

Academic Freedom, Dissent, Civility:

Remarks to Faculty Council By Paul Hardin, Chancellor University of North Carolina at Chapel Hill

The topic of my report today is threefold: academic freedom, dissent and civility at Chapel Hill.

A. Academic Freedom

I read the Carolina tradition as deeply committed to this vital principle. Speaking very personally, it is one of the most important values in my life and work. In this nation academic freedom derives from the First Amendment to the Constitution of the United States. As a public university we are bound legally by the words and court interpretations of that First Amendment and the Fourteenth, the amendment which made applicable to states and state agencies the first, which had applied originally only to the national government.

You will hear me refer often to Carolina as a robust market place of ideas, and you may be sure that I will oppose publicly and vigorously all attempts to diminish on this campus the legal protections of the Constitution—whether those attempts come from on campus or off.

In 20 years as president of privately supported, church-related colleges and universities in which free speech does not enjoy the same full *legal* protection as on public campuses, I never once approved or permitted any act of censorship or any other curtailment of free speech. My position was that freedom of speech and expression on the campus of a *good* independent or church-related institution must never be less than the freedom required by law on public campuses.

Thus, by my personal philosophy, the withdrawal under pressure by a privately supported college of an invitation to Jeanne Kirkpatrick to speak on that campus is just as illiberal and egregious as a speaker ban law in North Carolina! To me, the First Amendment means *no prior restraint*, no censorship of publications, no banning from the campus of speakers or other visitors on the basis of their utterances or opinions.

Are there legal limits to free speech? There are. The famous hypothetical case is the Holmesian one: We are not free to shout "Fire!" in a crowded theatre. There are laws that restrict pornography, and I have publicly criticized coarseness, obscenity and particularly racist comments, but I have never personally encountered the legal limits or felt compelled to prevent or punish speech. Never once.

B. Dissent

An important sub-topic under the First Amendment is the right to dissent. Dissent via the spoken or written word is part of the larger right. Members or guests of this academic community should not expect their views, comments or actions to be immune to criticism or dissent. To paraphrase John Stuart Mill: I may hold the truth, but I hold it by accident if I have not heard it challenged, not merely by a devil's advocate, but by someone who believes profoundly the opposite of my own belief.

I think that all speakers on this or any other campus, whenever there is controversy should agree to open discussion for some reasonable period of time following their addresses.

Dissent, in the liberal tradition of the First Amendment, is and should be protected beyond verbal communication. Symbolic speech, in the form of demonstrations, picketing and the like, is a familiar part of campus life in the United States.

The legal limitation on dissent is disruption—clear interference with the rights of others either to speak and be heard or to carry forward their own legitimate daily activities. We all know that *theoretical* distinction. Actually, I think we also would probably agree on when the line is crossed in most specific instances. However, liberal university communities, including this one, do not rush to judgment and do not find *easily* that the bounds have been exceeded. We tend to bend over backward and permit some minor and short-term disruption as a reasonable cost of an *important freedom*, the freedom to dissent. However, we should never tolerate more than minor brief disruption. To do so is the opposite of liberal.

In this remarkable country, as in few others, our respect for the freedom to dissent often leads us to be tolerant even of civil disobedience, the deliberate breaking of laws in order to make dissent dramatic.

I am deeply interested in the topic of civil disobedience. I have my own views on the subject which I have enjoyed sharing in law classes, and in American literature, political science and other classes when such advocates and practitioners of civil disobedience as Mahandas K. Ghandi, Henry David Thoreau and Martin Luther King Jr. are under study.

The public tolerance of civil disobedience depends, I suspect, on such variables as the following:

(1) The gravity of the wrong protested or importance of the cause advanced;

(2) The relevancy of the legal violation to the alleged wrong or cause;

(3) The severity of the harm flowing to others in consequence of the act of civil disobedience; and

(4) The relationship of those inconvenienced by the act of civil disobedience to the alleged wrong.

In my view public agencies, including states, towns and state universities, cannot by their nature *approve* civil disobedience. The essence of civil disobedience is the absence of permission. It is an individual's decision to violate the law with a full realization that the act is illegal and a willingness to accept the legal consequences of the unlawful act, as a means of dramatizing the importance to the actor of the cause being advanced or the injustice being protested.

At the beginning of my tenure as chancellor, may I respectfully ask all members of this community to examine both their own understanding of Carolina tradition and their personal convictions on issues of freedom and dissent. I hope we would agree on at least broad principles under discussion.

C. Civility

I respectfully call upon all of us to handle our disagreements in this community with mutual respect and civility. Some recent manifestations of disagreement in Chapel Hill have been appallingly crude and unacceptable. I will be shocked and dismayed if it turns out that members of this university community were responsible for the two recent break-ins which involved threatening notes and the menacing placement of deadly weapons. I am *disgusted* that a member of our Housing Department and a student have received anonymous calls with racist slurs and that another student received a racist letter *and* had his bulletin-board set on fire.

This community must clearly announce its disapproval, not only of actual threats of violence, but also of racist graffiti, remarks or publications. If the law does not always permit us to punish such outrages, it surely does permit us to condemn them publicly and unequivocally. Robert Frost once characterized a certain kind of liberal as

"one so altruistically moral he won't take his own side in a quarrel." We are often obligated, I think, to *exercise* free speech as well as to protect it. I hereby condemn and express my disgust over the recent rash of threatening and racist utterances and acts. I also ask anyone who is able to do so to identify any person or persons who engaged in this threatening conduct.

Now, a final word about civility and about how decisions are made on this campus.

In my scant four months here I can recall four or five instances in which persons whose sincerity I do not question have sought to force me by pressure to act or speak in a certain way or to adjust my agenda as chancellor to their personal wishes. Those persons and all others deserve to know that I will not make decisions in response to or reaction against public demonstrations, threats to launch much larger demonstrations, newspaper ultimatums, threats to withhold donations, threats to seek punitive or repressive legislation governing student fees and the like. Such pressures are, in a word, irrelevant to my decision-making processes.

I honestly cannot think of a single instance in 20 years of presiding now over four institutions of higher learning in which I have made a decision either in positive response or in negative reaction to threats or other pressures. I am influenced every day by reasoned argument, whether advanced by an individual student, an advisory committee, a petition, a group of peaceful demonstrators or a letter from an alumnus or parent or trustee. It would not be fair, however, to the University or to the countless constituents who seek to influence decisions through a collegial, reasoned process if I made on the basis of pressure decisions which I honestly did not feel were both wise for the University and respectful of collegial process and the differing opinions of others.

Thanks for listening! I look forward to hearing your responses to my remarks and your own convictions about academic freedom, dissent, and civility during the later discussion today and in our future conversations. In case I haven't told you lately, I like my new job and my new colleagues!