and communicate the value of free speech while also acknowledging "the necessity of creating a supportive and nondis-

2. Nathan Heller, "The Big Uneasy: What's Roiling the Liberal-arts Campus?" *New Yorker*, May 30, 2016.

criminary learning environment.”³ Other observers have framed this divide as one of “moral cultures” with different, instinctive responses to offense and victimhood, and called for enhanced, mutual consideration.⁴

I raise these examples to show that current challenges to academic freedom are not limited to liberal-arts colleges, state universities, or elite institutions, nor are they confined to certain disciplines. They span the world of higher education and have deep social roots. As with earlier moments, they speak to our most basic principles and require that scholars explain their commitment to academic freedom in new ways.

But they have particular importance at the University of Chicago and call for a response based upon our history and educational mission. Jonathan R. Cole, the distinguished former provost at Columbia University and an astute analyst of trends in higher education, has recently argued that the University of Chicago functions as a bellwether for these debates because “academic freedom is part of the DNA” of our institution. Fostering a climate where we generate ideas freely, even at the cost of offending sensibilities, is foundational to ensuring that we harbor the widest diversity of views and remain “a meritocracy of ideas.” This vigilance, Cole believes, is all the more important since the last twenty years have witnessed an erosion of commitment to academic freedom among faculty at research universities as they have recognized the potential consequences for voicing unpopular opinions.⁵ Our uniqueness in this regard, and our insistence that no one individual ever speaks for the University as a whole, has been inscribed most famously in the Kalven Report, about which we will read more in this little book.

3. Erwin Chemerinsky and Howard Gillman, “What Students Think About Free Speech,” *Chronicle of Higher Education*, April 3, 2016.

4. Bradley Campbell and Jason Manning, “Microaggression and Changing Moral Cultures,” *Chronicle of Higher Education*, July 9, 2015.

5. Jonathan R. Cole, “The Central Dogma of a Great University,” in *Toward a More Perfect University* (New York: PublicAffairs, 2016); see also Jonathan R. Cole, “The Chilling Effect of Fear at America’s Colleges,” *Atlantic*, June 9, 2016.

But it has also been reaffirmed in the present context in the Report of the Committee on Freedom of Expression, chaired by Geoffrey R. Stone, the Edward H. Levi Distinguished Service Professor of Law. In 2014, the Committee was charged with “articulating the University’s overarching commitment to free, robust, and uninhibited debate and deliberation among all members of the University community,” and the final report is well worth reading for its comments on the role of civility, mutual respect, and the few, “narrow exceptions” that exist to the principle of freedom of expression. It concluded forcefully:

The University’s fundamental commitment is the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose.⁶

If the committee’s report underscores Chicago’s historical commitments, it has also been an important intervention in higher education generally, with the faculties of other major institutions of higher education, including Princeton University, Purdue University, and the University of Minnesota, deciding to associate with our statement.

We need to bear in mind this fundamental commitment as we confront the variety of complex and sensitive questions that now animate American university campuses. Our community must not remain silent for fear of intimidation, of causing offense, or of becoming the object of protest. To do so would diminish our power to engage one another with new questions and problems and leave uninspected the biases and perspectives that each of us brings to discussion. In place of

6. Geoffrey R. Stone, *Report of the Committee on Freedom of Expression* (Chicago: University of Chicago, January 2015), 2. <http://freeexpression.uchicago.edu/page/report-committee-freedom-expression>.

free and open inquiry, we would undermine our curiosity about the world by embracing inviolable first principles and ill-defined orthodoxies. This in turn would impoverish our pursuit of knowledge, which would become one of the first casualties of suppressing speech.

The College in particular has much at stake in maintaining free expression, in the classroom and elsewhere on campus. President Emerita Hanna Holborn Gray, echoing the words of our first president, William Rainey Harper, has insisted that “education should not be intended to make people comfortable, it is meant to make them think.”⁷ It is the mission of the classroom to “provide conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of greatest freedom.”⁸ These are crucial insights. For the great promise of instruction at the University of Chicago lies in challenging and unsettling (to use Harper’s famous term) that which students believe to be settled and self-evident. In doing this we do not underestimate the many differences in life experience and cultural perspective among our students. Such differences do not offer unassailable points of authority or knowledge, but they are valuable conditions for us to enrich our discourse with unique and powerful ideas: ideas which must then be explained and subjected to scrutiny if they are to persuade. This process may cause discomfort and unease, but it also leads to excitement, creativity, and discovery.

The University of Chicago’s experience with academic freedom—both our moments of equivocation and our proudest defenses of dissent—provides important signposts as we consider speech that alienates or offends and confront challenges to free speech on college campuses today. Intellectual dissent has the power to clarify differences and elucidate competing assumptions. It enables each of us to recognize the strengths and weaknesses in our thinking. If we refuse to offer trigger warnings or to silence those with controversial opinions, it is not because

7. Hanna Holborn Gray, *Searching for Utopia: Universities and Their Histories* (Berkeley: University of California Press, 2011), 86.

8. *Ibid.*, 52.

we think less of individual sensitivities, but because we believe so strongly in the intellectual energy of our students and in their ability to contribute meaningfully to discourse by confronting and reasoning with unfamiliar ideas. The quality of undergraduate education and our intellectual climate will be much richer for it.

Unless otherwise noted, all archival materials cited in this essay are in the Special Collections Research Center of the University of Chicago Library.

John W. Boyer, AM’69, PhD’75

Chicago, May 20, 2016



ACADEMIC FREEDOM AT THE UNIVERSITY OF CHICAGO

Almost fifty years ago a committee of senior faculty issued a major policy report that still stands as the norm according to which the faculty of the University of Chicago define and understand their academic freedom. The report, named for the chairman of the drafting committee, Harry Kalven, has long since become both a guide and a standard for the complex issues that fall within the domain of challenges to academic freedom. The Kalven Report asserts both a neutrality for the University as an institution and a strong conception of the intellectual autonomy of individual faculty and students, both of which have served Chicago well.

But the concerns and even the claims made by the Kalven Report have a history. They were informed by their own time and by the memory of crises in the earlier history of the University. Those crises are richly interesting stories in themselves, but they also involve complex interactions between faculty, administrators, trustees, and students. The interactions and the controversies that generated them can contribute to our current understanding of how the Kalven Report took the shape it did and what it means to invoke it as a standard today.

Pressures on our freedoms come and go in form and in intensity, but in the current climate it is worth recalling how our predecessors responded to attacks on the enterprise of higher learning in general and on the University of Chicago in particular. Their stories can help us

understand the principles of academic freedom we invoke today and how specific crises shape and are shaped by changing conceptions of academic freedom, the University, and its faculty.

Nowadays, most faculty routinely assume that they may teach their special subjects and areas of expertise in ways that make most sense to them, and, moreover, that they have the right to speak or write on public or scholarly issues as they see fit, on campus and well beyond the walls of our local community. Our students share in these assumptions, for the University does not regulate student speech—we do not censor student newspapers, and we do not regulate the programmatic statements of student clubs and other organizations. Nor do we engage in censored practices, such as “trigger warnings” or “safe spaces,” that would treat our students as being incapable of tough-minded and independent judgment. Moreover, our institutional structures are designed to reflect these highly individualistic values.

All of these theoretical positions are, of course, softened by collegial interaction and by expressions of practical, everyday communitarian values. But behind all of our many operational educational successes in the schools, the divisions, and the College lies the basic norm, one might even call it a constitutional *Grundnorm*, that faculty are free to decide how they will teach and what they will write, that they may speak freely inside and outside the classroom and beyond the campus, and that ultimately, no one will curtail their rights to do so.

THE FIRST STIRRINGS OF ACADEMIC FREEDOM

EDWARD BEMIS AND WILLIAM RAINEY HARPER

The idea of academic freedom is almost as old as the University, which is to say that it was one of the foundational ideals on which the University was established. Like several other of the institution’s core values, this one derived in part from the early faculty’s larger understanding of what a university was and this, in turn, reflected values the faculty self-consciously adapted from our European cousins.

A wonderful early example of this process of cultural adaptation took place in March 1904 on the occasion of the fiftieth convocation of the University. The leaders of the University took the occasion of this anniversary to fashion a celebration of the traditions of the German research universities, including inviting five distinguished German academics to our campus who were awarded honorary degrees from the new University of Chicago.⁹ In his opening remarks at the convocation President William Rainey Harper acknowledged “our great indebtedness

9. See *University Record* 8 (1903–4): 347–56. Honorary degrees were given to Berthold Delbrück (Sanskrit, Jena), Paul Ehrlich (organic chemistry, Berlin), Wilhelm Herrmann (theology, Marburg), Josef Kohler (law, Berlin), and Eduard Meyer (ancient history, Berlin).

to German thought and to German leaders” and acknowledged a relationship between Chicago and its German interlocutors that “blood and common aspiration have already established.” Professor John M. Coulter, the head of the Department of Botany, then spoke on “The Contribution of Germany to Higher Education.” He argued that “in no foreign country is the German university held in higher esteem than in the United [S] tates,” citing five major contributions that the German model had given to its aspiring American protégés: the ideal of a modern research university; the ideal of *Lehrfreiheit*, which Coulter translated as “freedom for the teacher”; the ideal of *Lernfreiheit*, or “freedom for the student”; the value of the “pursuit of science for its own sake”; and finally the idea that “the instructor must be both an investigator and a teacher.”

Coulter was particularly emphatic about the power of the ideal of *Lehrfreiheit*, suggesting that such freedom was the key feature of the modern German research university (“freedom to teach what one



Professors Delbrück, Ehrlich, Herrmann, Kohler, and Meyer, with President Harper and members of the faculty and the Board of Trustees on the occasion of the awarding of honorary degrees at the fiftieth convocation of the University, March 1904.

believes is the most important and valued privilege of the university”), with the obvious implication that the young University of Chicago had already become a distinguished sponsor of this mode of higher education. Of course, we know now that such aspirations to emulate the German universities were somewhat exaggerated, since Americans only imperfectly understood the German models they were aspiring to copy, and only the wealthiest US institutions had the capacity to develop research activities beyond their primary, nineteenth-century focus as undergraduate colleges.¹⁰ The complexities of this mode of adaptation were clear in Coulter’s treatment of the idea of *Lehrfreiheit*. Coulter’s translation of the concept—“freedom for the teacher”—was uncannily accurate in an historical sense, since for late nineteenth-century German professors *Lehrfreiheit* signified the freedom enjoyed by senior faculty to teach freely and without limitations in the field of their scholarly study and within the walls of their universities, on the basis of an imagined state of objective, dispassionate research.¹¹ But, as we will see, what some

10. See Roy Steven Turner, “Humboldt in North America? Reflections on the Research University and Its Historians,” in *Humboldt International: Der Export des deutschen Universitätsmodells im 19. und 20. Jahrhundert*, ed. Rainer Christoph Schwinges (Basel: Schwabe, 2001), 289–302; Walter P. Metzger, “The German Contribution to the American Theory of Academic Freedom,” *Bulletin of the American Association of University Professors* 41, no. 2 (1955): 214–230; and Gabriele Lingelbach, “The Historical Discipline in the United States: Following the German Model?” in *Across Cultural Borders: Historiography in Global Perspective*, ed. Eckhardt Fuchs and Benedikt Stuchtey (Lanham, MD, Rowman & Littlefield, 2002), 183–204. For the history of the German university in the nineteenth century, see the helpful overview in Rüdiger vom Bruch, “A Slow Farewell to Humboldt? Stages in the History of the German Universities, 1810–1945,” in *German Universities Past and Future: Crisis or Renewal?* ed. Mitchell G. Ash (Providence, RI: Berghahn Books, 1997), 3–27.

11. The realities of German academic life often fell short of this ideal. See Max Weber’s trenchant critiques of the limitations of academic freedom in Imperial Germany in *Max Weber on Universities: The Power of the State and the Dignity of the Academic Calling in Imperial Germany*, trans. and ed. Edward Shils (Chicago: University of Chicago Press, 1973), 14–23.

American academics had already begun to understand by the concept of *Lehrfreiheit* was in fact a more full blown “academic freedom,” a more ambitious and robust notion that included the freedom enjoyed by scholars to speak on issues beyond one’s narrow field of scholarship and, even more significantly, beyond the walls of one’s home university. This latter conception was to have very powerful implications for the kind of academic communities that the new American research universities would become.

Some scholars have argued that the emergence of academic freedom was driven by emulation of the German model, but others have emphasized the momentum produced by a rising tide of professionalization that rose above the individual cultural trajectories of the various colleges and universities; still other scholars have seen academic freedom as arising out of indigenous American constitutional traditions embedded in popular understandings of citizenship rights. In a cogent recent essay on the subject, Thomas Haskell has argued persuasively that the most critical variables in explaining the rise of academic freedom were the forces of professionalism and professionalization.¹²

Crucial to contextualizing Coulter’s articulation of the pure ideal of a German (-American) research university was the fact that his presentation came at the end of the first stormy decade of the University, near the conclusion of Harper’s presidency. The first decade of Chicago’s history provided numerous opportunities for the faculty and administration to work out the practical limits of the ideal of academic freedom. The most notable episode in the early years of the University involving academic freedom was the case of Edward Bemis. Bemis was a young associate professor of political economy whom Harper had recruited to teach in the University’s Extension Division in late 1892. He was hired over the objections of J. Laurence Laughlin, the incoming head of the Department of Economics, who opposed Bemis’s commitment to

12. Thomas L. Haskell, “Justifying the Rights of Academic Freedom in the Era of ‘Power/Knowledge,’” in *The Future of Academic Freedom*, ed. Louis Menand (Chicago: University of Chicago Press, 1996), 43–90 (especially 54).

historical economics.¹³ Bemis was a man of outspoken convictions on key social causes of the day, particularly the municipalization movement against private utilities and greater state regulation of the railroads. Bemis’s first quarter of teaching did not go well, and Laughlin’s continued lobbying of Harper to get rid of Bemis led Harper to ask Bemis in January 1894 to look for another academic position. Bemis refused to leave the University of his own accord, however, and in December 1894 his appointment was officially terminated. Finally, in October 1895 Bemis went public with a denunciation of Harper’s behavior, implying that he had been fired to please the whims of wealthy capitalists.

The latter allegation was given some force by Harper’s reaction to a pro-labor speech that Bemis had delivered in mid-July 1894 at the First Presbyterian Church at 21st and Indiana Avenue, in the midst of the great Pullman Strike, in which Bemis argued that “if the railroads would expect their men to be law-abiding, they must set the example. Let their open violations of the inter-state commerce law and their relations to corrupt legislatures and assessors testify as to their part in this regard.”¹⁴ The speech outraged local business leaders, and Harper soon learned of their displeasure. Harper wrote to Bemis that “your speech at the First

13. On several occasions during his negotiations with Harper, Bemis expressed serious concerns that Laughlin would block any future progress for him at the University. For example, he wrote to Harper in mid-February 1892: “I feel that there are some dangers in my going to Chicago University to work under a head professor (Prof. Laughlin) who not only belongs to such a different school of economics, but who, as it seems, is so opposed to my being at Chicago. I would not dare to take the risk were it not for my full trust in you as one who understands the situation and who will guard against the hindrances that may possibly arise.” Edward Bemis to William Rainey Harper, 19 February 1892, Box 12, folder 3, William Rainey Harper Papers, 1872–1938.

14. Bemis press statement, 9 October 1895, Box 11, folder 4, University of Chicago. Office of the President, Harper, Judson and Burton Administrations Records, 1869–1925. (Hereafter cited as HJBA.)

Presbyterian Church has caused me a great deal of annoyance. It is hardly safe for me to venture into any of the Chicago clubs. I am pounced upon from all sides. I propose that during the remainder of your connection with the University you exercise great care in public utterances about questions that are agitating the minds of the people.”¹⁵ Laughlin, in turn, wrote to Harper suggesting that “I fear the affair in Dr. [John] Barrows’s church has been a last straw to some good friends of the University, like A. A. Sprague. And in antagonizing Pres. Huglitt he is making very hard the establishment of a great railway interest in the University. And Bemis is wholly one-sided on this railway question. . . . At every turn in Chicago, in July, I heard indignant remarks about Bemis, and I had nothing whatever to do in introducing the subject.”¹⁶

The Bemis case was a jumble of conflicting motives and dubious public assertions. The most plausible evidence cited by Harper’s later critics involve the above-cited letters that Laughlin and Harper wrote concerning Bemis, which seem to imply a concern about the effect that Bemis was having on University fund-raising among wealthier, capitalist circles in the city. Certainly, after he had been terminated, Bemis went public in early October 1895 with complaints about the way Harper had presented the case in private and in public. Bemis was convinced that Harper had fired him to pander to wealthy conservative donors or potential donors, and then sought to becloud his true motives with rhetoric about Bemis’s incompetence.¹⁷ Harper responded by

15. Ibid.

16. J. Laurence Laughlin to Harper, 6 August 1894, Box 11, folder 4, HJBA.

17. Bemis press statement, 9 October 1895, published in the *Chicago Times-Herald*. Another similar statement was published in *The Kingdom*, October 11, 1895. Years later, Bemis would repeat these allegations in a letter to Upton Sinclair, alleging that Harper “informed me then and in subsequent conversations that my attitude on public utility and labor questions was the cause [of his dismissal], and that if he cared to talk about the reasons for my dismissal, I could not secure any other college position in the country.” See Upton Sinclair, *The Goose-Step: A Study of American Education* (Pasadena, CA: printed by author, 1923), 244–45.

releasing a statement drafted by Professors Albion Small and Nathaniel Butler that argued that Bemis was dismissed for reasonable cause, that the University had not been influenced by outside pressures, and that Bemis had shown himself incapable of generating sufficient student interest. He was in a word “not qualified to fill a University position.” Privately, Harper steadfastly insisted that Bemis had shown himself incompetent to serve as a permanent member of the faculty.¹⁸

Subsequent scholarship on the Bemis case has been generally hostile to Harper, adjudging his motives and actions as at best confused and as at worst duplicitous. Indeed, Harper’s treatment of Bemis has generally merited the scorn of scholars of academic freedom. Richard Hofstadter and Walter Metzger, who wrote a classic study of academic freedom from the 1890s to the 1950s, assessed Harper’s role as being “uncharitable, curt, and uncandid,” while Harold Bergquist accused him of “presidential hypocrisy.”¹⁹ Mary Furner has argued that “Bemis was probably costing the University donations, and Harper was expanding the University in advance of his funds. Given the wave of sympathy that Bemis’s accusations had evoked and the president’s responsibility for maintaining an acceptable image, Harper’s actions were understandable if not admirable.”²⁰

18. Harold E. Bergquist Jr., “The Edward W. Bemis Controversy at the University of Chicago,” *AAUP Bulletin* 58, no. 4 (1972): 389; and “A Statement by Professors Small and Butler,” Box 11, folder 4, HJBA. This was released in mid-October 1895, after Bemis went public.

19. Richard Hofstadter and Walter P. Metzger, *The Development of Academic Freedom in the United States* (New York: Columbia University Press, 1955), 431; Bergquist, “The Bemis Controversy,” 392.

20. Mary O. Furner, *Advocacy and Objectivity: A Crisis in the Professionalization of American Social Science, 1865–1905* (Lexington: University of Kentucky Press, 1975), 182; see also Clyde W. Barrow, *Universities and the Capitalist State: Corporate Liberalism and the Reconstruction of American Higher Education, 1894–1928* (Madison: University of Wisconsin Press, 1990), 189–90.

At a distance, lacking an evidentiary smoking gun, it is difficult to judge whether a convergence of motives on Harper's part may have been in play—the senior faculty's hostility to Bemis and Bemis's inadequate teaching record may have played significant independent roles in Harper's decision, along with the obvious hostility of potential donors to Bemis and Bemis as an impediment to future fund-raising—or whether the issue of Bemis's teaching record and his alleged incompetence were merely excuses on Harper's part to be rid of an outspoken and inconvenient junior faculty member who was alienating wealthy donors. Harper steadfastly argued, as he did to Arthur Edwards on August 1, 1895: "Why does Bemis leave? Because he was found to be incompetent for the work to which he was appointed."²¹ In a statement prepared for the executive committee on August 20, 1895, Harper insisted that no one had pressured him to terminate Bemis, and also acknowledged the power of the issue of academic freedom: "It is clear that a serious injury will be done the cause of higher education if the impression should prevail that in a University as distinguished from a college there is not the largest possible freedom of expression—a freedom entirely unhampered by either theological or monetary considerations."²²

That Bemis was not a regular member of a regular department was crucial, since even in the early days of the University, departmental structures did function as solidarities that could protect faculty members who took controversial positions. Conversely, the determined opposition of senior faculty members was bound to constitute a grave impediment to the professional success (if not professional survival) of a

21. Harper to Arthur Edwards, 1 August 1895, Box 11, folder 4, HJBA. J. S. Dickerson, editor of *The Standard*, urged Harper (letter of August 30, 1895) to make a public statement on the case, because to continue to be silent would simply confirm the accusations made by the other side, but Harper refused, arguing that "I am sure that you will see that it is best in the long run for all concerned to ignore such charges. We should have our hands full if we undertook to answer everything that is said." Harper to J. S. Dickerson, 4 September 1895, *ibid.*

22. Statement read to the Executive Committee, 20 August 1895, *ibid.*

junior colleague. Unfortunately, Bemis not only faced the outright hostility of Laughlin, but as Mary Furner has demonstrated, the powerful head of Sociology, Albion Small, also demonstrated little sympathy toward the young economist once the case became public, other than urging him to temper his public statements.²³ This led Bemis on January 12, 1895, to complain to Richard Ely that "with Prof. Small jealous and afraid of the trustees & the feelings of Laughlin, Harper is left free under the pressure of the trustees & moneyed men & Laughlin to go back on all his pledges to 'stand by' me."²⁴

As Daniel Meyer has rightly pointed out, the Bemis case was but one of several similar cases involving aspects of academic freedom that afflicted the early University. When a senior historian, Hermann von Holst, spoke out against American imperialism, Harper might grimace but there was ultimately little to be done.²⁵ In the case of a marginal faculty member like Bemis the outcome was rather different. Harper was clearly caught between a desire to preserve the reputation of the University among wealthy patrons, who were financial supporters and for some of whom Bemis was anathema, and the right of a faculty member to address controversial issues in and outside of the classroom. He would not be the last president to face this stubborn dilemma.

In the midst of the Bemis case, Harper tried to restore confidence that he did, in fact, subscribe to the idea of academic freedom and issued a public declaration to that effect in June 1895. Harper insisted that "any statement to the effect that the University has in any way restricted the liberty of its professors in the declaration of their opinions, or in the

23. Furner, *Advocacy*, pp. 177–180. In public Small staunchly defended Harper and the University, arguing that Bemis's academic freedom had not been involved. In private he demonstrated little sympathy with the (from his perspective) errant young social scientist whose radicalism might bring discredit on the social sciences at Chicago in general.

24. Quoted in Furner, *Advocacy*, 177–78.

25. Daniel Lee Meyer, "The Chicago Faculty and the University Ideal: 1891–1929" (PhD dissertation, University of Chicago, 1994), 171.

performance of their duties as free citizens, I declare to be absolutely false.” Yet Harper also added that “care however should be taken not to confound personal privilege with official duty, not to mistake popular pleading for scientific thought.”²⁶ This latter qualification—professors were free, as long as they maintained scientific logic, objectivity, and propriety—was also the core idea behind a more extended statement by Harper on December 18, 1900. Here Harper again asserted the perfect freedom of the faculty and the unwillingness of the University to permit donors to “interfere with the administration of instruction,” but also he warned that

a professor is guilty of an abuse of his privilege who promulgates as truth ideas or opinions which have not been tested scientifically by his colleagues in the same department of research or investigation. A professor has no right to proclaim to the public as truth discovered that which is yet unsettled and uncertain. . . . The university is no place for partisanship. From the teacher’s desk should emanate the discussion of principles, the judicial statements of arguments from various points of view, and not the one-sided representations of a partisan character. . . . A professor abuses his privilege of freedom of expression of opinion when although a student and perhaps an authority in one department or group of departments, he undertakes to speak authoritatively on subjects which have no relationship to the department in which he was appointed to give instruction. . . . A professor abuses his privilege of freedom of expression of opinion when he fails to exercise that quality, which it must be confessed in some cases the professor lacks, ordinarily called common sense.²⁷

26. “The Statement of the President of the University,” *Quarterly Calendar* 4, no. 1 (August 1895): 15.

27. William Rainey Harper, *University of Chicago Record* 5 (1900–01): 376–77.



Harper was clear that none of these circumstances were grounds for dismissal (which were restricted to immorality and incompetence), but the catalog was telling about Harper's firm dedication to the good name of the University. In a word, as Daniel Meyer has observed, Harper felt a "fundamental ambivalence" about the idea of academic freedom.²⁸

Moreover, Harper's invocation of what Richard Hofstadter and Walter Metzger later called the norms of "competence" and "neutrality" (or objectivity) afforded at best a temporary solace, for most faculty at Chicago could easily generate competent, authoritative scholarship and still come to highly controversial conclusions, and many of the later controversies that we would face in the twentieth century focused not on the scholar's competence or good intentions, but rather the putative radicalism of his ideas and statements even allowing for such competence and good intentions.²⁹ Paul H. Douglas, for example, was an effective political radical because of his scholarly expertise, not in spite of it. In fact, on one level Harper's precepts had the virtue of rushing through open doors, since they avoided the really hard question of the limits to which the University would go to protect the liberty of scholars to speak out in unfashionable, experimental, and otherwise partisan ways.

What did most senior faculty think of these problems? Richard Storr has implied that, in the case of tenured faculty, the sense emerged early on that the University would have to put up with whatever embarrassment errant faculty might cause for the greater sake of the academic freedom of everyone.³⁰ This is borne out in a vote that the University Congregation, a representative body of the general faculty, took in articulating an unequivocal reaffirmation of academic freedom on June 30, 1899, which came after the majority rejected a proposal from

28. Meyer, "The Chicago Faculty and the University Ideal," 168.

29. See Hofstadter and Metzger, *Academic Freedom*, 402–3.

30. Richard J. Storr, *Harper's University: The Beginnings* (Chicago: University of Chicago Press, 1966), 96–99.

Professor Thomas Chamberlin that would have emphasized the responsibility of faculty members to worry about the good name of the University. Chamberlin had proposed that "while it is the privilege of every member of the University to entertain whatsoever opinion he may choose concerning controverted questions of public interest, and to express that opinion in any proper way and on any proper occasion, it is nevertheless desirable that great care should be taken to avoid involving the University, even by remote implication, in such controverted matters. Resolved, that all actions and expressions of opinion on such subjects should be scrupulously dissociated from all University relations, so far as possible. Resolved, that by such scrupulous regard for the good standing of the University in the opinion of all classes real freedom of speech and of action will be promoted." A group of faculty led by William Gardner Hale and Albion Small modified Chamberlin's motion, proposing a text that resolved that "the principle of complete freedom of speech on all subjects has from the beginning been regarded as fundamental in the University of Chicago, as has been shown both by the attitude of the President and the Board of Trustees, and by the actual practice of the President and the professors[;] that this principle can neither now nor at any future time be called into question[;] that it is desirable to have it clearly understood that the University, as such, does not appear as a disputant on either side upon any public question; and that the utterances which any professor may make in public are to be regarded as representing his own opinions only."³¹ The last clause was

31. *Minutes of the Congregation* (Chicago: University of Chicago, June 30, 1899), 101, 109–111. J. Laurence Laughlin wrote to Harper expressing opposition to Chamberlin's motion, suggesting that "it seems to be a covert attack on those persons who have recently expressed opinions on public questions and who hold official connection with the University." Letter of June 28, 1899, Box 11, folder 4, HJBA. Chamberlin, in contrast, argued that "the right exercise of freedom is a condition of its continuance. Anarchists [are] the worst foes to freedom. A restrained exercise of freedom is the condition of the highest freedom If the staff [of the University] habitually take part in partisan issues, patrons will insist that their side of these issues be taken." Memorandum, n.d., Box 3, folder 3, Thomas Chrowder Chamberlin Papers, 1878–1932.

a significant revision of Chamberlin's meaning. Whereas Chamberlin put the onus for careful behavior on the individual members of the faculty, in the interest of preserving the moral and intellectual integrity of the University, Hale and Small claimed absolute prior neutrality for the University to begin with, a neutrality that could not, at least theoretically, be embarrassed, since it made no prior claims on the behavior of an individual scholar (other than that he or she should pursue his scholarly work at the highest level). Here were two rather different conceptions of the University as a community, and they were to have long-reaching implications well into the 1960s and beyond.

Although the Bemis affair ended badly for both Bemis and Harper, by the end of the Harper era a general opinion had emerged among most senior faculty that the University was a staunch defender of their academic freedom. Perhaps this was a natural outcome of the burgeoning levels of professionalization among the faculty as a group and the high national and even international distinction that the University enjoyed, leading to a kind of self-fulfilling prophecy.³² It also reflected the very cultural dynamics of the research environment that Harper had put in place. John Coulter's proud invocation of *Lehrfreiheit* in 1904 and the willingness of five eminent German scholars to journey to Chicago to receive honorary degrees showed that we had gained membership—provisionally at first, then quickly permanent—in the ranks of leading European research universities, and the rules of that club required a resounding affirmation of academic freedom, at least in theory. Later observers would romanticize this trope of a sturdy and independent-minded early faculty as having been critical to the cultural foundation of the University. As one colleague put it in 1965: "This place was organized by collecting strong-willed, individualistic types from other universities—men discontented with the narrowness of their settings. The issue then, and the issue here now, isn't liberalism versus conservatism

32. Furner, perhaps with less generosity, alludes to the importance of careerism as a motive. See *Advocacy*, 176–77, and especially 325.

at all, because we have some of the most outspoken conservatives among these figures. Perhaps what we have is intellectual criticism."³³

Granted this state of affairs, Harper himself remained conflicted over the limits and consequences of such freedom. His emphasis in 1900 on the need to contextualize freedom within a general habitus of professional responsibility and self-regulation was more than a gesture; it was an affirmation of his deeply felt need to protect the reputation of the University as an institution that had, perforce, to live in the world, even if it was not of the world.

The heart of the issue was a belief in absolute freedom of teaching and research on the one hand and solicitude for the institution that guaranteed those freedoms on the other.³⁴ Where was the line to be drawn? Or should anyone be licensed to draw such a line in the first place? Robert M. Hutchins, president of the University in the 1930s and 1940s, would answer this question by categorically rejecting that anyone could draw such a line, but the latter view continued to have powerful adherents within the University community. Indeed, tensions between an absolute belief in the sanctity of academic freedom and a solicitude for public opinion and the good name of the University were to continue, and grow in even greater importance in the decades after World War I.

33. "A Profile of the University of Chicago Prepared for the Ford Foundation," April 1965, Vol. 1, p. 5, Ford Foundation Archives, Sleepy Hollow, NY.

34. Storr, *Harper's University*, 96, 99.



THE INTERWAR PERIOD

HUTCHINS AND THE WALGREEN AFFAIR

Harper died in January 1906 at the young age of fifty. But the tensions embedded within the formulations of the question of academic freedom would continue. He was succeeded by Harry Pratt Judson, a conservative historian and political scientist who saw his mission to defend the University's fiscal security above all. Judson lived out his presidency in the long shadow of Harper, and it did Judson's long-term reputation little good.

Yet, the University after World War I soon became a different place from the early University. Judson's retirement in 1922 was coterminous with the beginnings of an era of further material growth and still greater academic distinction, and the larger and perhaps even more distinguished faculty of the interwar period enjoyed great collective and individual prestige.³⁵ Later observers would look back on the later 1920s and 1930s as having been a kind of "golden age" of scholarly distinction and prestige at the University of Chicago. In approving a \$25 million

35. The size of the University's faculty increased strikingly in the period after 1918. In 1903–04 we had 233 full-time faculty members, a number that had slowly increased to 285 by 1918–19. Yet by 1930–31 the size of the faculty had reached 533, for an 87 percent increase in the twelve years after the conclusion of World War I.

grant to the University in 1965 the staff of the Ford Foundation noted that “the intellectual excitement of Chicago in the Thirties was a period not only of scholarly ferment but of high productivity and high personal satisfaction for the faculty. There was created then a special kind of high academic morale, a chemical that became known as ‘The Chicago Spirit’. Having known this Golden Age, Chicago understandably wishes to recreate it.”³⁶ The luster of the University as a place for serious students, including serious College students, and serious research was bound to empower even more robust notions of faculty autonomy and faculty prerogatives, and these, in turn, were congenial nests for beliefs about academic freedom.

Such challenges as did occur to the idea of academic freedom rarely involved a faculty member’s teaching on campus, at least not until the Walgreen affair of 1935. Rather, the real terrain of contention was the faculty’s right to work in the outside world.

One colleague who tested these rights was Paul Douglas, a temperamental and opinionated, but passionate liberal economist.³⁷ During World War II Douglas served with distinction as an officer in the Marines,

36. See Clarence Faust to Henry T. Heald, 17 August 1965, Grant File PA 65-367, Ford Foundation Archives.

37. During the Walgreen investigation, Douglas prepared a biographical and intellectual sketch, which was not used in the public hearings, but a copy of which is in the Harold Swift Papers, 1897–1962, box 191, folder 9. Douglas joined the faculty in 1920 and was promoted in 1925 to full professor. For the first ten years of his career he was a member of the business school, specializing in personnel administration; thereafter he was a member of the Department of Economics, specializing in labor relations and economic theory. Douglas was an academic adviser on unemployment to Governor Franklin Roosevelt in New York State in 1930 and was appointed by Governor Gifford Pinchot to be the secretary of the Pennsylvania Commission on Unemployment. He also advised Governor Horner of Illinois in 1933 on the utilities legislation that was passed by the state legislature that year. In 1935 he styled himself as a “progressive and liberal” but denied that he was either a communist or a socialist.

winning several medals for his valor in combat, and he returned home to run for the US Senate in Illinois as a Democratic reform candidate in 1948. Once elected, he settled down into the role of a centrist liberal—strong on defense, but also strong on civil rights and social welfare programs. But in the 1920s and early 1930s Paul Douglas had a slightly different reputation as an ardent labor activist, a socialist, and a tough-minded urban reformer. For example, Douglas openly supported the candidates of the Socialist Party, Norman Thomas and James H. Maurer, in the 1928 presidential election, and he gave lectures expressing his admiration for the Soviet Union’s welfare policies and for the diplomatic recognition of the Soviet Union. One of Douglas’s special targets was Samuel Insull and Insull’s interlocking structure of utility companies in Chicago. Favoring the municipalization of key utilities, Douglas helped to create the Utility Consumers and Investors League of Illinois, a body that sought to expose what its supporters felt to be the “corruption” of Insull’s empire.³⁸

Douglas was both feared and disliked by key business interests in the city, who saw his activities as “subversive” and “fundamentally selfish.”³⁹ He was particularly disliked by Bernard Sunny and Albert Sprague, Loop businessmen who had professional interests in the traction companies. In 1929 Sunny and Sprague sent urgent appeals to Frederic Woodward, the acting president, and to Harold H. Swift, the chairman of the Board of Trustees, suggesting that Douglas be curbed. Woodward and Swift responded with unimpeachable defenses of Douglas’s right to speak his mind and to engage in civic work.⁴⁰

Douglas continued his opposition against Insull’s empire into early 1932, when before a stormy meeting of the Illinois Commerce Commission he challenged an attempt by Insull to float a \$40 million bond issue

38. See Paul H. Douglas, *In the Fullness of Time: The Memoirs of Paul H. Douglas* (New York: Harcourt Brace Jovanovich, 1972), 55–65 (especially 60–61).

39. Memorandum, 10 March 1933, Box 6, “Paul H. Douglas File,” Presidents Papers Addenda, 97-60.

40. Harold H. Swift to Albert Sprague, 6 November 1929, Box 6, *ibid.*

that would have essentially transferred money from a solvent Commonwealth Edison to several insolvent holding companies. For doing so Douglas was again tagged as embarrassing the University in the eyes of the local business community. Bernard Sunny wrote to Robert Hutchins in July 1932, complaining that “as open minded and generous as you are, I don’t think you can look over the record that Douglas has made in this case and decide that it reflects credit on him or the University. Nor would I trust him to instruct a class of students in such matters. After working with him for several months I should expect them to be a batch of first class ‘nuts’.”⁴¹

The impact of Douglas’s radical activities was compounded in late spring of 1932 by two other spurs. First was the decision of a local Socialist club on our campus to invite William Z. Foster to lecture at the University. Foster was the national candidate of the Communist Party on the fall 1932 presidential ballot, and his appearance on campus in late May 1932 led to consternation in many local business circles. At the same time, Amos Alonzo Stagg agreed to allow a Communist-sponsored Counter-Olympics to be staged on Stagg Field of the University in late July 1932, believing that the motives of the organizers were sincere and that it was wise for a society to permit the free expression of opposing views: “I think the South Park Commissioners have been very wise in setting up a rostrum in Washington Park where anybody may air his views on any subject, and I believe the University of Chicago has been equally fair minded in not frowning upon people possessing theories and ideas which may be regarded as radical. I have complete faith in the soundness ‘en masse’ of the American people.”⁴² Inevitably, these

41. Bernard Sunny to Robert Maynard Hutchins, 2 July 1932, Box 192, folder 3, Swift Papers.

42. Amos Alonzo Stagg to William V. Morgenstern, 14 July 1932, Box 190, folder 1, *ibid.* To Hutchins, Stagg wrote on June 28: “I am satisfied that they are not bad folks but they are off on a tangent. ... My judgment was that it was wise to let them hold these particular games because I could not see that any harm could come to the University offering the use of our athletic field

random, but converging incidents led to protests by local alumni and others, and Hutchins and Swift found themselves confronting what would prove to be an important, precedent-setting situation.

In the case of Foster, Hutchins prepared a standard letter to the protesters that was uncompromising in its defense of the faculty and of the students’ academic freedom. He argued that Foster had been invited to the University by a recognized student organization; that, as the student group had argued, Foster was to appear on the ballot of a US presidential election and students had a right to hear his views; that Foster was not a criminal; and that, in more general terms, “it is my view that as long as our students can be orderly about it they should have freedom to discuss any problem that presents itself and in which they are interested. This must include problems in science, religion, or in the area of our social and economic institutions. The establishment of censorship other than that which comes from faculty association should be avoided. ... In dealing with a situation such as the one at hand, we must give consideration to the problems that might arise directly out of an abortive effort at repression. I am convinced that cure lies through open discussion rather than through inhibition and taboo.”⁴³

Hutchins’s explanations did not sit well with various local notables, many of whom were successful businessmen or professionals and not a few of whom were also prominent members of the Republican Party. A prominent local lawyer, Arthur Galt, thought that “it seems quite evident to me ... that he personally wants the spread of at least pink ideas”; whereas Silas H. Strawn, another notable Chicago lawyer, complained that while he otherwise admired Hutchins “I do not agree with him about lending encouragement to the milling around of liberal minded students, aided and abetted by such creatures as Foster.”⁴⁴

and I thought it was better to give them an opportunity to explode in an athletic way than otherwise.” *Ibid.*

43. See the draft of a general letter, n.d., Box 192, folder 4, *ibid.*

44. Arthur Galt to Robert L. Stone, 5 July 1932, *ibid.*; Silas H. Strawn to Sunny, 29 June 1932, *ibid.*

Perhaps inevitably, the three cases—Douglas’s attacks on the Insull empire; the decision to allow the Communist William Foster to appear on campus; and Stagg’s decision to allow the International Workers Athletic Meet, staged under the auspices of the National Counter-Olympic Committee, to be held on our athletic fields—converged into a formal discussion of the issue of academic freedom among members of the Board of Trustees. The relevant standing committee of the board with jurisdiction over faculty issues was the Committee on Instruction and Research. On July 12, 1932, this committee had a protracted discussion of the issue of academic freedom, and the conversation was so controversial that Chairman of the Board Harold Swift not only marked the minutes confidential, but he also gave the participants letter codes instead of using their full names. The high point of the debate came in an exchange between Hutchins (“A”) and Thomas Donnelley (“B”), the vice president of the board and a prominent Chicago businessman;

“A” [Hutchins] referred to the fact that a number of communications had been received within the past few weeks with respect to the following:

- (1) A speech in Mandel by Foster at a meeting held under student auspices at which general comment indicated that Foster had advocated overthrow of government by violence.
- (2) Alleged radical statements made before a commission recently by a member of the faculty (“X” [Paul Douglas]).
- (3) An application for the use of Stagg Field July 21 for Counter-Olympic games.

As to (1), “A” [Hutchins] indicated that thus far he had been unable to confirm through testimony of members of the faculty attending the meeting the report that the speaker had advocated overthrow of government by force.

As to (3), he had referred the application to Mr. Stagg for investigation, and after consideration of it, Mr. Stagg reported

that he thought it wise to allow the field to be used for this purpose and thus give the persons who had illusions about the conduct of the Olympic Games a chance to explode in an athletic way. In view of the fact that Mr. Stagg is by nature conservative and is also a director of the Olympic Games, it seems proper to proceed upon his advice.

As to “X” [Douglas], it will be recalled that he is on permanent appointment and, therefore, can be removed under the Statutes only for incompetence or misconduct. The best method of determining whether “X” is guilty of either of these two respects would seem to be to have any charge considered by persons in his field who are able to give competent judgment. If charges are brought forward by any competent person, “A” proposed to have such charges considered, including all the evidence on both sides, and later reviewed by this Committee. Thus far, all the letters received on this case, with the exception of one, have been anonymous. Thus far, there have been no charges on moral grounds. “X”’s field is Political Economy with special reference to labor problems.

“A” stated that as to the appearance of extremists in the gatherings at the University, he felt that it is in the interests of education to permit any person to present his case rather than to incur the possibility of seeming to prevent students and others in the University community from hearing all sides on an issue; that the effect on students of Foster’s talk seemed anything but favorable to the speaker, and that the best way to dispose of illusions of this sort is to let people see them in person rather than merely to read their writings or hear them over the radio.

As to the application for use of Stagg Field, he believed that Mr. Stagg’s judgment is correct, and that the occasion is likely to prove to be entirely harmless and merely an expression of the belief of this group that the Olympic Games are run on class lines.

“A” stated that he was reporting these matters for the information of the committee and inquired as to whether there was any desire to have the situation reviewed by the Board.

“B” [Donnelley] stated that he felt strongly that there was a difference between academic freedom and academic license; that Foster was openly recognized as advocating the overthrow of government by force; that he thought it was all right to say to the students that the University has no objection to their listening to extremists of this sort if they insist upon it, but that in so doing they should arrange for other places than University buildings or grounds for such meetings, and that the University does not desire to give such persons the publicity which arises from meetings announced to be held in University buildings or to encourage them through permission to use the buildings, for the purpose of advocating destruction of government by force; and he believed that members of the faculty as citizens have a perfect right to do as they wish as individuals but not as members of the staff and thereby utilizing the name of the University to help them to give publicity to and spread their individual ideas; that at this time when everyone is trying desperately not to rock the boat, it is important to ask members of the faculty to avoid getting into the press in this fashion. He expressed his opinion that the fact might just as well be frankly recognized that the University must of necessity avoid the enmity of those who are in a position to aid the University.

“A” [Hutchins] inquired as to what “B” [Donnelley] would do if after making a request of members of the faculty as indicated, they should refuse either to accede or resign. “B” replied that in that event their services should be dispensed with.

“A” stated that it would, of course, be perfectly possible for him to have conversation with “X” as suggested, but that in such an event “X” would then have the further weapon to use that the University is a capitalistic institution and was trying to muzzle him. He stated that the head of a corporation had sent a representative to see him on the “X” matter and that he, “A,”

had recommended that the head of the organization in question might very properly invite “X” to lunch someday and talk the situation over with him, pointing out to him where his information was incorrect and his stand on these questions indefensible; this suggestion had been accepted but nothing had come of it. He called attention to the fact that the University had an opportunity to pass upon the desirability of “X” as a member of the staff at the time he was recommended for permanent appointment, that he could have been dropped without question when he was on temporary appointment, but now that he is on permanent appointment he can be dropped only for one or the other of the two reasons stated above.

“C” [William Bond] emphasized the point made by “B” [Donnelley] on the difficulty of faculty members disassociating themselves from the University. He also suggested that stenographic reports be made of talks given by persons of extreme views in University halls.

“D” [Harold Swift] suggested that he thought it would be entirely proper for “A” [Hutchins] to make the Board just such a report as he had made to the Committee and recommended that this be done.⁴⁵

This exchange is significant, not the least because Thomas Donnelley’s and William Bond’s concerns about the seeming excesses to which academic freedom had led—concerns which, from their perspective, were legitimate (Chicago was in the midst of a Depression, the University did need financial support, and it seemed foolish to Donnelley to gratuitously alienate potential wealthy donors)—were shared by several other members of the Board of Trustees. This meant that the leadership

45. “Confidential Memorandum concerning Matters Discussed at the Meeting of the Committee on Instruction and Research, July 12, 1932,” Box 192, folder 3, *ibid.*

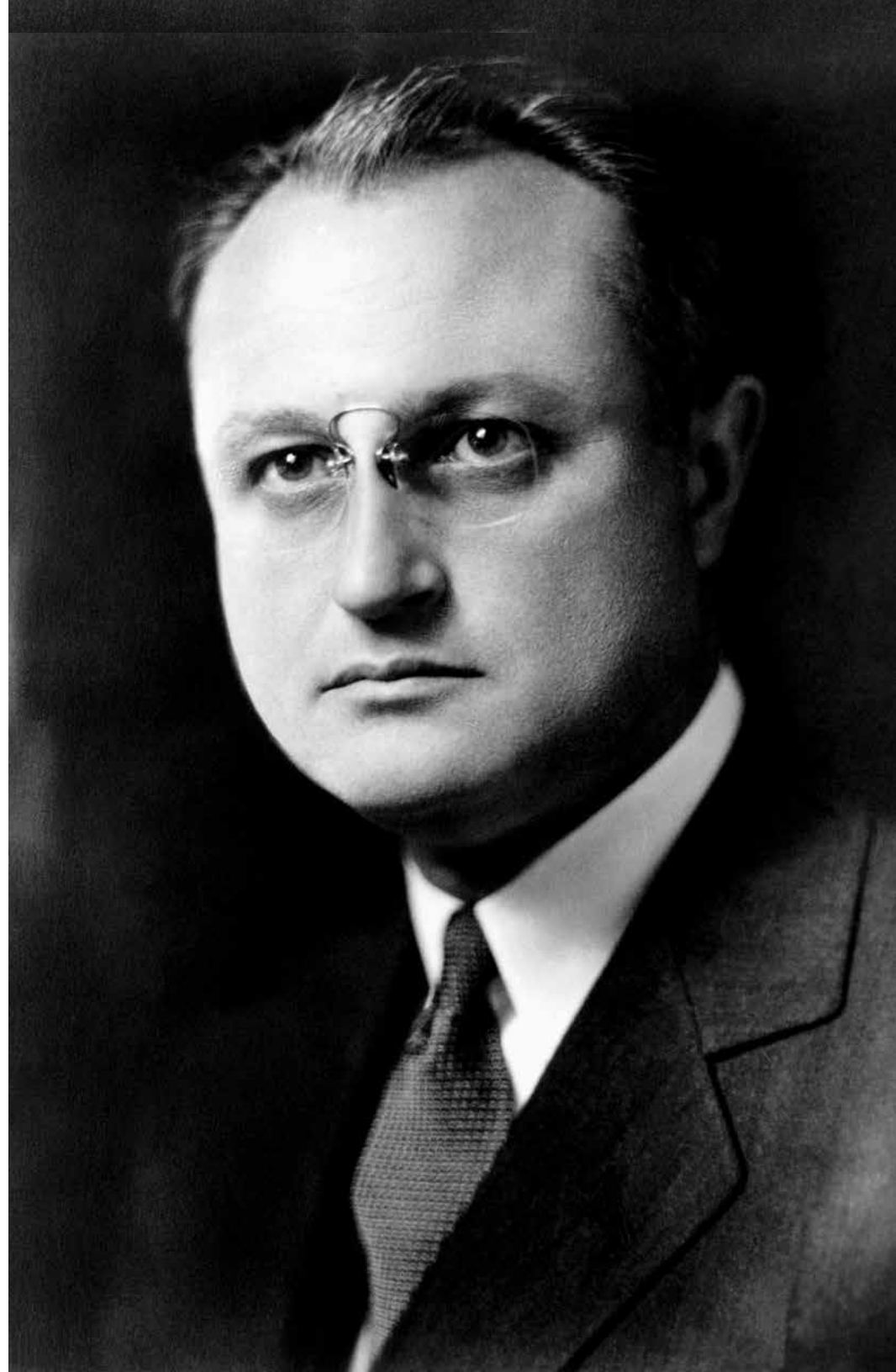
role of the chairman of the board became critical.⁴⁶ Harold Swift not only managed to bring the July 1932 debate to a civil conclusion, but already in these earliest incidents he emerged as a staunch defender of the idea of academic freedom. Three years earlier, in 1929, when the first protests had arisen concerning Douglas's political advocacy, Swift wrote to Albert Sprague that "I am inclined to believe the University would get into more trouble than they now have if they tried to muzzle their faculty people. If academicians can't have free speech, most of them won't play!—and an attempt to control one man would upset a hundred, who would stir up additional people."⁴⁷ Granted that this did not yet match the programmatic rhetoric employed by Hutchins—Swift was often given to try to soften the edges of opponents, rather than hit them over the head—but it was more than sufficient to lend legitimacy and protection to the young president's more doctrinaire arguments.⁴⁸

The 1932 collisions soon died down. Considerably relieved, Swift would write to Hutchins in later July that "Things are going pretty well

46. On Swift, see Dorothy V. Jones, *Harold Swift and the Higher Learning* (Chicago: University of Chicago Library, 1985). Swift was appointed chairman of the board in 1922 and served in that capacity until 1949. He was succeeded as chairman by Laird Bell in that year.

47. Swift to Sprague, 6 November 1929, Box 6, "Paul H. Douglas File," Presidents Papers Addenda, 97-60.

48. Often it was a question of subtle shadings of rhetoric. When local anti-Red agitator Harry Jung wrote to Swift complaining about Douglas's support for the anti-ROTC movement at the University of Illinois, Swift drafted a response that began with "I ... am sorry that Professor Douglas is making himself obnoxious" and then went on to defend Douglas's right to speak out. Fritz Woodward suggested to Swift that he change the opening phrase to "I ... am sorry if Professor Douglas is giving offense to the authorities of the University of Illinois," a revision that Swift accepted and incorporated in his letter. See Swift to Harry Jung, 1 April 1929, Box 192, folder 5, Swift Papers. Swift also asked his aides to keep a list of faculty who were "avowed socialists." He assumed Paul Douglas, Harry Gideonse, and Frank Knight plus Maynard Krueger and Robert Lovett would be on it. Memorandum, 1 December 1932, Box 190, folder 1, *ibid.*



at the University. ... There hasn't been anything in the papers for four days on the subject of academic freedom, and I am hoping the subject died down in the newspapers at any rate. There have been a couple of fine print articles about speakers at the University before the Liberal Club."⁴⁹ In truth, Paul Douglas was a rather minor thorn in the side of Chicago capitalism. If anything, Hutchins himself had managed to alienate many more potential contributors in the early 1930s with his opinionated editorials in a local newspaper denouncing the municipal School Board for political jobbery and his speeches in 1932 defending deficit spending and higher taxes as a way of coping with the Depression.⁵⁰ One trustee contacted Swift and urged him to tell Hutchins "not to get too deeply into the School Board situation ... because he thought it would accomplish little except hurt the University if he tried." Albert Sprague told Swift in turn that Hutchins's "attitude in connection with some civic matters creates a very unfavorable impression with a large number of citizens and that he is not popular with me and some of my friends."⁵¹ In his private papers Harold Swift actually filed a list of Chicagoans alienated from the University of Chicago, "chiefly in connection with Hutchins's speeches or socialism, or both."⁵²

Hutchins's perceived flippancy, his wisecracking, and his discreetly pro-Democratic and pro-labor sympathies rubbed many members of the Board of Trustees the wrong way. In mid-March 1935 the situation apparently exploded at a board meeting, following which Trustee James Stifler surveyed the opinions of a number of other trustees about

49. Swift to Hutchins, 29 July 1932, Box 49, folder 3, *ibid.*

50. In speaking before the Rotary Club, October 1932, Hutchins argued for the necessity of good government and a decent system of taxation, not a reduction in the cost of government. In December 1932 he spoke at the Union League Club in much the same vein. See the summary of these speeches in a memorandum prepared for Harold Swift, 28 September 1933, Box 49, folder 4, *ibid.*

51. See the memoranda on Swift's conversations with an unnamed trustee and Sprague, 17 July 1933, *ibid.*

52. Memorandum, 25 November 1932, *ibid.*

Hutchins. Although one must be cautious about such a memorandum, since it may have been colored by Stifler's own views, the results were quite striking. According to Stifler, Trustee Albert Sherer felt that "we have no chance of securing gifts until we have done something to mitigate the feeling against us. He blames Robert for a great deal of it." Trustee Sewell Avery "thinks we underestimate yet the extent and depth of the prejudice against us. ... He spoke pretty sharply about Robert as a man who had not lived up to his promise." Harry Gear argued that "business men can't understand academic freedom. They are used to an organization with discipline from the top down. They cannot believe that men like [Robert] Lovett exercise such freedom outside their sphere unless the President sympathizes. It will take considerable education of the public to counteract this." William McCormick Blair "thinks that Robert assumes that academic freedom argues its own case which, in Mr. Blair's opinion, it does not. Robert's attitude is, 'there it is, take it or leave it.' He thinks Robert should endeavor to win his case with his own trustees and be conciliatory." William Bond "thinks that we are seriously handicapped by prejudice against us on account of our 'radicalism' which, in his judgment is unjust. Robert has done a great job in cutting expenses and maintaining standards. Wishes that he was more careful about giving handles to our critics." Robert L. Scott "is hopelessly prejudiced against Robert on all counts—considers him a disaster to the University." Charles Goodspeed thought that "freedom of thought and expression are essential for the advancement of knowledge. However there is a great deal of difference between academic freedom and academic license. The former is constructive, the latter destructive. The problem of differentiating between the two is for the faculty, not for the Trustees. It is also the problem of the faculty to rectify the unjust impression the public has gained of the University because of the activities of a few of their members." Shades of Harper's doctrine of neutrality.⁵³

Even James Douglas and Laird Bell, strong trustee supporters of Hutchins, felt that he did not always keep in mind that, when he spoke,

53. These quotes are contained in a memorandum that James L. Stifler sent to Swift, 29 March 1935, Box 49, folder 6, *ibid.* This was a statement of opinion among many on the board as of the March 14 board meeting.

he was inevitably viewed as speaking on behalf of the institution, not just for himself. Bell felt that “men like Robert Morss Lovett greatly abuse their academic freedom and wishes they could be made to appreciate the fact. He thinks that Robert’s ‘wisecracking’ has lowered him in the estimation of many substantial friends of the University. He wishes that Robert when speaking in private would remember that he is President of the University of Chicago and invariably speak ex cathedra and as though he were addressing 1,000 persons.” James Douglas felt that the University could not make a “statement” and that “our real case with prospective donors is in the need to maintain our first class men and to provide them with equipment and books. Suggests that we talk less about organizational difficulties and more about the difficulties of our personnel. It is his opinion that much of the criticism of Robert is caused by Robert himself.”⁵⁴

Ironically, if the faculty had full academic freedom, perhaps the president did not, and that was exactly a point that Hutchins refused to countenance. Still, if Hutchins was the bane of some on his own board, he soon became a hero for academics and foundation officials around the country.⁵⁵

Clearly, the University faced serious issues here—many wealthy contributors were nervous about Hutchins’s extramural politics and his doctrinaire defense of academic freedom, whereas many alumni and faculty felt quite the other way around. Still, conservative rumblings against radical professors at the University of Chicago did not come into a truly dangerous political focus until the late spring of 1935. Then, a convergence of remarkable events brought the University into the national limelight as the target of an investigation of sedition on our campus. The main protagonists in this drama were Charles Walgreen, the local Hearst newspapers, and Congressman Hamilton Fish of New York State.

In early 1935 the University of Chicago found itself on a list

54. Ibid.

55. This is clear in the many letters that Hutchins received after his radio address in April 1935 and after his convocation address in June 1935.

released in a national radio address by Congressman Fish purporting that Communists had infiltrated Chicago along with other leading universities. Fish insisted that these universities were “honeycombed with Socialists, near-Communists, and Communists, teaching class hatred, hatred of religion, and hatred of American institutions, including the American flag.”⁵⁶ A decorated war veteran in World War I who had helped to create the American Legion in the early 1920s, Fish was a staunch isolationist who opposed US recognition of the Soviet Union and who went on to oppose American involvement in World War II. Finally forced into political retirement from Congress in 1944 by a coalition of Democratic and Republican forces, including Republican Governor Thomas Dewey, because of his pronounced isolationist sentiments, in the early 1930s Hamilton Fish became a darling of the Hearst press because of his strident anticommunism.⁵⁷

Fish’s accusations were greeted with derision by local University representatives. Dean of Students George Works observed that Fish didn’t know “what he’s talking about. Things don’t need to be very radical to disturb Fish.”⁵⁸ Yet Fish’s statements were covered closely by one of the newspapers owned by William Randolph Hearst, the *Chicago Herald and Examiner*, and thus gained notoriety. Like its sister publications in the Hearst syndicate, the *Herald* specialized in high-volume, flamboyant journalism, and when Hearst decided to launch a crusade against communism in March 1934 the *Herald* and its sister publication, the *American*, duly followed their owner’s lead. In the wake of

56. The radio address was delivered on February 19, 1935. It was reprinted in the *Congressional Record*, February 20, 1935, 2300–2. Fish’s radio talk in mid-February was a reprise of a statement he made in late December 1934, in which he asserted that Chicago was among ten leading universities (Harvard, Vassar, City College, Columbia, Smith, Wesleyan, Wisconsin, California, and the University of Washington, in addition to Chicago) that were hotbeds of subversives.

57. See Anthony C. Troncone, “Hamilton Fish, Sr., and the Politics of American Nationalism, 1912–1945” (PhD dissertation, Rutgers University, 1993).

58. *Chicago Herald and Examiner*, 29 December 1934, 6, and 20 February 1935, 2, Box 190, folder 1, Swift Papers.

Fish's radio address, the local Hearst newspapers initiated their own anticommunist crusade by publishing accusatory stories about the political views and actions of two local University of Chicago faculty members, Frederick L. Schuman and Robert Morss Lovett.⁵⁹ The former was a young, ambitious international-relations scholar, and protégé of the powerful Charles Merriam; the latter a venerable English professor with a penchant for left-liberal and socialist causes. Neither was a communist, but each had strong left-wing sympathies and both were members of so-called "front organizations," and to many fearful people such distinctions were confusing and perhaps even irrelevant.⁶⁰

Hutchins responded to Fish's accusations in an eloquent speech on February 21, 1935, at an annual dinner for Chicago-area alumni at the Union League Club. Hutchins argued forcefully that "a university, if it is one, is seeking for the truth. Are we to say that it should seek the truth only of those matters which have no bearing on our daily lives? The free and independent exercise of the intelligence is the means by which the truth may be discovered. . . . The answer to such charges against a university is not denial, nor evasion, nor apology. It is the assertion that free inquiry is indispensable to the good life, that universities exist for the sake of such inquiry, that without it they cease to be universities, and that such inquiry and hence universities are more necessary now than ever. The sacred trust of the universities is to carry the torch of freedom."⁶¹

59. See the *Chicago Herald* of February 24, 1935, 8; March 15, 1935, 12; and April 1, 1935, 2; and the *Chicago American* of March 13, 1935, 1–2. In the April 1 essay, Schuman was accused of assailing President Roosevelt, Secretary of State Cordell Hull, and the Hearst press.

60. On Schuman, see Steven J. Bucklin, "The Wilsonian Legacy in Political Science: Denna F. Fleming, Frederick L. Schuman, and Quincy Wright" (PhD dissertation, University of Iowa, 1993); for Lovett, see his autobiography, *All Our Times: The Autobiography of Robert Morss Lovett* (New York: Viking, 1948). Schuman submitted four memoranda on his life and work for the Walgreen hearings. See Box 191, folder 9, Swift Papers.

61. The speech was reprinted in *The University of Chicago Magazine*, March 1935, 171–72. At the annual Trustee-Faculty Dinner in January 1935 Hutchins

The Union League speech was the first of several important speeches that Hutchins was to make in 1935 on the issue of academic freedom, and, if alumni opinion was its object, it seems to have had the desired effect.⁶² Leaving nothing to chance, the University's alumni magazine also published in early 1935 an urbane, not-at-all defensive response to Fish written by John P. Howe, Class of 1927, citing the scholarly and community work of faculty members like Paul Douglas, Charles Merriam, Harry Gideonse, and others in a positive and affirming manner.⁶³ If well-meaning rhetoric, inviting the alumni to join the faculty in a solidarity of pride, could reassure the wider world, surely this was the stuff to do it. However, neither Hutchins's nor Howe's self-confident words prepared the University for the jolt from the world of yellow journalism that was about to hit it, in the person of Charles R. Walgreen and his self-appointed patrons in the local Hearst press.

On April 10, 1935, the owner of a national chain of drugstores headquartered in Chicago, Charles R. Walgreen, wrote to Hutchins, informing him that he was withdrawing his niece, Lucille Norton, from the University because she had been insidiously exposed to "Communist influences." Walgreen further asked why "one of our country's leading universities . . . should permit even to a limited degree, seditious

had observed that "with a reduced income and a confused organization a university may still struggle to greatness. Without freedom a university is gone, just as the German universities have now disappeared. With a mediocre faculty a university might just as well be gone. We who are the inheritors of the great tradition of this university, who breathe the freest air on this continent, must see to it that as the years go by the standard of the University of Chicago does not falter." Box 357, Folder 13, Robert Maynard Hutchins Papers, 1884–2000.

62. A year later Hutchins's published several of these speeches as a collection, titled *No Friendly Voice* (Chicago: University of Chicago Press, 1936).

63. John P. Howe, "News of the Quadrangles," *University of Chicago Magazine*, February 1935, 150–54.

propaganda under the guise of academic freedom.”⁶⁴ Within twenty-four hours copies of Walgreen’s letter had found their way to the editorial offices of all major Chicago newspapers. The two Hearst papers—the *Herald and Examiner* and the *American*—turned the story into front-page news, with large headlines screaming “Walgreen Takes Niece from U. of C. to Avoid ‘Communitic Influences’,” followed the next day by “Walgreen Offers to Prove U. of C. Red ‘Influences’ at Open Inquiry.”

Lucille Norton was an eighteen-year-old student who had come to Chicago from Seattle some months earlier to live with Walgreen and his family and attend the University of Chicago. She had graduated from high school in June 1934. In the academic year 1934–35 she enrolled in three courses: Social Sciences I, Music, and English Composition. In the first and last courses she encountered texts authored by Communists or Soviet authors, since Marx’s *Communist Manifesto* was the subject of one of the lectures in the Autumn Quarter of the social-sciences sequence, and one exercise of the English composition course used a short selection from Ilin’s *New Russia’s Primer*, the purpose being to encourage students to think critically about the exaggerated claims, false assumptions, and sensational rhetoric used in that text.⁶⁵

In both courses students were expected to read a large number of other original documents and texts, so that these two exposures to “Communism” were little more than episodic, and from subsequent testimony that emerged during the investigation it is absolutely certain that the instructors used both texts in a scholarly manner with no intention of propagandizing on behalf of the Soviet system.⁶⁶ According to

64. Charles R. Walgreen to Hutchins, 10 April 1935, Box 191, folder 5, Swift Papers.

65. The design and purpose of the English composition course and the specific uses to which the *New Russia’s Primer* were put were carefully explained by Professor Foster Flint during the first session of the Walgreen investigation. See her testimony in the Laird Bell Papers, 1928–1965, box 8, folder 7.

66. The required readings for Social Sciences I included works by J. L. Hammond and Barbara Hammond, Franz Boas, Herbert Hoover, Walter Lippmann,

Walgreen, however, even these small doses were far too much for his naive, innocent niece who, before she had enrolled in the University, had not a clue about communism, but who, after attending these lectures and discussions, came back to Walgreen’s house and his dinner table and began to express herself in ways that Walgreen found untoward if not shocking, telling him that the family was a disappearing institution and that communism versus capitalism was the essential question of the day.

Why was Walgreen so open to the suggestion that his niece was being insidiously infected with communism? From statements that Walgreen made in the days that followed his initial letter to Hutchins, it seems clear that he had been reading or had heard about the accusations raised against Frederick Schuman in the Hearst newspapers, and since Schuman was not one of his niece’s instructors, it is plausible to assume that Walgreen’s information was coming from the conspiracy rhetoric purveyed by the Hearst press. Walgreen was, in other words, not the first and certainly not the last reader of yellow journalism who found his imagination greatly agitated by what he had read.⁶⁷

Robert Hutchins immediately responded to Walgreen’s letter, asking him to provide concrete information about “the instances of communistic influence and seditious propaganda by the faculty to which your niece has been exposed?” This letter too found its way to the newspapers. When Walgreen responded by asking for a public hearing, open to the press, before the Board of Trustees to elaborate his accusations, Hutchins peremptorily rejected this demand, insisting that for

R. S. Lynd and H. M. Lynd, H. C. McBain, Gilbert Murray, William Sumner, and numerous others.

67. On April 9, three University representatives met with Walgreen and two others for two hours to try to talk through the accusations. Aaron Brumbaugh later filed a memorandum on this meeting with Swift and Hutchins. In this document Walgreen is reported to have made broad accusations against Frederick Schuman. See “Report of a Conference between Messrs. Walgreen, Dart, Knight, and Messrs. Brumbaugh, Scott, and Kerwin,” Box 191, folder 5, Swift Papers.

forty-three years the University had “a clear record of public service and educational leadership. In view of that record, it sees no necessity of holding a public hearing when vague and unsupported charges are made against it. The University will ignore your criticism until it receives the evidence it has asked for.”⁶⁸

Now the Hearst newspapers and the *Chicago Tribune* quickly picked up the dispute and fanned it into a real fire. To the extent that the scandal gained traction, this was largely the work of the press, especially the *Chicago Herald and Examiner*, run by Victor Watson, which lavished buckets of ink on the topic.

Hutchins’s refusal to engineer a public hearing led a group of conservative Republican state politicians to take the matter in their own hands. On April 17, the Illinois Senate passed by a vote of 28 to 11 a resolution submitted by Senator Charles W. Baker of Monroe Center, Illinois, constituting a special committee to investigate “subversive communistic teachings and ideas advocating the violent overthrow of the established form of government of the United States and the State of Illinois” in “certain tax exempt colleges and universities in the State of Illinois.”⁶⁹ Since private universities also enjoyed tax-exempt privileges, the commission saw fit to make the University of Chicago its first (and, as it happened, its only) target. What Walgreen himself could not produce—a public hearing—Senator Baker, with full endorsement of the Hearst press, would now provide.

On May 14 the first of three investigative sessions held by the committee took place in Chicago.⁷⁰ The investigating committee consisted of five state senators, Richey Graham, chairman; Charles Baker, James Barbour, John Fribley, and Wilbur Hickman. Charles

68. Hutchins to Walgreen, April 11, 1935, and April 13, 1935, *ibid.*

69. “Is Communism Taught Here? State Senator Requests Probe of University Instruction,” *Champaign-Urbana Daily Illini*, April 17, 1935, 1.

70. The official transcripts are filed in Box 9, folders 1–9, and Box 10, folders 1–2, of the Bell Papers. A good summary is by John P. Rowe in “News of the Quadrangles,” *University of Chicago Magazine*, Midsummer 1935, 345–52.

Walgreen opened the hearings by testifying to the decline and fall of his niece’s morals and reciting the following dinner table conversation:

We were discussing Communism and capitalism, and lately I said to Lucille, “you are getting to be a Communist.” And she said, “I am not the only one, there are a lot more on the campus.”

I said to Lucille, “Do you realize that this means the abolition of the family, the abolition of the Church, and especially do you realize that it means the overthrow of our government?” And she said, “Yes, I think I do, but don’t the ends ever justify the means?”

“Don’t you realize that this means bloodshed?” Again, she said, “Yes, but how did we get our independence, wasn’t it by revolution?”

“Well, Lucille, are they really teaching you these things over at the University?” And she said, “No, I don’t think they are teaching it to us.”

“Are they advocating these things?” And she said, “No, not exactly.”

“Well,” I said, “where do you get all these radical ideas?” “Well,” she said, “we have a lot of reading on Communism”; and I said, “More than on about our own government?” and she said, “Oh, yes, much more, so far we haven’t gotten much of that.”

“Well, how about collectiveness, fascism, syndicalism, anarchy—did you get all those?” And she said, “Yes, they were explained to us in our classes and we were given much reading but mostly on communism.” And she said, “Anyway, isn’t communism vs. capitalism the issue? At least it is at the University.”⁷¹

Walgreen then explained that he was particularly distressed that students in the English composition course had been assigned passages from the *New Russia’s Primer* to read, concluding that “I am persuaded that the methods used in the Social Science and English courses already referred

71. Statement of Charles R. Walgreen, Box 8, folder 4–5, *ibid.*

to, evidence a subtle and insidious design to impress by indirection, Communist views on the student mind.”⁷²

Following Walgreen, and after a brief introduction from Harold Swift, Robert Hutchins gave a forceful defense of the faculty, arguing that he had examined all of the curricular materials in question and found them balanced and lacking in any intent to indoctrinate any political or social point of view, that the University and its faculty had a long and distinguished record of civic service, that Chicago also had the best social-science group in the nation, and that its good name must not be besmirched, lest the quality of the University suffer. Hutchins was then followed by Professor Charles E. Merriam, who cited his extensive involvement in city government and civic affairs in general and then delivered a trenchant attack on the University’s accusers: “I charge these persons, wittingly or unwittingly, with attacking one the strongest forces for the stabilization and maintenance of our civilization—our University. I charge them with efforts to break down and destroy one of the greatest centers of civic instruction and governmental research in America. I charge them with attempted grand larceny of human reputation and achievement.”⁷³

The second and third hearings of the investigation were all down hill. The second session on May 24 began with Joseph B. Fleming, the attorney for Walgreen, reading several passages from the student newspaper, the *Chicago Maroon*, which, he claimed, showed the campus as a hotbed of communism, and offering political handbills, pamphlets, and newspaper clippings to prove that Frederick Schuman and Robert Lovett in particular were communist sympathizers. Frederick Schuman, Harry Gideonse, and Robert Lovett then took the stand, with Schuman and Lovett defending their progressive political views and Gideonse explaining that to use the *Communist Manifesto* in class did not make the teacher a communist, and that out of 5,987 pages of assigned reading in the social-sciences course, no more than fifty-five pages (less than 1 percent) could possibly be associated with communist theory or communist

72. Ibid.

73. Statement of Charles E. Merriam, Box 8, folder 7, *ibid.*

authors. Moreover, in direct contradiction to Walgreen, Gideonse proved that over half of the readings (about 3,000 pages) directly related to American government and institutions.

Then, in a much-awaited appearance, Lucille Norton testified. Under oath she agreed with her uncle that before coming to Chicago she “had little knowledge of or interest in communism,” but that she had been exposed to communism in lectures and readings. Under questioning by the committee’s attorney, Russell Whitman, she then lamely admitted that she had encountered no specific efforts to induce her into believing in communism:

Russell Whitman: Now, you have spoken about this business of indoctrinating. I suppose, when you began to favor communist trends, you did not detect that any special effort had been made to induce you to favor them, is that so?

Lucille Norton: That is true, and I did not know that when I was taken out of the University.

Whitman: And, therefore, you cannot point out particular incidents?

Norton: No, I cannot ...

Whitman: Now, among that list of professors, can you identify any one whose instruction had this influence on your mind, or did they all have it, or, can’t you tell?

Norton: Well, Wirth had nothing to do with it, because the second quarter’s work had nothing to do with it. [Harry Gideonse taught the first quarter, Louis Wirth the second quarter, and Jerome Kerwin the third quarter of the social-sciences course.]

Whitman: That eliminates him, then.

Norton: That eliminates him. But as to the others, I could not say.

Whitman: With reference to the disintegration of the family, do you attach your instruction on that point to any particular professor or his lecture?

Norton: I don't believe I could say that. We had that in readings, and it was, I would say, one of the threads running through the whole course.

Whitman: And would you ascribe any of the feeling or judgment that you formed there to your talks with groups of young gentlemen and young ladies in your class?

Norton: Yes, I would, with communism.

Whitman: But that you do not refer to as indoctrinating in the sense in which we are using it here, do you?

Norton: I do not.⁷⁴

This gripping testimony was followed by that of a fifty-eight-year-old returning student, J. W. Clarke, who described himself as “an American born citizen of American parents of Scotch extraction,” who “give[s] way to no man in real patriotism and love of my country.” After mentioning that he had four children, that he was the assistant manager of a large department in a nationwide corporation (“that shows I have a job”), that he was a lieutenant in the Illinois militia, and that he despised the Reds and was “for American individualism and against all forms of forced regimentation,” Clarke proceeded to report that he was a returning student in Harry Gideonse’s social-science course. He then cited “voluminous” class notes to prove that Gideonse (whom he greatly admired) was, in fact, highly critical of communism, that he had actually ridiculed communism, and that “Mr. Gideonse has tried to get his classes to think and not soak up like a sponge the things they hear and read.” Clarke also allowed that “if this man Gideonse is a Socialist or Communist, then so were Jefferson, Jackson, Theodore Roosevelt and Hoover, and by the same token, Franklin Roosevelt would be a Nihilist.”⁷⁵

During the third hearing on June 7 the atmosphere often bordered

74. Statement of Lucille Norton, Box 8, folder 8, *ibid.*

75. Statement of J. W. Clarke, *ibid.*

on the ludicrous, with a very bored Hutchins sitting through verbose denunciations of the University by the likes of Harry A. Jung, the founder and chairman of the American Vigilant Intelligence Federation, and Elizabeth Dilling, whose publicity handouts described her as a modern “Joan of Arc” of Kenilworth, Illinois.

Dilling, a self-anointed crusader against world communism who presented the committee with a 102-page pamphlet called *How “Red” Is the University of Chicago* (this was compiled by one Nelson E. Hewitt), told the committee that “I devote my entire time to the study of the Communist Socialist movement and fighting against it by writing and lecturing, because I would rather be dead than see its principles triumph in the United States.”⁷⁶ Reading a long list of random references which, she alleged, demonstrated that the University was a hotbed of communism, she then proceeded to denounce Hutchins, along with Walter Dill Scott of Northwestern University, Senator William Borah, Louis D. Brandeis, Ambassador William Dodd, John Dewey, Harold Swift, and Jane Addams as Communist sympathizers. Of Swift she said, “Now, there is a cream puff type that would have his throat cut if this Communism were put over. You know, it takes the second generation of millionaires, they like to play with Communism. You know, Senator, some of our rich men turn to booze, some to chorus girls, some like to play with revolutions, something theoretical.” She was convinced that “it is certain that the University of Chicago is diseased with Communism and that its contagion is a menace to the community and the

76. Testimony of Elizabeth Dilling, Box 8, folder 9, *ibid.* Dilling herself had published a strange book, of three hundred-plus pages, titled *The Red Network* (Chicago: privately printed, 1934), that asserted that a number of leading Americans, including many prominent Chicagoans, were allies of or sympathizers of the Communists. She had previously published a shorter, sixteen-page tract, *Red Revolution: Do We Want It?* in 1932, in which she accused numerous local notables of being Pink or Red and directed much of her ire at Northwestern University, which she charged with a “betrayal of the Christian faith which founded it, of those capitalists who endow it, and of the nation whose future citizens it trains, in allowing a body of dangerous ‘Red’ teaching there.” See Swift Papers, box 192, folder 4.

Nation.” Comic relief, in the form of fisticuffs, came when one bored audience member leaned over to the gentlemen next to him and asked if Mrs. Dilling should not be more accurately named Mrs. Dillinger, whereupon the second man, who turned out to be Mrs. Dilling’s gallant husband, punched the first in the nose. General mayhem ensued, much to the delight of the newspaper reporters assigned to cover the story.

Dilling was followed by Jung, a small-time, unemployed fascist and anti-Semite who had invited himself as a witness. Jung had recently been accused by a congressional committee of publishing and circulating “great masses of literature tending to incite racial and religious intolerance” and ended up devoting much of his testimony to feeble efforts to defend his own reputation.⁷⁷

After the committee heard from James Weber Linn, a longtime faculty member in English who claimed he had known over twenty thousand undergraduates in a career at the University spanning thirty-six years and that “I have never known one who even admitted that he was a Communist, or in favor of the over-turn of this government of any other government by force and violence,” Hulen Carroll, a disgruntled conservative student, described his conflicts with the University administration and fellow students. Carroll’s generally pathetic testimony was then discredited by two fellow students, Ellmore Patterson, the president of the senior class, and John Womer, president of the Interfraternity Council, as well as by Assistant Dean of Students William Scott. After a brief reappearance of Hutchins, who was asked by the senators how much Rockefeller Chapel had cost to build, the hearings ended, having exhausted the subject and certainly the participants.

In total ten representatives of the University testified, including the final two students who had been carefully selected by University public relations representatives for their good cheer, honest appearance, and loyalty of vision. Not only did the hearings preoccupy our own staff, but the University even hired an outside public relations consultant, Howard

77. Box 1, folder 7, of the Office of Public Relations, Political Investigations Files, contains detailed information on Jung’s activities.

G. Mayer, whose job it was to try to orchestrate positive coverage of the hearings and to cultivate the non-Hearst press.⁷⁸

The Walgreen hearings elicited a united front of support for the position taken by Hutchins. Senior faculty rallied to the cause. During alumni reunion weekend in early June 1935 five senior faculty spoke eloquently on the issue of academic freedom, and significantly none of the five made any mention at all of German *Lehrfreiheit* or European educational values. The issue had been totally Americanized by 1935, and, if anything, the best features of American civic culture—democracy, pluralism, tolerance, “free trade in ideas” (Justice Holmes, as quoted by one of the speakers, Quincy Wright)—now became a general warrant for academic freedom.⁷⁹ Student leaders also rallied to support the University. Eleven seniors in prominent positions (the editor of the *Chicago Maroon*, the captain of the football team, the president of the Interfraternity Council, etc.) wrote a joint letter asserting that they had never encountered a faculty member who sought to “impose upon students communist beliefs” and that “we believe that the University of Chicago has a reputation for intellectual tolerance and superior education equaled by few institutions of higher learning.”⁸⁰

Still, Hutchins inevitably became the central focus of the University’s defense, and his tough-minded rhetoric that played well in liberal media circles afforded everyone else a central anchor point of defense. Even before the Walgreen hearings opened, Hutchins went on the offensive by delivering a remarkable speech on NBC radio on April 18, 1935, on the subject of “What Is a University?” Hutchins defined a

78. Mayer himself provided additional background color, by his efforts to befriend the local non-Hearst press. He later insisted that his efforts to orchestrate good feelings had played a significant role in the positive outcome of the investigation, a proposition that Swift rejected. Swift to Paul S. Russell, 23 July 1935, Box 191, folder 7, Swift Papers.

79. “What Is This Thing Called Academic Freedom?” *University of Chicago Magazine*, Midsummer 1935, 332–340. The participants included Gilbert A. Bliss, Hayard Keniston, Quincy Wright, Warder C. Allee, and Anton J. Carlson.

80. Students to Walgreen, 15 April 1935, Box 191, folder 5, Swift Papers.

university as a “community of scholars,” insisting that “it is not a kindergarten; it is not a club; it is not a reform school; it is not a political party; it is not an agency for propaganda.” Given this mission, the university was fundamentally dependent on protecting freedom of enquiry, freedom of discussion, and freedom of teaching. Lacking these freedoms, “a university cannot exist.” Hutchins also insisted that “the purpose of education is not to fill the minds of students with facts; it is not to reform them, or amuse them, or make them expert technicians in any field. It is to teach them to think, if that is possible, and to think always for themselves. It is of the highest importance that there should be some places where they can learn how to do it.” Hutchins’s forthright defense of the importance of academic freedom was all the more compelling, since it connected that norm not simply to the research mission of the university to discover new knowledge, but to its educational function as a transgenerational cultural portal guiding the young to creativity, self-reliance, and compassionate citizenship. That is, the mission of the university is not simply to discover truth, but to teach students how to understand the truth in all of its messy and controversial complexity and to encourage in them the intelligence, the good judgment, and the courage to act wisely in sustaining our democracy. Lacking full freedom the university and its members—students and faculty alike—can do none of these things.⁸¹

This speech, together with the articulate defense later provided by the faculty themselves, merited considerable public acclaim in academic and in progressive political circles. Paul G. Hoffman of the Studebaker Corporation wrote to Hutchins that “I have just finished reading the written report of your speech ‘What Is a University?’ I am delighted to have it because it sets forth with utmost clarity certain ideas which I have endeavored to make clear to business friends of mine who have been critical of activities within our universities. There is a certain paradox to me in the attitude of many business men who are clamoring for freedom of action, who at the same time would restrict freedom of discussion and speech. You are to be commended for the dignified

81. Hutchins, *No Friendly Voice*, 5–11.

manner in which you have met the unwarranted attacks upon the University.”⁸² David H. Stevens of the Rockefeller Foundation wrote that “I want to be one of the tribe to send congratulations on the stand reported as yours in the Sunday morning newspapers. I should like to write an article giving the reasons why I leave my son in the University instead of taking him out. I hope that things keep coming your way on this job with Walgreen, et al.”⁸³ Robert Mathews of the College of Law at Ohio State University wrote that “I have just read your broadcast ‘What Is a University?’ It’s magnificent. Whatever Chicago and [the University of] Michigan may have in common, it does not lie in their presidents! ...Yours is a courageous and telling blow at the greatest menace to liberal democracy.”⁸⁴ William A. Dyche of Northwestern wrote that “the Daily Northwestern published your broadcast. ... I have read and reread it. It is full of truth and common sense. You have given the cause of University education a great service. Keep it up.”⁸⁵ Marshall Field wrote to Harold Swift indicating his desire to create a scholarship in sociology and commenting that “I have admired so much, lately, the way the Trustees of Chicago University are establishing a tradition of academic freedom in teaching and inquiry.”⁸⁶ Colonel Frederick Devereux, who had a son in the College, wrote to Hutchins that his son “has not had his religion, patriotism, or his belief in the capitalistic system endangered either by what he has heard in the classroom or by his contact with your faculty. I happen to be an ardent militarist, a firm believer in the capitalistic system, a sincere Roman Catholic, and a detester of ‘bunk’—whether emanating from the drug store or the legislature. My son is of the same persuasion. He entered Chicago to get an

82. Paul G. Hoffman to Hutchins, 2 May 1935, Box 190, folder 4, Swift Papers. There are more congratulatory letters to Hutchins in box 190, folder 5.

83. David H. Stevens to Hutchins, 16 April 1935, Box 191, folder 5, *ibid.*

84. Robert Mathews to Hutchins, 28 April 1935, Box 190, folder 3, Swift Papers. See also Robert E. Crowe to Hutchins, 27 April 1935, *ibid.*

85. William A. Dyche to Hutchins, 26 April 1935, *ibid.*

86. Marshall Field to Swift, 2 May 1935, Box 190, folder 5, *ibid.*

education, which he appears to be getting. I am sure, and so is he, that he would not be getting an education if he could not obtain some ideas about both sides of many important questions. In fact, if every important question *was* settled, he could stay at home, read a few books, and bother me with his questions rather than your faculty.”⁸⁷ Nor were sympathetic voices in Washington silent. On July 1 President Franklin Roosevelt sent Hutchins a “private and confidential” note, saying that “you must have had a vile time with that inquisition. I sometimes think that Hearst has done more harm to the cause of Democracy and civilization in America than any other three contemporaries put together.”⁸⁸

In contrast to the sad denouement of the Bemis affair, which left Harper embarrassed and long on the defensive, Hutchins’s words and deeds in the Walgreen affair garnered him a spot on the cover of *Time* magazine in late June 1935, where he was idolized as one the “handsomest” presidents in the country and as having “the courage and vision to effect new plans.”⁸⁹ Moreover, in a surprising turn of events, Hutchins had the further satisfaction in 1937 of seeing a now somewhat repentant Charles Walgreen give the University \$550,000 to establish a visiting professorship/lectureship in American institutions.⁹⁰

Beyond Hutchins’ own efforts, Harold Swift’s role as chairman was also of crucial importance. Simply put, he stood solidly and stolidly behind Hutchins and the senior faculty. Swift’s many letters to detractors

87. Frederick Devereux to Hutchins, 28 May 1935, *ibid.*

88. Quoted in David Nasaw, *The Chief: The Life of William Randolph Hearst* (Boston: Houghton Mifflin, 2000), 514–15. Roosevelt’s break with Hearst came in August 1935, shortly after this note to Hutchins.

89. “Midway Man,” Education, *Time*, June 24, 1935.

90. Quincy Wright wrote to Hutchins on June 9, 1937: “I was indeed delighted to see in the June 6 number of the Paris edition of the *Herald Tribune* that Mr. Walgreen had manifested his repentance to the tune of \$550,000. This is certainly a tribute to the merits of the University as well as to your own tact and diplomacy. Let me congratulate you on it.” Box 18, folder 15, Quincy Wright Papers.

and supporters had a naturalness and thoughtfulness about them that rang true. To Richard K. Huey, a College alumnus, he wrote in late April 1935 that

the question in essence gets down to a matter of what is a university and what is academic freedom. This letter of mine will be very much shorted by the fact that President Hutchins gave a coast to coast radio talk [“What Is a University?”] on the subject last Thursday, and I enclose copy of it for your perusal. My own opinion is substantially the same as his. I think the purpose of a university is to study, discuss and report in the fields of knowledge. On that account, I believe any field of knowledge is a proper one for study and report. . . . If a subject is difficult and controversial, there is the more reason for discussion and exchange of opinion in the hope to arrive at a satisfactory basis. . . . The right of the professor to state facts as he sees them carries with it the responsibility to give the other side of the case, and carries no right to try to make converts of his students to any cause. University professors understand this; young men who abuse the privilege would not be promoted, and, actually, students wouldn’t stand for such teaching. They are attending classes and lectures most of the time, and they are not the little Dumb-Doras or Empty-Ernestes that they are reported to be. They know good teaching and bad teaching, and they are very quick to resent any teaching which is not objective and impartial.⁹¹

After denouncing the Hearst press, Swift continued that “it is true that certain faculty members have made some public appearances which I wish they hadn’t and have also said some things which I wish they hadn’t. But they are American citizens as you and I are, and it seems to me serious to suggest that a university deprive a faculty member of his rights of citizenship. Outside of the classroom, professors and students

91. Swift to Robert K. Huey, 23 April 1935, Box 190, folder 3, Swift Papers.

have the same rights, no more and no less, as the rest of American citizens.”⁹²

In this and in many other such letters, Swift’s basic decency, intelligence, and courage were freely visible. Swift was also shrewd in his assessment of Lucille Norton, namely: “My own analysis is that Mr. Walgreen is honest, a sturdy character and quite stolid, and the Niece Lucille discovered soon after entering the University that there were several points which got a rise out of Uncle. I think that she took him for several rides without his knowing it, and she probably enjoyed it hugely. Her only statement has been that she felt no attempts at indoctrination nor any insidious propaganda, but that she thought the University of Chicago was a very good place to go if a person wanted to know about communism or anything else.”⁹³

But Harold Swift was not the board, and the cover of *Time* magazine was not necessarily an honored place in the minds of many on the board. Throughout the crisis, the views of the other trustees were crucial. As noted above, the board was polarized by divisions of opinion about Hutchins and by great worry about the reputation of the University. In public, of course, there was no dissension. The presence of Trustees Laird Bell and James Douglas as attorneys for the University at the hearings gave the impression of a united front with the president and the senior faculty. Moreover, Trustee Frank McNair drafted a possible text for the board to release in mid-April on the affair, which was strongly pro-academic freedom. Similarly, Paul S. Russell expressed pride in the board’s response to the investigation.⁹⁴ Yet another trustee, Albert L.

92. Ibid.

93. Swift to Albert L. Scott, 18 May 1935, Box 190, folder 4, *ibid.* Another student, Keith Butters, who knew Norton, gave a statement that was not used at the investigation to the effect that she was certain that she had not been indoctrinated in the social-sciences course, but that her uncle told her that the professors were so “sly that they indoctrinate the students without the students being conscious of the process.” Statement of Keith Butters, DATE, Box 1, folder 4, Office of Public Relations. Political Investigation Files.

94. “I am sure that you appreciate that Sewell Avery, John Stuart, John P. Wilson,

Scott, wrote a congratulatory letter to Hutchins, indicating that “I heartily approve of the dignified position which you have taken, and I am sure that the reaction from this unwarranted attack will be favorable. . . . You may count on me to help you in any way that I can in the fight you are leading for academic freedom.”⁹⁵ But other influential trustees—witness Donnelley’s comments in 1932 and those of Robert Scott, Harry Gear, and Charles Goodspeed in 1935—were deeply unhappy about faculty members who brought adverse publicity to the University, and many of these same individuals worried about possible damage to the reputation of the University because of the outspoken views of its young president. Two years later William Benton, whom Hutchins had commissioned to review the University’s public relations problems in 1936, publicly acknowledged that some trustees added to the University of Chicago’s problems during the Walgreen crisis by criticizing the University to their friends.⁹⁶ Indeed, behind the scenes serious tensions continued within the board. In February 1935 Edward Ryerson and Laird Bell had recommended that the board divide the current office of business manager and treasurer, creating a new on-campus position for the business manager, who would now report directly to the president.

Harold H. Swift, and others of the Board are not donating free of their time and money toward the furtherance of an institution that is dedicated to the theory of undermining the present social order. That being so obviously true I am sure a few minutes conversation will not only convince you of the wisdom of our whole point of view on academic freedom, but might even go so far as to get a scholarship from you.” Paul S. Russell to Leslie L. Cooke, 8 May 1935, Box 190, folder 4, Swift Papers.

95. Albert L. Scott to Hutchins, 15 April 1935, Box 191, folder 5, *ibid.* Scott also wrote to Fritz Woodward, reporting that he had recently had lunch with Ernest Quantrell, “and he agrees with me, as you doubtless know, that the University has handled this situation extremely well. You know that you have my continuing support in this and all other matters.” 18 April 1935, box 190, folder 3, *ibid.*

96. William B. Benton, *The University of Chicago’s Public Relations* (Chicago, printed by author, 1937), 49.

When Bell inquired in July 1935 where their proposal stood, Ryerson responded that “I talked with Harold Swift just before I left about the report of our committee on administrative procedure and he seemed to feel that we should not attempt any changes until the agitation about the Walgreen case had quieted down. I gathered that he felt that there was enough opposition to Hutchins on the part of several Board members to encounter some trouble if we attempted at the moment to put through changes giving increased responsibility to Hutchins? I am not altogether of this opinion as I am inclined to support the principal [*sic*] involved and to force the issue on the matter of Hutchins if it seems necessary to have a showdown on that question.”⁹⁷ Laird Bell would observe to Robert F. Duncan a few months later that

I am not as worried as my colleagues are about his [Hutchins’s] unpopularity. According to my recollection, it was thirty-five years before Eliot [president of Harvard University] became popular on State Street. I think, in the last analysis, the question whether he is going to make an outstanding university is more important, even from the point of view of raising money, than whether the bankers like him personally.⁹⁸

Moreover, the negative attitudes manifested by some trustees reflected larger currents among wealthy elites in Chicago. A survey of local opinion in the city undertaken by the John Price Jones Corporation in April 1936 in preparation for a new capital campaign indicated that the University projected discordant images. When the authors interviewed twenty-two leading citizens who were “generally representative of that

97. Edward Ryerson to Laird Bell, 6 July 1935, Box 1, folder 3, Bell Papers.

98. Bell to Robert F. Duncan, 30 March 1936, Box 1, folder 4, *ibid.* Duncan, an official of the John Price Jones Corporation, had written to Bell, praising Hutchins in the context of a survey they were doing for the University: “In the President you have a personality which, whatever the opinions about it may be, is interesting and one which prompts discussion. People may agree or disagree with the President but many people are talking about him. He has ideas and does things.”

section of the public on which the University must depend for support if it is to raise a considerable amount of money locally,” they found that while most affirmed the high intellectual standing and prestige of the University, many were also critical of its teaching “radicalism.” The authors concluded (among other things) that “there is a widespread feeling that certain elements within the University are unjustifiably stirring up social discontent, and that the University itself has not been sufficiently diligent in controlling this,” that “the giving public is not sufficiently sold on the case for academic freedom,” that “although public opinion concerning him is improving, there is a widespread feeling in Chicago that the President is a ‘dangerous independent’ thinker who speaks with ‘no friendly voice’ and with a flippant disregard for the established order,” and that “adverse public opinion already appears to have influenced adversely the entrance of high school students into the University and to have retarded recovery of giving.” At the same time, the authors found that the recent controversy had exactly the opposite effect on the students and the alumni: “The general feeling on the Campus was that alumni, students, and faculty were united in defense of the University by this attack as they had never been before.”⁹⁹

Paralleling the John Price Jones report, William Benton produced his own survey of the University’s public relations problems, which he distributed confidentially in fifty copies to the trustees in January 1937. Benton asserted that “wide acclaim would Mr. Hutchins win in some quarters if for New Year’s he resolved to fire, or to attempt to fire, certain members of the faculty on the charge of radicalism. These are influential quarters, including some of Chicago’s wealthiest citizens, many potential donors to the University.”¹⁰⁰ Benton admitted that such a purge would be unacceptable, since it “would violate the most deeply embedded tradition in the world of higher education,” but as a public relations expert Benton also felt strongly enough about this issue to urge

99. “Survey, Analysis, and Plan of Fund-raising for the University of Chicago,” April 1936, Box 7, folder 20, pp. 49, 57, 76–77. University Development Campaigns.

100. Benton, *Public Relations*, 23.

the University to hold special meetings for faculty to orient them on the need of the University to have friends and to ask them to refrain from overtly radical statements. Benton asserted that “the theory that any talk by a Chicago professor is good publicity has been demonstrated to be unsound. The sum total of all talk in recent years is perhaps harmful rather than beneficial. Very few of the thousands of talks have been particularly helpful.”¹⁰¹

The Walgreen affair thus ended on a mixed note. Four of the five senators on the Illinois Senate’s committee issued a majority report in late June 1935 that essentially exonerated the University of any seditious practices, but that slammed Robert Lovett for his “unpatriotic course of conduct for a period of eight or ten years.” In addition, two of these same senators—Barbour and Graham—also issued a supplementary statement that was highly positive about the University but which also rebuked Robert Lovett for his outside activities that were “not conducive to effect[ive] or helpful service on his part as a member of the faculty of the University of Chicago” and recommended that he be given early retirement because of his embarrassing behavior. Particularly unfortunate in the eyes of the committee was a letter that Lovett had written to a former acquaintance in 1926 in which he casually observed that all governments are rotten.¹⁰² In his autobiography Lovett claimed

101. *Ibid.*, 26, 51–52, 54. When Hutchins’s sometime confidant and protégé Milton Mayer published an admiring portrait of Hutchins in *Harper’s* in 1939 that (among other things) explicitly trumpeted (and almost bragged about) the unhappiness felt by members of the Board of Trustees against Hutchins, Laird Bell was outraged and let Hutchins know his displeasure. Bell felt that Mayer’s left-wing journalism was a gratuitous red flag “deliberately calculated to make Chicago Big Shots and Little Shots very sore.” He added: “Please understand I don’t quarrel with Mayer’s thesis that Hutchins is a great, though irritating man. I want to back you in your main enterprise with all I’ve got. But I’m hanged if I see the use in making it harder for yourself and for us by this kind of thing.” See Milton Sanford Mayer, “Hutchins of Chicago,” *Harper’s*, April 1939, 344–55; and Bell to Hutchins, 28 February 1939, Box 1, folder 8, Bell Papers.

102. See “Majority Report of Investigating Committee Authorized by Amended Senate Resolution No. 33,” *Journal of the Senate of the Fifty-Ninth General*

that Hutchins was outraged by the statement of the senators and wanted to issue a “scorching” public rejoinder defending Lovett, but that he was talked out of it by his colleague in English, James Weber Linn. Linn is said to have asked Hutchins to consider that if he went public in support of Lovett, the trustees might not support him and, indeed, they might well decide to force Lovett out, which would lead to other senior faculty resigning in protest. Hutchins’s response was characteristic—if the trustees fired Lovett, they would have his immediate resignation—but this kind of rhetorical shadow boxing really showed that even Hutchins faced limits about what he could plausibly do in such a messy situation.¹⁰³

The issue of Lovett’s fate then came before the Board of Trustees in mid-July. On behalf of his fellow trustee participants in the hearings, James Douglas and Harold Swift, Laird Bell gave a detailed report to the full board on the reports issued by the investigating committee. He noted the charges that had been leveled against Lovett by Senators Barbour and Graham, but he also recognized that the rest of their commentary was positive about the University and that the University should take satisfaction in that outcome. As for Lovett, Bell argued that Swift, Douglas, and he were “not prepared to accept the truth of the characterization of Professor Lovett” by the two senators, since “there is no evidence whatever of inefficiency in his work or of any attempt to indoctrinate his students. . . . He is admittedly a pacifist, but there is no evidence whatever that he is a communist.” But Bell then proposed that the University bring the matter to a close by suggesting a regime of silence: “Your committee does not feel that the University is obligated to treat as official the recommendations in the special assent [report] of Senators Graham and Barbour. The attitude of these gentlemen having

Assembly of the State of Illinois (Springfield: Illinois State Journal Co, June 26, 1935), 1304–17 (especially 1308, 1316).

103. Lovett, *All Our Years*, 242. The 1926 letter was to haunt Lovett’s later career in the Roosevelt administration, being used by his opponents on a subcommittee of the House Committee on Appropriations in 1943 to again stigmatize him as a subversive.

been all that could be asked, it would, of course, be unwise in any public way to reject their suggestions.”¹⁰⁴

What this meant was that there would be no public defense by University authorities of Robert Lovett. In the end, the University maintained a studied silence on the denouement of the affair, and although Lovett retired as he normally would have retired at the age of sixty-five in September 1936, he never received the public defense that he clearly wanted.

The opposition had no such scruples. When the committee’s majority and minority reports were released in late June, the *Herald and Examiner* published a vicious editorial on June 27, titled “Red Propaganda at the U. of C. To the Fathers and Mothers of the United States,” whose first sentence read, “If you want your children to become Communists, send them, if they are of collegiate age, to the University of Chicago.” Hutchins thereupon received dozens of telegrams from alumni and others who were outraged at the Hearst press’s insults. One person wrote, “request retaliation Hearst attacks against University. . . . administration do something.” Another writer demanded, “urge University take immediate libel action against vicious Hearst sabotage.” A third insisted that “I am convinced that only a libel suit can vindicate University against the malicious slander of the Hearst press . . . stop . . . such fanatical propaganda on the part of the Chicago papers constitute without doubt a grave danger to the reputation of the University not only in Chicago but throughout the nation.” A fourth protested that “we are amazed at the lethargy of our University in the face of calculated attempts by yellow journalism to stifle its freedom . . . stop . . . as aroused alumni we ask for a vigorous counter attack against Hearst slandering.” Finally, another outraged respondent summed the feelings of many of the correspondents to the effect that “in view of the impudent reportage of the Hearst newspapers concerning the University and its education

104. *Minutes of the Board of Trustees* (Chicago: University of Chicago, July 11, 1935), 89–95.

program we are amazed at the apathetic attitude of University authorities. . . . stop . . . we stand strongly in favor of the administration taking a firm position in instituting a rebuke.”¹⁰⁵

This was a classic case of being caught in the middle, between angry alumni (and a faculty member whose good name had been besmirched) who wanted the mud slung back and the evident decision of Swift, Bell, and their colleagues to take their sizable, if partial, victory and walk away from further controversy.¹⁰⁶ Universities often have difficulty coping with such controversies, for their very strengths—their commitment to intellectual diversity, their culture of tolerance, and their self-assigned feelings of dignity—easily become tactical obstacles when they find themselves trapped in ideological skirmishes with opponents who refuse to play by the same rules of deference and dispassion. This would become glaringly apparent in the 1960s and beyond.

105. From fifty-nine telegrams, most dated and received on June 27 and 28, 1935, Box 191, folder 10, Swift Papers.

106. Harold Swift did try to defend Lovett on a private basis, however. To Stanton Speer he argued that “probably you know Lovett. If so you realize that he is an earnest, high class man, anxious to correct social injustices, and that he is typically sorry for the underdog.” Swift to Stanton Speer, 19 March 1935, Box 190, folder 2, *ibid.* To Richard Huey he noted of Lovett, “He is A-1 in his field of English and literature. In addition, he is one of the most sympathetic men I have ever known to the under-dog. If anybody is in trouble, you can be sure that Lovett is among the first to try to help. His interests are particularly aroused when foreign people, students or otherwise, seem to him not to get a square deal. . . . In government matters, Lovett hopes for a new order, not by violent overthrow of the government, but by having American citizens conscious of some of the inequalities that are now possible under our system and hoping that our citizens by law and orderly procedure will make things better.” Swift to Huey, 23 April 1935, *ibid.*



POST 1945

THE BROYLES COMMISSION

The outbreak of World War II preoccupied our campus, as it did all campuses, and for several years the issue of academic freedom and its implications for our relationships with the outside world was temporarily suspended.

However, the war years saw continued and even increasing conflicts between Hutchins and the senior faculty over the perception shared by many that Robert Hutchins aspired to semi-dictatorial powers in the educational development of the University. It is one of the supreme ironies of the Hutchins era that the man who merited such applause for defending faculty rights before the outside world was increasingly feared by many of his own faculty as seeking to abridge their rights within the University.

Tensions that had been apparent throughout the later 1930s escalated after the famous meeting of the University Senate in April 1942 where, by means of a 58 to 58 tie vote, Hutchins just barely managed to prevent the full professors of the University from overturning the radical new general-education College curriculum that the College faculty had passed in January 1942. Hutchins's response was to seek to restructure the organization of the University in ways that would greatly enhance the appointment powers and educational authority of the president while providing for clear mechanisms to permit his removal from office. Tellingly, Laird Bell, who was one of Hutchins's strongest supporters on

the board but who was also a trenchant advocate for academic freedom, reacted with skepticism. When Hutchins circulated an appeal to the board in July 1942 proposing the new governance structure Bell expressed serious misgivings, asking Hutchins: “Will you be able to get and hold academic men of the highest caliber if they do not enjoy at least a measure of autonomy in their departments and schools? I can see the benumbing effect of faculty vetoes [on presidential initiatives], but isn’t there compensating benefit from faculty autonomy? After all, you have defined the university as a community of scholars.”¹⁰⁷ Bell especially feared that Hutchins’s plans would bring the trustees into conflict with the faculty over educational matters, which Bell considered to be the responsibility of the faculty, not the president.¹⁰⁸

After the conclusion of hostilities in August 1945, new challenges emerged on the horizon, again involving direct allegations of communism on our campus, and they took place in the tense postwar confluence of fear and paranoia that has been codified as the era of McCarthyism.

In June 1947 the Illinois General Assembly approved legislation creating another special public commission to investigate seditious activities, but this time the committee had an open-ended mandate to look for instances of sedition in “any activities of any person or persons, co-partnership, association, organization or society, or combination thereof which are suspected of being directed toward the overthrow of

107. Bell to Hutchins, 7 July 1942, Box 49, folder 13, *ibid.* He also observed that “all judgments on education and educators seem to me subjective. Is it the kind of field for a one-man judgment?”

108. The famous letter of protest drafted by Frank H. Knight, Ronald S. Crane, and several others to Hutchins on February 28, 1944, expressed many of these reservations. The letter came in the wake of Hutchins’s speech of January 12, 1944, at the annual Trustee-Faculty Dinner, where Hutchins called into question the current system of academic rank, the structure of the PhD degree, and other verities. Crane and his colleagues were concerned with Hutchins’s ideas as having “profound implications for the intellectual as well as political future of the University as a free republic of scholars and teachers.” See Hutchins Papers, box 411, folder 13, and Swift Papers, box 49, folder 15.

the Government of the United States or the State of Illinois.”¹⁰⁹ Created in the atmosphere of paranoia about communism that was sweeping American society in the late 1940s and in spite of strong opposition from liberal lobbying groups like the American Association of University Professors and several Chicago newspapers, the commission was chaired by a little-known state senator from Mount Vernon, Illinois, Paul W. Broyles, who had made a fortune selling photo enlargements to Illinois farmers.¹¹⁰ The Broyles Commission had a two-year mandate and a budget of \$15,000. By the end of its tenure in 1949 Broyles and his colleagues managed to craft five bills designed to eliminate any potential Red menace in the state of Illinois, including the mandatory registration of all groups of twenty or more with the Illinois Secretary of State, the use of loyalty oaths for all public-school teachers, elected officials, and civil servants, the mandatory dismissal of all subversive teachers who taught “any doctrine to undermine the form of government of this state or of the United States,” and the prohibition of membership in Communist organizations.¹¹¹

The drafts of the proposed legislation came before the General Assembly in February 1949, and they immediately provoked a spirited debate in the press and on the campuses. The bills were a mishmash of imprecise and ill-defined wording, and they deserved the hostile scrutiny that they immediately received. At the University of Chicago the response to the Broyles bills was particularly vocal, so much so that on March 1, 1949, 106 University of Chicago students led by a campus group called the Young Progressives of America journeyed to

109. *Report of the Seditious Activities Investigation Commission: Submitted Pursuant to the Provisions of an Act of the 65th General Assembly, 1949* (Springfield: State of Illinois, 1949), 5.

110. According to information that William Morgenstern received from a journalist at the *Chicago Sun-Times*, “Broyles is a decent, high-grade small town citizen who is not vicious. . . . He is ‘hipped’ on the American Legion idea of running communists out of the country, but otherwise sensible if a little slow.” Morgenstern to Lynn A. Williams Jr., 28 March 1949. Box 4, folder 5, Bell Papers.

111. *Belvidere Daily Republican*, May 31, 1951, 3.

Springfield to lobby against the legislation. They were joined by students from Roosevelt College and from other institutions, for a total of about 350 individuals, and they included representatives of the Illinois Communist Party, the Meadville Theological Students Association, the University of Chicago Republican Club, the Students for Democratic Action, the Illinois CIO, and sundry other groups. In the words of one student leader, the students felt these bills to be “police state measures” wrought by a “police-state method.”¹¹²

What exactly transpired during the students’ visit to Springfield on the afternoon and evening of March 1 was later contested.¹¹³ The students who testified against the Broyles bills at the hearings of the Illinois Senate’s Judiciary Committee were reasonably civil, and the audience boisterous but not out of control. Some students, mainly those from Roosevelt College, did get involved in a demonstration against racial segregation at a local restaurant, however, and proponents of the bills cleverly manufactured the claim that all of the visiting students had behaved with rowdiness, rudeness, and general arrogance (even those, as seems to have been the case of the Chicago students, who were already on a bus returning home). The next day two Republican representatives in the Illinois House launched an attack against the students from the University of Chicago as well as from Roosevelt, denouncing them as having been indoctrinated by “Communistic and other subversive

112. *Chicago Maroon*, March 4, 1949, 1.

113. See Martin G. Pierce, “Red-Hunting in Illinois, 1947–1949: The Broyles Commission” (MA thesis, University of Wisconsin, 1959), 42–53. Bell later commented: “We do not know how responsible our students were for the disorder at Springfield. 106 of them went and 500 persons were said to have attended the hearing, including many older men and some representatives of the National Association for the Advancement of Colored People. It seems clear that in accordance with well known tactics, some communists took advantage of the situation to make trouble. . . . Nobody could be more disgusted than we that the situation got out of hand and made us a lot of trouble. The students themselves, since the incident, made every effort to repair the damage; and they have learned something of the facts of political life.” Bell to W. F. Peter, 29 April 1949, Box 4, folder 6, Bell Papers.

theories contrary to our free systems of representative government.” Representative G. William Horsley then introduced a resolution charging the Broyles Commission to undertake a special investigation of the University of Chicago and Roosevelt College. Horsley’s resolution encountered unanimous support in the House on March 2, with the approval of the Senate coming a week later.

So came to be set in motion the second state-sponsored scrutiny of the University of Chicago. As unpleasant as the investigation soon proved to be, the University had at least one distinct advantage over its situation fourteen years before. Unlike Walgreen’s accusations in 1935, the Broyles controversy centered initially on the behavior of allegedly unruly and unpatriotic students at the University, and did not at first involve the behavior of faculty members.¹¹⁴ This gave the University a chance to seize the high ground of academic freedom without having to defend its flanks against specific accusations that individual faculty members had indoctrinated their students.

In response to an invitation of the Broyles Commission to testify, University notables were forced to journey to Springfield in late April. Robert Hutchins testified on April 21, and he performed brilliantly, combining moral outrage with disdain and mordant wit. In his opening remarks Hutchins condemned the usual tactic employed by professional Red hunters—guilt by association—and insisted that “the danger to our institutions is not from the tiny minority who do not believe in them. It is from those would mistakenly repress the free spirit upon which those

114. See the analysis offered by John Howe, the alumni official who had helped to shape the University’s response to the Walgreen affair in the 1930s, who observed that the University was in a better position at that point than fourteen years earlier. At that time, Schuman and Lovett became the real targets, “neither of whom were communists but both of whom had belonged to various ‘front’ organizations.” Howe felt that this time around it was the students who were the real focus of the investigation—“I should think that the fire would be directed against the students and not the faculty”—and the University should seek ways to exploit this. Howe urged the University to make a “strong direct stand on the issue of principle” of its right to admit students who might be radicals. Howe to Benton, 24 March 1949, Box 4, folder 5, Bell Papers.

institutions are built. The miasma of thought control that is now spreading over the country is the greatest menace to the United States since Hitler. There are two ways of fighting subversive ideas. One is the policy of repression. This policy is contrary to the letter and spirit of the Constitution of this country. ... The policy of repression of ideas cannot work and has never worked. The alternative to it is the long and difficult road of education. To this the American people have been committed. It requires patience and tolerance, even in the face of intense provocation.¹¹⁵

Interrogated by J. B. Matthews, a professional Red-hunter who had previously worked for the House Un-American Activities Committee, Hutchins deftly parried Matthew's questions, making him look both petulant and foolish. Hutchins's responses to Matthews about Maud Slye have entered the lore of the University, and they are worth retelling here:

J. B. Matthews: Dr. Maud Slye was an Associate Professor Emeritus—this is [from] the latest obtainable directory.

Robert Hutchins: "Emeritus" means retired.

Matthews: She is retired on pension?

Hutchins: Oh, yes.

Matthews: And [she] has at least the prestige of the University of Chicago to some degree associated with her name, in as much as she is carried in the directory of the University?

Hutchins: I don't see how we could deny the fact that she had been all her life a member of the faculty of the University. She was one of the most distinguished specialists in cancer we have seen in our time.

115. *Special Report: Investigation of the University of Chicago and Roosevelt College, 1949* (Springfield: State of Illinois, 1949), 21; as well as the account by E. Houston Harsha, "Illinois: The Broyles Commission," in *The States and Subversion*, ed. Walter Gellhorn (Ithaca, NY: Cornell University Press, 1952), 95–108.

Matthews: She was studying cancer when she was studying mice, is that correct?

Hutchins: Correct.

Matthews: Are you acquainted with the fact that Dr. Slye has had frequent affiliations with so-called communist front organizations?

Hutchins: I have heard that she has had so-called frequent associations with so-called communistic front organizations.

Matthews: Is it the policy of the University to ignore such affiliations on the part of the members of the faculty?

Hutchins: To ignore them?

Matthews: Yes, ignore them.

Hutchins: As I indicated, Dr. Slye's associations were confined on our campus to mice. She could not, I think, have done any particular harm to any of our students, even if she could be so minded. To answer your direct question, however, I am not aware that Dr. Slye has ever joined or advocated the overthrow of the government by violence.

Matthews: May I ask if in your educational theory there is not such a thing as indoctrination by example?

Hutchins: Of mice? [laughter]¹¹⁶

More telling than Hutchins's defense of Maud Slye and her indoctrinated mice, however, was his emphatic statement that, unlike the administration of the University of Washington which had recently fired three faculty members for alleged Communist sympathies, the

116. *The Great Investigation* (Chicago: All-campus Committee Opposing the Broyles Bills and the Broyles Investigation, 1949), 10–11.

University of Chicago would reject any such policy.¹¹⁷ As Ellen Schrecker, the author of *No Ivory Tower*, has demonstrated, the University of Washington case sent shock waves through the American academy. The chair of a subsequent AAUP investigative committee looking into the actions of the then president of the University of Washington, Raymond Allen (who engineered and then sanctioned the dismissals of these faculty members), characterized Allen's behavior as that of a "sheriff who, seeing a mob bent on action, takes the leadership of the lynching party." Schrecker also observes, in considering Hutchins's stance during the Broyles affair, that "had other academic leaders been as outspoken as Hutchins in opposing off-campus investigations, they might have mitigated the damage."¹¹⁸

In the course of the April hearings an itinerant journalist by the name of Howard Rushmore testified that numerous University of Chicago professors were guilty of communism, mentioning the names of eight in particular. Laird Bell seized upon Rushmore's unsubstantiated accusations to arrange for detailed affidavits by seven of these faculty members to be forwarded to the commission and simultaneously released to the newspapers in late April. This unwelcome barrage of new evidence compelled the commission to hold a second round of hearings on May 19, 1949, in response to the legal evidence produced by Bell.¹¹⁹ Not only did Bell speak on behalf of the University, but five of the

117. *Special Report*, 31–32. Laird Bell would later receive a letter from a faculty member at the University of Washington, commenting on the messianic anticommunism followed by his university: "Our administration has received so much back-slapping from our leading business men in this area that it will undoubtedly continue its present attitude unless some miracle, which at present I cannot imagine, might occur to prevent it. ... This University had the opportunity of taking a strong stand in defense of academic freedom. It chose, however, to be popular rather than great." Richard G. Tyler to Bell, 8 September 1949, Box 4, folder 8, Bell Papers.

118. Ellen W. Schrecker, *No Ivory Tower: McCarthyism and the Universities* (New York and Oxford: Oxford University Press, 1986), 113, 321.

119. See Pierce, "Red-Hunting in Illinois," 165–70.

Chicago faculty members (Ernest Burgess, Robert Havighurst, Malcolm Sharp, Rexford Tugwell, and Harold Urey) attacked by Rushmore also appeared. Each performed in a credible and persuasive manner, with Urey, a Nobel Prize-winning chemist, arguing in his closing comments that the University of Chicago "is regarded the world over. In my years there I have intimately associated with the members of the staff of that organization and it is strictly loyal and American and a great University and deserves better of the people of Illinois than this investigation."¹²⁰

As was the case in 1935, the campus pulled together, with most students and most faculty finding themselves in the happy situation of being on the same side of a highly controversial issue. Students mobilized on the campus to resist both the bills and the investigation, with three thousand students signing petitions affirming that they had not been indoctrinated and defending the University's culture of academic freedom.¹²¹ The campus ministers—a Catholic chaplain, a Jewish rabbi, and two Protestant ministers—drafted detailed letters defending the University and its students and denying that there was a widespread Communist influence on campus.¹²²

Yet, if Hutchins was again the University's star witness, this time he was not its principal advocate. When the crisis first broke, Laird Bell, who had succeeded Harold Swift as the chairman of the Board of Trustees in January 1949, assumed direct responsibility for coordinating the University's response. On March 10 Bell arranged for the board to establish a special "Counseling Committee" to advise Hutchins and the University on the investigation. Bell became the chair of this

120. *Special Report*, 270.

121. See *The Great Investigation*, 64–65; Bell to G. B. Pidot, 12 May 1949, Box 4, folder 1, Bell Papers; and *Chicago Maroon*, March 8, 1949, 1, 8, March 11, 1949, 3, 7, and April 8, 1949, 1, 10.

122. These are in the Bell Papers, box 3, folder 13. Another copy, sent to the trustees, is in box 4, folder 8. Harold Swift for one thought these documents were particularly impressive.

committee.¹²³ As is evident from comments he made to Swift later in March, Bell clearly hoped to keep Hutchins out of the limelight of the controversy: “It is on my conscience that I haven’t done a better job of keeping you posted on the Broyles investigation. The fact is that the thing is still so confused that there has been little definite to report, although I seem to have been giving almost all my time to it for ten days. There are some indications that the Commission is losing interest and would like to forget about it; but with the [American] Legion and the *Tribune* interested I am afraid that’s too much to hope for. However, there is some possibility that we can keep the thing within bounds. Bob is being unexpectedly reasonable and the University staff so far very helpful.”¹²⁴

Having lived through the public relations nightmare of the Walgreen investigation, in which Hutchins’s public comments—however valid they were on points of principle—seemed to polarize the Board of Trustees, Bell was determined to design a more carefully scripted role for Hutchins this time around.¹²⁵ In managing the University’s response strategy Bell combined a strong defense of academic freedom with a clear sense of political acumen and the political skills needed to control the situation, not to let it get out of hand, to put the most favorable case forward, to minimize the radicalism charge, and to preempt any possible overreactions. Throughout the crisis he followed some simple advice that he received from a friend early on—take the investigation seriously, allow no wise cracking, and show the public respect by respecting the

123. The other members were Paul Russell, James Douglas, Henry Tenney, and Harold Swift, with Hutchins occupying only an ex officio status.

124. Bell to Swift, 30 March 1949, Box 192, folder 3, Swift Papers.

125. Bell’s solicitude took on a humorous side when he offered Hutchins \$25 if he would avoid making any wisecracks during his testimony. Hutchins later observed, “He paid me—a triumph of avarice over art.” *Chicago Maroon*, October 14, 1966, 9.

investigation since “the great body of citizens have heard this charge so often that they are interested in it.”¹²⁶

Bell was active on all fronts, lobbying local US congressmen who were asked to speak with Broyles and also contacting Everett Dirksen, a former US congressman from downstate Illinois (and future US senator), seeking his assistance.¹²⁷ Bell also had to cope with a clearly nervous Paul Douglas who, far away in Washington, was fearful that his political enemies in Illinois would exploit the Broyles Commission to dig up past stories of his alleged socialist and communist sympathies.¹²⁸

Nor did Bell neglect the Chicago end of things. Knowing that Senator Roland Libonati, a Chicago-based member of the Broyles Commission, might listen to Democratic party officials, Bell contacted Colonel Jacob Arvey, the chairman of the Cook County Democratic machine, asking for his assistance. Arvey responded by assuring Bell that Libonati would cause the University no serious trouble: “I believe that you will find that Senator Libonati will not be as aggressive as his past actions would indicate. I shall keep on top of the matter and

126. Unsigned memorandum, n.d., Box 4, folder 5, Bell Papers. This document probably came very early in the incident, before the University’s planning process got going. The writer also urged Bell not to hire a professional attorney on behalf of the University, and Bell followed this advice as well.

127. Congressman Rolla C. McMillen to Bell (telegram), 16 April 1949, and Bell to McMillen, 19 April 1949, Box 3, folder 13, Bell Papers. McMillen reported that he had spoken with Congressman Charles Vursell, who would in turn speak to Broyles. A memorandum reports that Dirksen “had talked with legislators of both houses and both parties in Springfield and that he thought the investigation would be handled decently.” March 28, 1949, Box 3, folder 12, *ibid.*

128. See Bell’s curious letter to Paul Douglas, assuring him that his name did not come up at the hearings. Bell to Paul Douglas, 26 April 1949, Box 4, folder 6, *ibid.* Douglas subsequently formulated a detailed list explaining his past activities, which he sent to Bell in case negative publicity emerged. See Douglas to Bell, 16 May 1949, Box 4, folder 7, *ibid.*

if something else comes along that I think you ought to know I will advise you.”¹²⁹

On the tactical front, Bell and Lynn A. Williams Jr., the University’s vice president for development, engaged in a running war with Broyles over the procedures to be used by the commission, asking for reasonable notice and the right to cross examination, and they obtained the assistance of local politicians and the *Sun-Times* and *Daily News* to force Broyles to accept a fair set of rules of procedure.¹³⁰ At the last moment, immediately before the hearings opened, Broyles gave way and agreed to the concessions demanded by Bell.

Knowing that Springfield politics were light years apart from those of Chicago, Bell also cultivated local alumni in the state capital, arranging to have a “listening post” in offices of George C. Hoffmann, JD’28, who had a law practice in Springfield.¹³¹ He also contacted local alumni in the Springfield area, seeking to gain a surer grasp of local political opinion. The answers he received from Charles F. McElroy, AM’06, JD’15, must have been unsettling. McElroy told Bell that he thought that the investigation would not do any lasting harm: “The feeling is that the investigation is ill-advised, but something now has to be done. The appropriation, \$2,500.00, will not go far.” At the same time, McElroy denounced actions of students who came to Springfield, arguing that their behavior was “outrageous and indefensible” and that it had caused the whole investigation, so much so that “the [Broyles]

129. J. M. Arvey to Bell, 24 March 1949, Box 4, folder 5, *ibid.*

130. Bell to Broyles, 6 April 1949, Box 4, folder 4, *ibid.*; Bell to Barry, 20 April 1949, *ibid.* Edward Levi prepared a memorandum concerning the legal position of the Broyles Commission with respect to privilege from suits for defamatory statements, as well as a possible resolution to be put before the Illinois legislature on procedures the commission should use to guarantee fairness. See Williams to Bell, 29 March 1949, *ibid.*

131. Later, Bell thanked Hoffmann for his good work: “I believe your intensive work with the members of the Commission had a real effect in softening up the Commission.” Bell to George C. Hoffmann, 27 April 1949, Box 4, folder 6, *ibid.*

bills now have overwhelming support.” He also feared the actions of the students had been the “chief damage,” and that “the University has lost tremendously in the respect of not only the members of the legislature, but of their constituents all over the State.”¹³²

On the public relations front Bell wrote ingratiating letters to sympathetic journalists, lobbied the *Sun-Times* and *Daily News* to publish stories and editorials in support of the University’s cause, and then thanked journalists effusively when they cooperated. To John S. Knight, the publisher of the *Daily News*, Bell was grateful for the newspaper’s coverage which was “peculiarly heartening in the trying circumstances in which we have found ourselves.”¹³³

Like all good political operatives, Bell also had a careful sense of when to give and to bend. To critics of the University, Bell even allowed that he too was shocked by some of antics of the *Chicago Maroon*: to William S. Bixler he wrote that “I wholly agree with what you say about the appearance and character of the *Maroon*. It certainly puts a strain on our tolerance of undergraduate activities. I am taking up with the Central Administration the question whether we cannot at least require the editors to state conspicuously that this is a private enterprise of the students and in no way represents the University.”¹³⁴

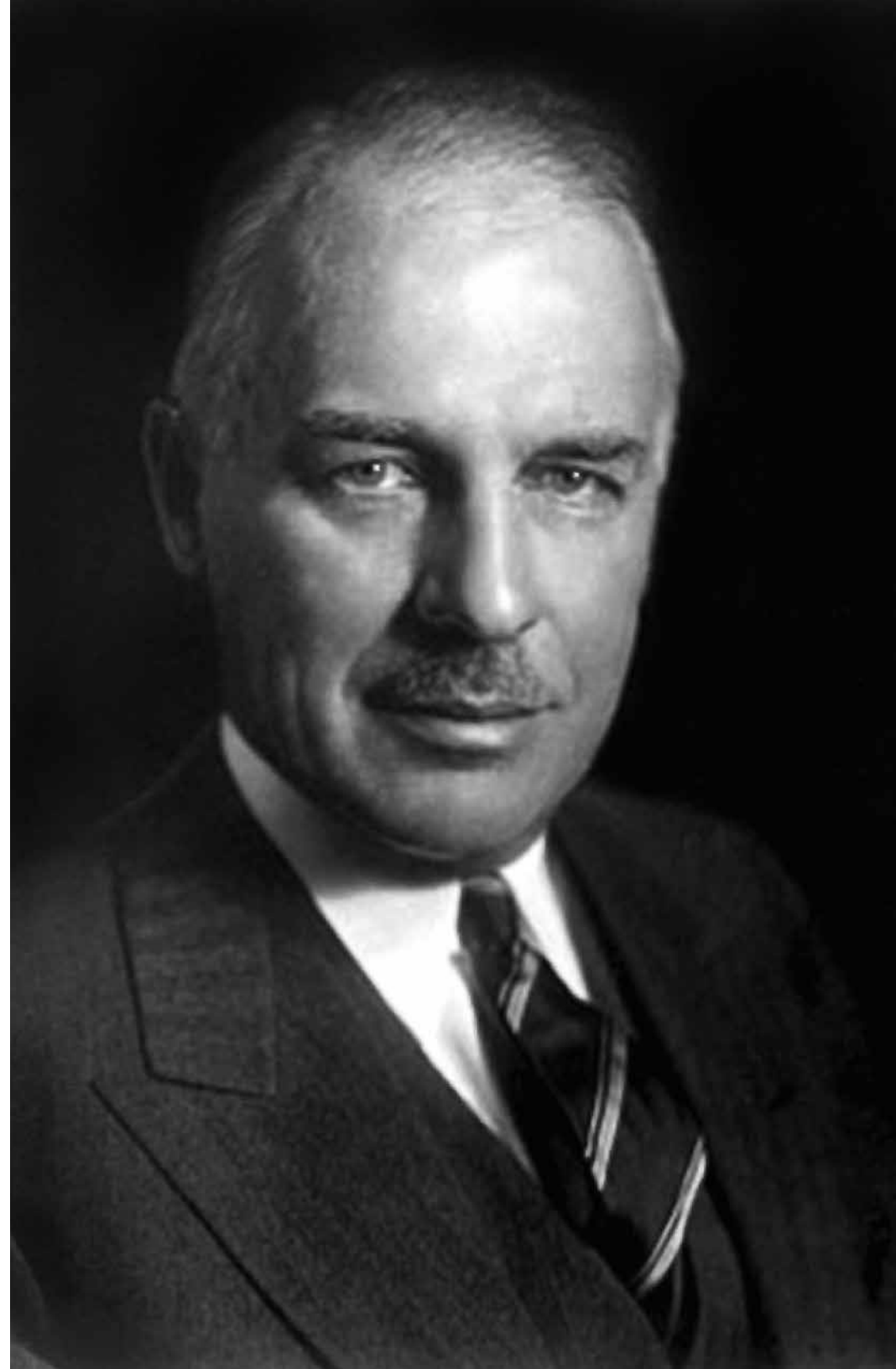
132. Charles F. McElroy to Bell, 1 April 1949, and Bell to McElroy, April 6, 1949, *ibid.* Bell responded that the number of students who participated in the protest was only one hundred, not the five hundred or thousand that was first reported. Bell also claimed that the incident had been distorted and that while the original group of students had been well within their rights to protest the Broyles bills, some Communists had then exploited the presence of the students to cause trouble. Moreover, the general reaction of the students on campus had been good: “The student body were outraged and with very little, if any, official encouragement have organized an all campus group to insure sober and moderate representation of the student opinion. This is the best way we know to demonstrate the essential soundness of all except a small but noisy group.”

133. Bell to John S. Knight, 29 April 1949, *ibid.* He also wrote to Milburn P. Akers, Marshall Field, Edwin A. Lahey, and A. T. Burch.

134. Bell to William S. Bixler, 12 May 1949, Box 4, folder 7, *ibid.*

Perhaps most significantly, believing that it was urgent to present the University's side of the story to the public, Bell put his name on a pamphlet called *Are We Afraid of Freedom?* that Lynn Williams and his staff had crafted. This pamphlet provided a cogent and eloquent defense of the idea of academic freedom by explaining both the nature of the current controversy and invoking quotes from assorted worthies like Thomas Jefferson, John Stuart Mill, Woodrow Wilson, Oliver Wendell Holmes, Charles Evans Hughes, and Dwight D. Eisenhower in support of academic freedom. Within two months the University had distributed over six-nine thousand copies of this pamphlet to University alumni, to other academic institutions around the country, and to various notables, including over one thousand college presidents.¹³⁵ *Are We Afraid of Freedom?* merited Bell a cascade of congratulatory letters, many of them from academic leaders at other institutions. Bryn J. Hovde, president of the New School for Social Research, believed that "this statement, I feel sure, will go down in American educational history as one of the most important documents. It does not only the University of Chicago but you personally a very great credit, and puts

135. Bell's pamphlet was drafted in the office of Lynn Williams, the University's vice president for development, and edited by Bell in early April. Bell sent a draft to the members of the Board of Trustees on April 11 for their review, saying that the document tried to "state the philosophy which governs our activities." Bell memorandum, 11 April 1949, and Bell to the board, 11 April 1949, Box 4, folder 6, *ibid.* Bell received approval from a number of trustees to go ahead. Swift thought it was "first class." Swift to Bell, 12 April 1949, Box 4, folder 7, *ibid.* As the document became so successful, Bell was both surprised and slightly embarrassed and began to indicate to correspondents that he had, in fact, not been the principal author. To a member of the Law School he wrote, "I wish I could claim to have written it myself. It was a team product, but I was glad to sign it." Bell to Charles O. Gregory of 5 May 1949, *ibid.* To Dudley Cates he responded, "I don't claim credit for the style. It was a team production and my principal contribution was in what was left out." Bell to Dudley Cates 6 May 1949, *ibid.*



the rest of us in a position of indebtedness to you, which I for one am very happy to acknowledge.” J. F. Grinnell, the dean of the Indiana State Teachers College, confessed that “I would feel remiss if I did not write to tell you how important for the cause of university education in this country is your statement entitled ‘Are We Afraid of Freedom?’ It gives me a restored faith in the determination of the trustees of America’s leading universities who maintain the ‘market place of free ideas’. I mean to pass the brochure around among my friends and associates. I want to congratulate you on the directness and vigor with which it is written.” And John M. Nason, the president of Swarthmore College, wrote to Bell thanking him for his “magnificent defense of academic freedom,” and adding that “you have done a real service not only to the University of Chicago, but to all institutions of higher learning in this country.”¹³⁶ On the local business front, Nathan MacChesney, a trustee of Northwestern University, wrote that “It seems unfortunate that a great institution like the University of Chicago should be harassed in this way, but perhaps however annoying and damaging it may for the moment it is one of those things that in the long run will react to the benefit of the University.” C. E. Jackson, a mill manager at the Consolidated Water Power and Paper Company in Wisconsin Rapids, Wisconsin (and an alumnus), congratulated Bell by asserting that “just how you and the trustees mustered enough guts to make your declarations, I don’t know. ‘Are We Afraid of Freedom?’ is a worthy product, but the Chamber of Commerce will get you if it can. Your pamphlet is a masterful handling of Communism, Buddhism, the I AM cult, or anything else that loves persecution. Communists will hate you for your breadth, for that’s their defeat.”¹³⁷ Bell also received many similar

136. Letters to Bell from Bryn J. Hovde to Bell, 20 May 1949; J. F. Grinnell, 21 May 1949; John M. Nason, 21 May 1949; Box 5, folder 2, *ibid.*.

137. Letters to Bell from Nathan MacChesney, 2 May 1949, and C. E. Jackson, 9 May, 1949, Box 4, folder 7, *ibid.*

enthusiastic responses from alumni and requests from other institutions for copies to distribute on their own campuses.

In view of the effective presentations made by the representatives of the University, which discredited both the motives and procedures of the commission, the investigation collapsed of its own hollow weight. At first the Broyles Commission decided merely to file a transcript of the investigation as their report, and make no other findings or recommendations. Bell thought that this meant that “they found no subversive activities, as indeed there were none to find.”¹³⁸ Then, under pressure from the American Legion, eleven of the fifteen members of the commission issued a press release to the newspapers that, while acknowledging no direct evidence of sedition, was critical of the University for tolerating subversive organizations on campus and for being indifferent to the Communist menace.¹³⁹ On balance, however, the University did extremely well and acquitted itself with honor. As for the Broyles bills, they languished in the Illinois House and eventually died by virtue of not being called up for a final vote in late June 1949.

Ellen Schrecker has speculated that the University of Chicago was able to weather crises like the Walgreen affair and the Broyles affair because Chicago was “a uniquely independent and cohesive institution.”¹⁴⁰ Such cohesion was amply demonstrated at the end of the Broyles investigation by one of the senior faculty members who testified in Springfield, Rexford G. Tugwell. Tugwell was a veteran of New Deal politics (he had been an adviser to Franklin Roosevelt in the early years

138. Bell to Byron Heacock, 31 May 1949, *ibid.*

139. “Twice the Broyles Commission voted to file the transcript of the so-called testimony without report and we thought the thing had died. But last week again they were apparently needled into making a report which though it found no subversive activities was very critical of the University. Eleven of the fifteen members of the Commission are Legionnaires.” Bell to William Schofield, 20 June 1949, Box 4, folder 7, Bell Papers. The final statement of the majority of the commission is in box 5, folder 7.

140. Schrecker, *No Ivory Tower*, 113.

of the New Deal, undersecretary of the Department of Agriculture, and later the governor of Puerto Rico), and he was familiar with the political dynamics that often inform the work of legislative committees. Following his appearance with Laird Bell in Springfield, Tugwell wrote to the latter, thanking him for his support. The letter is worth reprinting in its entirety:

141. Rexford G. Tugwell to Bell, 23 May 1949, Box 4, folder 7, Bell Papers. In a similar vein, Robert Havighurst wrote to Lynn Williams, “This is to tell you how much I appreciated the spirit with which you and others in the Central Administration worked on our behalf in the recent Springfield hearings. I don’t believe that any other university would have given us such active and loyal support.” Robert Havighurst to Williams, 27 May 1949, *ibid.*

Mr. Laird Bell
35 South LaSalle Street
Chicago, Illinois

23 May 1949

Dear Mr. Bell,

The recent affair with the legislature would not, I suppose, be called pleasant, yet like so many unpleasant occurrences, it seemed to me to have its uses. For one thing, some of us who were faculty were sharing an experience with you who were trustees. As a matter of fact, you were taking it on the chin on our behalf. It was a new experience to me to get off easy and have my chief suffer.

It occurred to me afterward that it could do no harm to say that I at least am aware that you do that often—take it on the chin, I mean. Freedom has a great price which some one has to pay, and in a university like ours you fellows have to do a lot of the paying. I do hope that you and the others find it worthwhile. I believe it is. I think my colleagues here produce results in the atmosphere of protection you supply which are larger than in any other place on earth. Maybe that sounds a little strong; maybe it is. But I couldn’t name a greater or finer institution myself or one that I would be so proud to be a member of.

Anyway, for what it is worth, you can put it down that one of your faculty appreciates you and your fellow trustees and resolves to repay you in the only possible way he can—by producing all the academic results he is capable of. He only hopes you won’t be called on too often to go to bat for his right to express himself.

Sincerely yours,

Rexford G. Tugwell¹⁴¹



INTO THE 1960S

THE KALVEN REPORT AND THE TURMOIL OF THE SIXTIES

This state of de facto if not de jure consensus between students and faculty would quickly and powerfully erode as the University entered the 1960s. The 1960s brought new challenges involving the freedom of individuals and of the University as a corporate body to speak and, equally important, to refuse to speak. I have discussed the impact of these tumultuous years in an earlier report, and I do not wish to reprise that here.¹⁴² But I will conclude my remarks by briefly discussing a central policy document relating to academic freedom that emerged from these years, namely, the *Kalven Committee: Report on the University's Role in Political and Social Action*, also known as the Kalven Report for its principal architect and author.¹⁴³

142. John W. Boyer, *The University of Chicago in the 1960s and 1970s: Occasional Papers on Higher Education*, vol. 4 (Chicago: The College of the University of Chicago, October 19, 1999).

143. Harry Kalven Jr., *Kalven Committee: Report on the University's Role in Political and Social Action* (Chicago: University of Chicago, November 11, 1967), <https://provost.uchicago.edu/sites/default/files/documents/reports/Kalven-Rprt.pdf>

Bernie Sanders speaks on the first day of the Committee on Racial Equality's sit-in at the office of University of Chicago president George W. Beadle.

If Hutchins and others sought to defend the right of individual members of the University to speak out on controversial or even unpopular issues, and to teach what made the most sense to them, then Harry Kalven sought to preserve the negative freedom of the University to choose not to speak out on similarly passionate or highly charged issues and thus to guarantee the aforesaid rights of all individual members.

In February 1967 President George W. Beadle appointed a committee of senior faculty to reflect on the boundary between individual and collective political opinion at the University. The chair of the Committee on the Role of the University in Political and Social Action was Harry Kalven, a distinguished law professor who specialized in studies of the First Amendment. Kalven had just completed two significant works, the study of the American jury with Hans Zeisel and a series of lectures, titled *The Negro and the First Amendment*, and he had also written an important report for CBS on broadcasting and the First Amendment.¹⁴⁴ The time was a both a propitious and contentious one, filled with student demands that the University take institutional positions on the issue of compiling and providing class rankings to draft boards for male students, on investments in South Africa, and on racism. Two weeks before Beadle charged the committee, the Committee of the Council of the Senate had a frustrating meeting with student leaders over the extent to which the University should participate—or refuse to participate—in providing class rankings to Selective Service draft boards in those instances when students requested that this be done. This issue had already provoked a major student sit-in in the Administration Building in mid-May 1966, and it was a hotly debated topic during the 1966–67 academic year. During late January 1967, just before the committee began its work, two hundred University of Chicago students organized by the Students for a Democratic Society picketed the offices

144. Harry Kalven Jr. and Hans Zeisel, *The American Jury* (Boston: Little, Brown, 1966); Kalven, *The Negro and the First Amendment* (Columbus: Ohio State University Press, 1965); Kalven, “Broadcasting, Public Policy, and the First Amendment,” *Journal of Law and Economics* 10 (1967): 15–49.

of Continental Illinois National Bank in the Loop, demanding that the bank divest itself of investments in South Africa, and two days later they then staged a rally on the steps of the Administration Building, demanding that the University remove its business from the bank. Kalven would later observe to former Chairman of the Board of Trustees Glen A. Lloyd of this issue—the relationship of the individual freedoms of each of its members to the institutional obligations and interests of the University—that “I suspect this has in some ways become the crucial issue of the day for universities.”¹⁴⁵ Within two years the University would endure one of the most bitter crises in our history—the great sit-in of January 1969—and many of the issues that divided faculty and students, as well as faculty and faculty, would relate precisely to the boundary issues of academic freedom.

Meeting between February and May, the committee had what Kalven later described as “a delightful time together debating the issues.”¹⁴⁶ Through several meetings consensus emerged on the scope of the document, with the main axis of debate focusing on protecting the individual rights of the faculty and students and on the ways that the University would understand and interpret its corporate standing and its collective actions so as to enhance and protect those individual rights. This dualism was anchored on an essential and strong principle, namely, the expectation that only an ideologically neutral University could and would guarantee each individual member’s rights to full self-expression.

Interestingly, a particularly challenging issue for the committee was not the scope of rights of the individual faculty member or student, but rather the status of the University as a corporate agent that would inevitably have economic or professional relationships with other groups or institutions (the University as a landlord, as a corporate neighbor in the

145. Harry Kalven Jr. to Glen A. Lloyd, 7 December 1967, Box 28, Harry Kalven Papers.

146. Ibid. The members of the committee included Harry Kalven Jr., John Hope Franklin, Jacob Getzels, Julian Goldsmith, Gwin J. Kolb, George J. Stigler, and Gilbert F. White.

city, etc.). In early March 1967 one member of the committee, Gilbert White, wrote to Kalven, urging that a paragraph be incorporated in the report that

wherever the University through its ownership of property or act of delegation and membership exercises a positive role in the life of the larger community it has a responsibility to consider the ethical implications of its stand. As an institution concerned with the role which its students will play in society it cannot comfortably limit such consideration to action which seems necessary to protect its immediate property interests. In instances where the public significance is large or where the University's influence is clearly strong it may appropriately withhold participation or make inquiries which would not serve its ordinary business procedures. Such instances are unlikely to be numerous. Administrative responsibility for any action rests with the Board of Trustees and the University administration. Faculty or students who believe that the University's stand on such matters merits attention from the administration are free to make petition, and if the matter seems of sufficient interest a public discussion may be arranged to air the issues.¹⁴⁷

White's proposal apparently sat badly with another committee member, George Stigler, who believed that while the University should act honorably in its material dealings it should refrain from any expressions of social or political values, since such expressions might compromise the independence of individual faculty members. Kalven put the dilemma embedded in this issue in the following way: "It seems to me, particularly after struggling with the drafting, that we have a tricky choice of where to spend our emphasis. I think we can only spend it once effectively, and the question is whether we spend it in stating the general principle against collective action or spend it in sketching the

147. Gilbert F. White to Kalven, 8 March 1967, *ibid.*

exceptional case in which collective action may be appropriate. As the draft makes abundantly clear, I have thought it better, at the moment, to put our emphasis on reaffirming the neutral role of the university as an institution."¹⁴⁸

The final draft prepared by Kalven sought to respond to the concerns raised both by White and Stigler, and it incorporated several levels of argument.¹⁴⁹ On the one hand, the report staunchly defended traditional individual rights to complete academic freedom. In fact, so obvious were these rights that the report did not elaborate in detail on this proposition, other than to suggest that such rights were the principal way by which the University might fulfill its core responsibility of discovering, improving, and disseminating knowledge. Kalven argued that the University's role was "for the long term" and it had a special responsibility in being "the home and sponsor of critics." To fulfill its mission the University needed to "sustain an extraordinary environment of freedom of inquiry," and it had to embrace and defend "the widest diversity of views within its own community." In fulfilling this role the University was a community, but a community of a special and limited sort in that it existed "only for the limited, albeit great, purposes of teaching and research. It is not a club, it is not a trade association, it is not a lobby." Since the University was a community "only for these limited and distinctive purposes," it was not authorized to "take collective action on the issues of the day without endangering the conditions

148. Kalven to the committee, 3 May 1967, *ibid.*

149. Jacob Getzels thought it necessary to include some reference to the University's willingness to defend a basic social milieu of tolerance and individual freedom, invoking the precedent of the German universities under Hitler. Kalven responded to this concern with the statement that "from time to time instances will arise in which the society, or segments of it, threaten the very mission of the university and its values of free inquiry. In such a crisis, it becomes the obligation of the university as an institution to oppose such measures and actively to defend its interests and values." Getzels to Kalven, 12 March 1967, *ibid.*

for its existence and effectiveness.” Further, “it is a community which cannot resort to majority vote to reach positions on public issues.”¹⁵⁰

So far so good. The end of the report was trickier, however. Although Kalven did not accept White’s overt injunctions, he did insert language in the final draft relating to the University in the economic and social world to the effect that “of necessity, the university, however it acts, must act as an institution in its corporate capacity. In the exceptional instance, these corporate activities of the university may appear so incompatible with paramount social values as to require careful assessment of the consequences.”¹⁵¹ This compromise formulation was, in turn, challenged by George Stigler, who preferred a purer notion of the University behaving “with honor” in its dealings with outside constituencies, but firmly prohibiting the University to use its corporate activities “to foster any moral or political values.”¹⁵²

The basic logic of the Kalven Report flowed from the crises of the previous seventy years in an almost uncanny fashion, and its genesis also reflected the coming of age of the University’s faculty as the agent of its own defense and identity. It is suggestive, for example, that none of the trustees were apparently consulted in the process of drafting this statement, even though it addressed general University policy.¹⁵³ The ghost of Harold Swift might have been slightly anxious, since Swift believed

150. Kalven, *Kalven Committee*, 1.

151. *Ibid.*, 2.

152. Stigler’s concerns on this point were incorporated in the final version that was presented to the Council of the Senate, in the form of a postscript on page 5 of the document. Also, Kalven, *Kalven Committee*, 3.

153. The report was published in early November 1967 in the new *University of Chicago Record*. Glen A. Lloyd, the former chairman of the Board of Trustees, only received his copy in December 1967. See Kalven to Charles D. O’Connell, 7 December 1967, Box 28, Kalven Papers.

that on such large issues the Board of Trustees also had a responsibility to speak for the University.¹⁵⁴

Kalven’s report, endorsed by all the members of his committee, was submitted to the Council of the Senate in June 1967, where it met with general approval. Since that time it has come to have an almost canonical standing in the culture of the University, occupying a status similar to that enjoyed by the Shils Report of 1970 (which, in contrast, did not enjoy the unanimous support of the council).¹⁵⁵

154. When the Committee of the Council of the Senate reviewed a possible statement on the attitude of the University toward communism in May 1947 that had been drafted by Robert Redfield and H. I. Schlesinger, Swift wondered if the faculty might be crossing a line between their responsibilities and the responsibilities of the trustees. See his letter to Ernest C. Colwell and Lawrence A. Kimpton, 22 May 1947, Box 190, folder 10, Swift Papers.

155. Edward Shils, *A Report of the University of Chicago Committee on the Criteria of Academic Appointment* (Chicago: University of Chicago, 1972), <http://provost.uchicago.edu/sites/default/files/documents/reports/shilsrpt.pdf>.

CONCLUSION

Harry Kalven's report bears strong similarities, in its basic conception, to the document that William Gardner Hale and Albion Small put forward in 1899. In fact, Provost Edward Levi sent Harry Kalven a copy of the 1899 document as he entered the final stage of his drafting, and one might even say that Kalven merely elaborated the core ideas of the earlier text.¹⁵⁶ Yet, the 1960s were not the 1890s or even the 1940s, with the most critical difference lying in the fact that the danger to the University now seemed to come from within the University community, from tensions between our students and our faculty, and not from sinister forces without it. This in turn begged the question of whether Kalven's definition of the University as a community of normative neutrality was appropriate for its times. He and his colleagues clearly felt that it was, but many students disagreed with them.

In an uncanny way, Gilbert White played a role in 1967 not unlike Thomas Chamberlin in 1899. Whereas Chamberlin sought to protect the good name of the University by admonishing its members to take heed of their responsibilities, White sought to protect its good reputation for ethical probity and corporate decency. Both men were willing

156. *Minutes of the Congregation*, 101, 109–111. Robert Hutchins sent a copy of the same document to the members of the Board of Trustees during the Walgreen affair. See Hutchins to the trustees, 12 April 1935, Box 190, folder 3, Swift Papers.

to deploy higher, semi-corporatist considerations to illuminate their understanding of the University. For Kalven, however, the University was essentially a community of individual thinkers and scholars seeking to discover, improve, and disseminate knowledge. In resorting to a definition of neutrality—the University's "neutrality as an institution has its complement in the fullest freedom for its faculty and students as individuals to participate in political action and social protest"¹⁵⁷—Kalven might be viewed as embracing Harper's notion of competence. Yet in Kalven's definition, neutrality applied only to the University as a whole, and not to any individual within it.

The line between the University as an intellectual community of robust free opinion and the University as a social community of ethical moment was extremely difficult to draw, in 1899 and in 1967. Harper's understanding of the University as a community was more multifaceted, but also less easily explainable. For Harper believed that the University was called upon to defend a rational principle, and that for its community to sustain free inquiry and research, it could not afford the imputation of partisanship on the part of any of its members. For an individual to say that he or she did not wish to implicate the University via partisan or ill-informed statements, and thus exempt the University beforehand of any responsibility, might not be enough, for Harper (as Storr rightly suggests) viewed the University as a community whose corporate legitimacy was a necessary and prior condition for the effective freedom of each member.¹⁵⁸ If the University as a community lost that legitimacy, harm might come to each of its individual members. In contrast, the image of the University in the Kalven Report seems more deliberately circumscribed, but also more realistically defensible—a community of individuals whose strength comes from the a priori authority and the intellectual freedom of each of its individual members as a matter of general principle.

157. Kalven, *Kalven Committee*, 2.

158. Storr uses the apt analogy of a medieval artisan whose personal liberty derived from the liberties of the town in which he lived. Storr, *Harper's University*, 96.

Yet, are these two notions really irreconcilable? In our time—when outside organizations seek to influence the shape of university academic policies and the content of faculty teaching; when individuals develop websites to “police” and thus to denounce the content of teaching and writing on our and other campuses; when innuendo, fear, and denunciations are again abroad in the land—we would do well to attend to our and our colleagues’ and our students’ academic freedom. Denunciations on elusive websites, urgings to trustees that they should turn their backs on academic freedom and engage in a kind of curriculum policing that recalls the worst features of the old nineteenth-century denominational college, threats to deny financial contributions to universities if faculty do (or do not) follow a specific line of teaching and writing, censorious attempts to shout down controversial speakers at public meetings, denunciations of individual faculty members via electronic, twenty-first-century yellow-journalistic practices, all of these developments bear a strong resemblance to the difficult crises our colleagues lived through in the 1920s, 1930s, and 1940s. The right to speak, to write, and to teach freely is a precious right, one that the American research universities over the course of the twentieth century have slowly but surely made central to the very identity of the university in the modern world.

Yet the legitimacy as well as the credibility of the rights of each member of our community do derive from the strength of the whole. This happens not because of the media reputation or even the substantive programs of the University, but because of its intrinsic nature as a place of honesty, fearlessness, and courage. These transactional virtues of intellectual openness and fearlessness and this dedication to unimpeded intellectual engagement are, thus, at one and the same time the collective norms of our community just as they are individual possibilities for our personal lives.

External controversies and challenges will come and go, as they have in the past. The apprehensions and paranoia of a Charles Walgreen in the 1930s and the fear and ignorance of a Senator Broyles in the 1940s will find emulators in our day as well. What matters is that the University holds together by encouraging all of its members to explain their views and beliefs in reasoned and thoughtful terms, and, having

explained their views and listened carefully and respectfully to the views of others, that we cherish the right of each member of our community, each student and each faculty member, to hold firm to her or his beliefs and principles. To do any less would dishonor the valiant struggles that our predecessors so courageously fought. For the grandeur of our community, that which shines forth to each person who visits us even for a short time, that which graces each of us who have the high privilege of joining this community as permanent members, is that it is a courageous and fearless place, a place of strong liberty and vibrant convictions, and out of all those convictions, out of all the generations of free and open debate that they have sponsored and protected, has arisen an institution truly worthy of the meaning and the promise of the higher learning. ✱

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