

What is Academic Freedom?

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What kind of academic freedom is appropriate to a Catholic university? It would not be surprising to hear, from American academics, the following answer: “If Catholic universities want to call themselves universities, they ought to grant to their faculty the same academic freedom that is accorded to the faculty of any other American university. If they want to know what that freedom is, they need only consult the official statements of the American Association of University Professors.”

It is entirely understandable that an American professor, whether from deeply felt patriotism or from simple inexperience with the ways of cultures different from his own, might imagine that, if not the first and the last, then at least the best word on this subject could be found by consulting appropriate documents of the AAUP. That view, however, has two fundamental problems.

First, even a cursory inquiry reveals that the concept of academic freedom is variously understood in the United States and in the two countries whose academic traditions figure most prominently in the formation of our own—England and Germany. Each of these three nations has its own account of the right-holder, of the nature of the right, and of its limits. Whether the varieties are simply cultural mistakes or whether they reflect legitimate cultural differences in educational policy, they force us to recognize that the documents of the AAUP are not Holy Writ and their claims about what academic freedom is are not self-evident truths. They are contested propositions which need to be argued for. If the conception of academic freedom offered by the AAUP cannot be defended on the basis of principles consistent with the teachings of the Catholic Church, then Catholic universities will have to reject that conception and develop in its stead a conception based on other principles.

Second, there are no such things as universities *simpliciter*. There are Catholic universities and there are secular universities.¹ Secular universities need not, in principle, be hostile or disrespectful towards religious belief. But that should not obscure the fact that the choice between being a Catholic university and being a secular university is not a choice of whether to add something distinctively Catholic

¹ There are also, of course, Protestant, Mormon, Jewish, Islamic and other universities. They will be subjected to the same challenges from the secularists. To what extent what I have to say about Catholic universities applies to them also, they will have to determine for themselves. For a brief discussion of the contrast between Catholic and Protestant universities on this point, see Friederich Paulsen, *Die deutschen Universitäten und das Universitätsstudium* (Asher, 1902), pp. 295–302.

to an institution whose generic identity is clear. It is a choice of epistemological principles on the basis of which the institution is to be run. No institution can operate without such principles.

The choice is made clear by asking what attitude the university will take towards the Catholic claims about the existence of revelation and the nature of the Church as an authoritative expositor of revelation. A university has one of four choices with respect to those claims.

(1) It can admit appeal to revelation as a legitimate part of a comprehensive epistemology. Theology would, of course, use revelation as a foundation for its work. Other departments concerned with speculative knowledge, and in particular philosophy, would use it only as a side constraint, not as a foundation. Departments focused on vocational skills (e.g., business and journalism) would use both theological and philosophical foundations where, as in their professional ethics courses, both foundations are available.

(2) It could refuse to admit any such appeal.

(3) It could be neutral about the appeal, permitting professors who chose to appeal to revelation in their academic work to do so, but refusing to interpret even a professor's denial of any revealed truth as an indication of incompetence.

(4) It could exclude from the curriculum those disciplines in which appeal to revelation would be most likely to be made.

The fourth option (subject-exclusion) would evict from the university curriculum non-philosophical theology (for want of a foundation), if not ethics (to avoid the issue of respect for side constraints). The second (method-exclusion) would preclude any possibility of getting to knowledge of matters as important as the Trinity. A. O. Lovejoy, one of the founders of the AAUP, appears to favor the third (neutrality) option, when he writes:²

A state may, in short, have a university or do without. But it cannot have one in the usual and proper sense, if it excludes, under a misconception of the principle of neutrality, both a large part of the subject matter of science and also the method of free inquiry and free expression, which is necessary to the function of this type of social institution.

It will be argued below that Catholics have good reason to reject the untrammelled freedom urged by Lovejoy as a condition necessary to the function of the university.

² "Academic Freedom" in *The Encyclopaedia of the Social Sciences* (Macmillan, 1930), pp. 384–388, here p. 385. In this essay I make particularly heavy use of encyclopedia articles precisely because these, more than articles in academic journals, can be counted on to represent a generally shared view of the subject matter.

Lovejoy is right that excluding important subject matter (which includes theology, though Lovejoy might not have admitted this) undermines the quality of the university. Subject-exclusion, though it is in fact pursued by some American universities, is not a promising option, however much it might be a practical requirement given American political realities. But method-exclusion, and even neutrality, set a bad example in their undervaluing of revelation. This can perhaps be made clear by imagining an institution which claimed epistemological neutrality between rational inquiry and personal prejudice or between controlled experimentation and appeal to a Ouija board. The university would not count appeal to reason and experimentation against any professor who chose to use them, but it would be equally encouraging of professors whose academic work (whether teaching or research) included defense of views merely by appeal to what seemed (without any deep thought about the matter) true to that individual. To be neutral between using reason and neglecting it is to fail to take reason seriously. To be neutral between the use of revelation and the neglect of it is to fail to take revelation seriously. It is not epistemological neutrality; it is just a different epistemological commitment.

Five Dutch and German universities of the seventeenth and eighteenth centuries are sometimes described in a way that would make them seem to be successful models of epistemological neutrality. These were, in particular, Leyden (1574), the first state-sponsored university;³ Halle (1694), the first German university founded on the principle of academic freedom;⁴ and Göttingen (1734),⁵ though some authors include also Helmstedt (1576) and Heidelberg, Germany's oldest university, but only in the period between its re-establishment by Karl Ludwig (in 1652) on his return from his Leyden exile and its reclosure by the French (1688). Robert B. Sutton, for example, contrasts these with the majority of German universities "capture[d] by the confessions."⁶ In three of the cases, however, as Sutton goes on to show, the neutrality is by no means as extensive as would be demanded by today's neutralists.

Helmstedt and Göttingen were careful about hiring. About Helmstedt, August Tholuck wrote that:⁷

During the long, forty-year reign of Duke August no professors other than those who were in agreement with [Syncretist theology professor Georg] Calixtus were appointed either to the theology or to the other departments, so that the University in its entirety was always on his side.

³ Stephen d'Irsay, *Histoire des Universités françaises et étrangères* (Picard, 1935), 2:10–15.

⁴ Friedrich Paulsen, *Geschichte des Gelehrten Unterrichts auf den deutschen Universitäten vom Ausgang des Mittelalters bis zur Gegenwart* (Veit, 1897), 1: 521–537.

⁵ D'Irsay, vol. 2, pp. 90–103, esp. pp. 94–95.

⁶ *European and American Backgrounds of the American Concept of Academic Freedom, 1500–1914*. Ph.D. dissertation, Missouri, 1950, p. 122.

⁷ *Vorgeschichte des Rationalismus*, Vol. 1 (Anton, 1853–4), pt. 2, p. 50.

At Göttingen, Gerlach von Münchhausen, as curator, ensured that,⁸

In [the faculty of theology], no man would be hired whose teachings led to atheism and naturalism or attacked the “Fundamental Articles of the Evangelical Faith” and introduce Enthusiasm, but equally not anyone who defends an evangelical papacy....

Problems nevertheless sometimes emerged, but, as Sutton puts it,⁹ “The unobtrusive, yet thoroughly effective, repressive methods which he used prevented such notoriety as would have attended so *gauche* an act as an expulsion.”

The inherent non-neutrality of “neutralism” is made clear in remarks made by Christian Thomasius in the University’s opening year:¹⁰

Make use of freedom, when you must give your opinion, and let neither fear nor unjust force hold you back from it. But grant this freedom also to others, who with you are members of one body.... Teach truth freely and without fear and refute errors indeed forcefully but with modesty and without bitterness. Do not become angry that others, in accordance with their understanding, may teach from their lecture platforms that which you hold to be erroneous, for they do nothing other than what you are doing, and different opinions will remain among scholars perhaps as long as the world shall stand.

Heidelberg had no formal restrictions on hiring. Indeed Elector Karl Ludwig even invited Spinoza (whose *Tractatus Theologico-Politicus* had recently been formally prohibited by the Estates-General of Holland) to join the faculty at Heidelberg. His invitation, however, seems to have been subverted by Fabritius, the theology professor whom Karl Ludwig asked to pursue the matter. But even at Heidelberg, Sutton says,¹¹

the doctors were required to swear that in teaching, they should treat all these controversies [sc., those arising from the division of Christendom] in the abstract and in historical fashion, presenting both contentions and reasons to the contrary with equal emphasis and fairness.

Thomasius’ advice is good advice when it comes to matters of opinion. His refusal to acknowledge any distinction between personal opinion, on the one hand,

⁸ Quoted in F. Frensdorff, “Gerlach von Münchhausen,” *Allgemeine deutsche Biographie* (Duncker & Humblot, 1885) 22: 729–745, here p. 735.

⁹ P. 161. Sutton discusses three cases in which theological restrictions were enforced at Göttingen on pp. 162–167.

¹⁰ “Scharfe und nachdrückliche Lektion an sich selbst,” in Werner Schneiders, ed., *Ausgewählte Werke, Band 22: Kleine Teutsche Schriften*, pp. 655–696, here pp. 679–80.

¹¹ P. 126.

and the content of revelation, on the other, is not to be neutral, it is to be partisan. Similarly with the requirements of the Heidelberg oath. The situation at Leyden, I have not been able to determine.

This history, and these arguments, suggest that the genuinely neutral university is more a compromiser's wish than an implementable concept.

In *Ex corde ecclesiae*, Pope John Paul II defines academic freedom in the following terms:¹²

a certain promise, given to those who teach and conduct research, that they may, within their own particular area of knowledge and in accordance with the methods proper to that area, seek the truth wherever inquiry and evidence lead them, and to teach and publish the results of that inquiry, keeping in mind the aforementioned considerations, namely, that personal and community rights within the requirements of truth and the common good be protected.

In this essay, I will seek to clarify and defend that definition. I will begin by a brief survey of conceptions of academic freedom as found in England, Germany, and the United States. In the second section, I will examine the kinds of arguments given for the conception of academic freedom found in the official statements of the AAUP and related conceptions advanced in the United States. In the final section, I will argue that those arguments, in certain important particulars, either fail on their own terms or are based on principles inconsistent with Catholicism. Catholics, American or not, do better to rely on their own resources to develop a conception of academic freedom more consonant with their own understanding of truth, knowledge, and universities.

1. A Survey of Conceptions of Academic Freedom

It has been insightfully said that the term “academic freedom” is “a term more widely used to advocate than to define cautiously the removal of constraint from higher education.”¹³ Hence, the importance of asking—What is academic freedom? Who has it? What is it a freedom to do? Whom is it a freedom from? What are the limits of academic freedom? These questions have received various answers in various places. It will be helpful to begin with a survey of those answers.

¹² Translation mine. The original reads:

certa est fides, tributa iis omnibus, qui dant operam institutioni et investigationi, quaerendi, intra suum peculiarem ambitum cognitionis et iuxta proprias methodos huiusq; ambitus, veritatem quocumque inquisitio et evidentia eos ducunt, ac pariter docendi atque evulgandi effectus huiusmodi inquisitionis, prae oculis habitis memoratis rationibus ut servantur scilicet iura personae et communitatis intra veritatis bonique communis postulata.

Para. 12, n. 15. See also the text of para. 12 and the general norms (Part II, art. 2, §5),

¹³ G. N. Shuster, “Academic Freedom,” *The New Catholic Encyclopedia* I: 65.

a. Whose freedom is academic freedom?

Three possible answers can be given to this question. The first two are identified by the German contrast of *Lernfreiheit* and *Lehrfreiheit*.

The first answer is that academic freedom is the right of the student. This answer, academic freedom as *Lernfreiheit*, is distinctively German. It was characterized by Hermann von Helmholtz, in the inaugural address which he gave on his appointment as rector at Friederich-Wilhelms Universität in the following terms:¹⁴

We have retained the old conception of students, as that of young men responsible to themselves, striving after science of their own free wills, and to whom it is left to arrange their own plan of studies as they think best. If attendance on particular lectures was enjoined for certain callings ... these regulations were not made by the University, but by the State At the same time the students had, and still have, perfect freedom to migrate from one German University to another, from Tartu to Zurich, from Vienna to Graz; and in each University they had free choice among the teachers of the same subject The students are, in fact, free to acquire any part of their instruction from books

Outside the University, there is no control over the proceedings of the students

Nineteenth century American scholars brought the ideal of *Lernfreiheit* with them when they returned from their years of study in German universities.¹⁵ Its most lasting impact was, no doubt, Charles Eliot's elective system, introduced at Harvard beginning in 1872 and culminating in 1897, when the only required course at Harvard was freshman rhetoric. Indeed that the term "academic freedom" meant, in the first instance, *Lernfreiheit* is clear from the title Princeton's Andrew West chose for his critique of Eliot's curriculum—"What is Academic Freedom?"¹⁶ Since the 1890's "academic freedom" came increasingly to mean the teacher's freedom, though in 1915 the AAUP could still begin its "General Declaration of Principles"¹⁷ with the remark that "the term 'academic freedom' has traditionally had two applications—to the freedom of the teacher and to that of the student, *Lehrfreiheit* and *Lernfreiheit*." In the early 1960's the AAUP took up the issue of student rights and, in 1964, issued a "Statement on the Academic Freedom of Students."¹⁸ The

¹⁴ "On Academic Freedom in German Universities" reprinted in David Cahan, ed., *Science & Culture: Popular & Philosophical Lectures* (Chicago, 1995).

¹⁵ See, particularly, Leo L. Rockwell, "Academic Freedom: Its German Origin and American Development" *AAUP Bulletin* 36 (1950): 225–36. Also helpful on this matter is Richard Hofstadter & Walter P. Metzger, *Academic Freedom in the United States* (Columbia, 1955), ch. 8.

¹⁶ *North American Review* 141 (May 1885), 432–444.

¹⁷ This, along with many other AAUP documents, is conveniently reprinted in Louis Joughin, ed. *Academic Freedom & Tenure* (Wisconsin, 1967), this at pp. 155–176.

¹⁸ Joughin, pp. 66–72.

freedom they endorsed was, needless to say, far more modest than the German version described by Helmholtz.

The second answer, that academic freedom is a right held by teachers, by contrast, is common to the three cultures under study. Nevertheless, there are significant differences between the German concept of *Lehrfreiheit* and academic freedom as understood in the United States. These will be taken up below.

The third answer to the question, who has the right called academic freedom, is that it is a right neither of students nor of teachers but of institutions as a whole. Institutional autonomy has long been a prominent feature of the English conception of a university and has included freedom with respect to appointment of faculty, determination of curricula and standards, admission of students, and determination of the appropriate balance between teaching and research.

Although some authors identify this concept of institutional autonomy as an aspect of academic freedom, others insist that it is quite distinct. That institutional autonomy is distinct from *Lehrfreiheit* is clear enough. An institution not in the least subject to outside interference might itself choose to restrict the liberty of its faculty. English universities have always had a high degree of institutional autonomy, but they imposed religious tests on the faculty until 1871. Prussian universities in the nineteenth century were under the control of the government, but their faculties were guaranteed freedom in their teaching by Article 20 of the Constitution of 1850—"Knowledge [*Wissenschaft*] and its teaching shall be free." Despite the clear conceptual distinction between institutional autonomy and *Lehrfreiheit*, the idea that an institution should be free to manage its own affairs without outside interference bears in various ways on the other freedoms and therefore some note must be taken of it.

b. What is academic freedom (here, *Lehrfreiheit*) a freedom to do?

All three cultures recognize *Lehrfreiheit*, but they differ over exactly what it is a freedom to do and over what responsibilities come with it. The German and American answers to this question, in particular, are interesting in their differences. These differences center on four matters.

First, in Germany *Lehrfreiheit* was not limited to the content of one's utterances but included also "the paucity of administrative rules within the teaching situation: the absence of a prescribed syllabus [and] the freedom from tutorial duties."¹⁹ The AAUP "Statement of Principles on Academic Freedom and Tenure"²⁰ of 1940, by contrast, says, "The teacher is entitled to full freedom in research and in the publication of the results, *subject to the adequate performance of his other academic duties...*" (emphasis added). The statement is silent on whether a prescribed syllabus violates academic freedom. The practice being widespread, it is doubtful that it would be so considered by most academics, however inadvisable such a policy might seem to them. Most writers on the subject of academic freedom concentrate exclusively on asserting liberties and have nothing to say about the

¹⁹ Metzger, p. 387.

²⁰ Joughin, pp. 33–39.

limits of academic freedom. Edward Shils stands out as an exception in this regard. On this point he reminds us that

There are many activities necessary to the good functioning of a university as an institution that should not be decided by each individual academic at his own discretion. No single academic, for example, has the right to decide the number of hours he or she will teach or the standard by which A's should be granted in examinations. Such matters must be a collective academic decision.

Academic freedom may legitimately be limited by institutional requirements. An individual academic is not entitled to the freedom to absent himself frequently from the classes that he has undertaken to teach or to refuse to examine a dissertation that he has previously agreed to examine. He is not free to refuse to conduct or mark examinations if such tasks are among the terms of his appointment. An academic is not free to refuse to teach certain subjects or courses that he is qualified to teach and that must be taught by members of his department.²¹

Second, German professors had the right to lecture on any subject in which they were interested. The AAUP Statement of 1940 is more restrictive—"The teacher is entitled to freedom in the classroom *in discussing his subject*" (emphasis added). Although a restrictive interpretation of this clause would surely be inconsistent with the intent of the authors, no American academic thinks that his academic freedom entitles him to teach any subject he pleases.

Third, the typical German professor felt himself free to make every effort to win his students over to his personal point of view. Metzger writes:²²

With Fichte's heroic scholar as their model university professors saw themselves, not as neutral observers of life, but as the diviners and spokesmen of absolutes, as oracles of transcendent truths. In the normative sciences particularly, "professing" in Germany tended to be the presentation with aggressive finality of deep subjective convictions.

American practice, by contrast, places a limit on the freedom of university professors in this regard. The American conception of academic freedom and responsibilities is characterized by Lovejoy in the following terms:²³

The ... rights of the student ... demand of the university teacher, in his function of instruction as distinct from investigation and

²¹ Edward Shils, "Academic Freedom," in Philip G. Altbach, ed., *International Higher Education: An Encyclopedia* (Garland, 1991), I:1-22, here pp. 3 and 4.

²² P. 388.

²³ Lovejoy, p. 385.

publication, special care to avoid the exclusive or one-sided presentation of his personal views on questions upon which there is no agreement among experts. He is not entitled to take advantage of his position to impose his beliefs dogmatically upon his students; the nature of his office requires that alternative opinions be fairly expounded, and that the student be encouraged and trained to reach his own conclusions on such questions through critical reflection upon carefully ascertained facts.

There were, to be sure, both German and American dissenters. Rudolf Virchow emphasized limits on *Lehrfreiheit* very much like those contained in the American conception.²⁴ Josiah Royce emphasized a more expansive conception of *Lehrfreiheit* than was ordinarily recognized in America.²⁵

Finally, the German professor's constitutionally guaranteed freedom in teaching did not extend beyond the walls of the institution. In particular, they did not extend to participation in political debate. Nineteenth century Prussia was not, to be sure, a liberal state. The freedoms of all citizens were somewhat curtailed. Professors in particular, however, were expected to refrain from partisan political commitments, and this not only because they were civil servants, but because political activity was, by its very nature, incompatible with scholarship.²⁶

American professors, by contrast, are free to comment on current events.²⁷ The AAUP Declaration of Principles of 1915 lists "freedom of extramural utterance and action" as one of the three elements of academic freedom. and adds

[this element] has an importance of its own, since of late it has perhaps more frequently the occasion of difficulties and controversies than has the question of freedom of intra-academic teaching.

Lovejoy, however, says of penalizing professors for "exercise, outside the university, of their ordinary political and personal freedom" that²⁸

while ... contrary in spirit to academic freedom, ... is primarily a special case of the abuse of the economic relation of employer and employee for the denial of ordinary civil liberties.

The Statement of 1940 also explicitly protects such utterances. The latter statement does include the admonition that²⁹

²⁴ *Freedom of Science in the Modern State*. Discourse at the 3rd Meeting of the 50th Conference of the German Association of Naturalists and Physicists, Munich 1877 (London, 1878), pp. 8, 22–24, 41, 49–50. For a reply, see Ernst Haeckel, *Freedom in Science and Teaching* (New York, 1889), pp. 63ff.

²⁵ "The Freedom of Teaching," *The Overland Monthly* 2 n.s. (1883), 237–8.

²⁶ See Paulsen, *Die deutschen Universitäten*, pp. 324–9.

²⁷ Whether it would be appropriate for them to participate in party politics was another matter. For an exposition of early reservations about such activity, see the 1915 Declaration, Joughin, pp. 172–3.

²⁸ P. 386.

²⁹ Joughin, pp. 3–339, here p. 36; see also the comments in the 1915 Declaration, p. 172.

[the professor] should at all times be accurate, should exercise appropriate restraint, should show respect for the opinion of others, and should make every effort to indicate that he is not an institutional spokesman.

In its 1964 “Statement on Extramural Utterances,”³⁰ however, Committee A insisted on a very weak interpretation of those admonitions:

a faculty member’s expression of opinion cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member’s unfitness for his position. Extramural utterances rarely bear upon the faculty member’s fitness for his position.

Even these admonitions seem too strong for some academics, however. William van Alstyne, in an essay critical of these constraints calls them “exceptionally inhibiting standards” and complains that because they pertain to all utterances of a public character, they are “substantially more inhibiting of a faculty member’s civil freedom than any standard the government is constitutionally privileged to impose in respect to the personal political or social utterances of other kinds of public servants.”³¹ It is hard to resist asking why accuracy and fair-mindedness are too much to expect from academics addressing public issues, but the point I need to make here is a different one, namely, that while the German conception was that academic freedom carried with it the responsibility not to commit oneself publicly on partisan issues, the American conception includes a right to make such commentary. According to some academics apparently it includes even the right to inaccurate and intemperate commentary.

c. Conclusions from the Survey

What relevance does this survey of diverse practices have to contemporary American discussion of academic freedom?

Lernfreiheit in its traditional German sense has few, if any, advocates in contemporary America. There are to be sure, acknowledged principles and current controversies in the area of student rights.

In the area of acknowledged rights, there is, for example, the right to take reasoned exception to the views of their instructors and to protection against biased or capricious grading.

In the area of controversies, first, there are the issues of uncivil “verbal conduct,” such as name-calling or harassment, and of the right to express offensive ideas such as racial superiority. Second, there is the question of whether students have the unrestricted right to the use of university facilities for organizations regardless of the purpose of those organizations. Third, there is the question of whether students have the right to use pronouns in traditional ways or whether they

³⁰ Joughin, pp. 64–5.

³¹ “The Specific Theory of Academic Freedom and the General Issue of Civil Liberty,” in Pincoffs, pp. 59–85, here p. 83.

must conform to alternative norms preferred by some instructors in this regard. There are, no doubt, others.

These issues, important as they are, do not fall within the scope either of the usual AAUP definitions or of *Ex corde ecclesiae*. They will not be discussed further in this essay.

Institutional autonomy is an important theme of *Ex corde ecclesiae* and one closely connected to academic freedom, though distinguished from it. The importance of institutional autonomy and of academic freedom are asserted in the same sentence of paragraph 12 and the terms are defined in the same footnote. Institutional autonomy is defined in the following phrase:

"Institutional autonomy" means that the governance of an academic institution is and remains internal to the institution.

The AAUP Declaration of 1915 does suggest the importance of institutional autonomy against certain outside influences in its critique of what it calls "proprietary institutions."³² Otherwise, far from being a defender of institutional autonomy, it has designated itself the judge of all allegations of violation of academic freedom and blacklists indefinitely institutions which do not adhere to its verdicts. Nor is the AAUP the only association which engages in such interference. Numerous instances can be found in which accrediting agencies demand organizational, curricular or resource allocation and other changes in ways that, on any objective analysis, restrict the institutional autonomy of the institutions which they are supposed merely to be evaluating. The license given to such agencies by universities who are adamant about the impropriety of episcopal influence shows, I believe, that for many academics concerns about *Ex corde ecclesiae* are not really concerns about institutional autonomy. What they reveal is this troubling fact, that many academics at Catholic institutions recognize the authority of external academic agencies, no matter how secular, while rejecting in principle the authority of the Church.

But it is the difference between the American and the German conceptions of *Lehrfreiheit*, even when focusing on it as a right of faculty members, that puts us on notice that, even among secular academics, this is contested ground. Indeed, even among those American academics who are in essential sympathy with the principles of the AAUP, there are significant differences about exactly what academic freedom is and how it is to be defended.³³ The standards of the AAUP must not be uncritically applied in the Catholic context.

³² Joughin, pp. 158–160.

³³ See, for example, the results of the Conference on the Concept of Academic Freedom held at the University of Texas at Austin in 1972, published in Edmund L. Pincoffs, ed. *The Concept of Academic Freedom* (University of Texas Press, 1972).

2. Epistemological Liberalism and the American Conception of Academic Freedom

John H. Garvey has entitled his most recent book on constitutional law *What Are Freedoms For?*³⁴ So, as we begin a closer exploration of the liberal and the Catholic conceptions of academic freedom, it will be helpful to begin by asking how each would answer the question, what is academic freedom for?

The contrasting implications of Catholicism and liberalism for academic freedom can be seen by considering views of each about the end which academic freedom is supposed to serve, the relative effectiveness of academic freedom and other means of attaining that end, and the limitations on academic freedom which each view acknowledges.

That academic freedom is an instrumental good is conceded by nearly all who defend it. Shils puts it most concisely:³⁵

Academic freedom is justified when it contributes to the growth of the body of truthful propositions and to this body's transmission to contemporary and oncoming generations.

Similar views can be found in Lovejoy and other authors.³⁶

The standard American view is that inquiry constrained by the requirements of an academic discipline but free from any external constraints is the best means of discovering new truths. According to Lovejoy the defense of academic freedom rests on two presuppositions:³⁷

first, that science is not static nor even merely cumulative, but is a continual quest of new knowledge, to which old conceptions must be constantly adjusted; and
second, that truth is more likely to emerge through the interplay and conflict of ideas resulting from the exercise of individual reason than through the imposition of uniform and standardized opinion by authority.

In sum, Lovejoy's principles are fallibilism and the free market of ideas. These principles, which might be called epistemological liberalism,³⁸ have become standard fare in recent defenses of academic freedom. An alternative account of the relation between freedom and authority is caricatured by Shils, who writes:³⁹

³⁴ Harvard, 1996.

³⁵ P. 18

³⁶ Lovejoy, p. 384.

³⁷ P. 386.

³⁸ See my essay, "Catholic Epistemology & the Faculty of a Catholic University," in *The Idea of a Catholic University: Summer Seminar 1996*. In these essays, I mean by "liberalism" epistemological liberalism. To avoid any possibility of misunderstanding, I want to state explicitly that my critique of liberalism here has nothing to do with standard American political liberalism.

³⁹ P. 1

If a university is conceived as an institution that transmits definitive truths that cannot be improved upon and that cannot be modified and revised without diminishing their truthfulness, the norms governing the activity of teachers would stipulate the complete abstention of the individual teacher from critical intellectual efforts and limit him to the repetition of what has already been accepted as truth.

That such truths would need to be defended, explicated in a contemporary idiom, applied to current problems and the like escapes Shils' notice. Vatican II, of course, recognized this need:⁴⁰

It is also the responsibility of these faculties to explore more profoundly the various areas of the sacred disciplines so that day by day a deeper understanding of sacred revelation will be developed, the treasure of Christian wisdom handed down by our ancestors will be more plainly brought to view, dialog will be fostered with our separated brothers and with non-Christians, and solutions will be found to problems raised by the development of doctrine.

Most defenders of academic freedom recognize that it is not an unlimited freedom. The limits acknowledged, however, are limits imposed by other scholars. Glenn R. Morrow, for example, writes:⁴¹

[A scholar's] errors as a teacher or research worker can properly be corrected only by other scholars and scientists of similar competence and possessing the same academic freedom that he enjoys. His methods and his results are always subject to their approval or disapproval; ...

Shils writes:⁴²

[An academic] is not free to teach propositions that are contrary to the prevailing tradition unless he can support his contentions with evidence from his own research....

Defenders of academic freedom seldom dwell on the implications of this limitation, nor do they offer much in the way of illustrative examples. Again, Shils is the exception:⁴³

⁴⁰ *Gravissimum Educationis* 11.

⁴¹ "Academic Freedom," *International Encyclopedia of the Social Sciences* (Macmillan, 1968), I: 4–10, here p. 6. Morrow's prominence in the AAUP is shown by the fact that he was one of three members of the Self-Survey Committee which the AAUP appointed in 1965.

⁴² P. 4.

⁴³ Pp. 2, 4.

Astrological propositions about the determination of the fortunes of individuals by stellar configurations, or assertions that the British Isles were originally settled by the lost tribes of Israel, or beliefs that the cosmos and human species were created within six days are not generally acknowledged as falling within the legitimate range of ideas that academics are free to assert. Such propositions do not come under the protection of academic freedom.

The political freedom of academics ... does not extend to the public espousal or defense, directly or indirectly, of illegal actions by others, such as justifying political assassination.

The acknowledgment of the propriety of these limits is generally coupled with an explicit assertion of the impropriety of any other constraints. Lovejoy mentions in particular “interference from political or ecclesiastical authority, or from administrative officials of the institution.”⁴⁴ Also of concern are benefactors of the institution. Lovejoy admonishes universities to “decline all endowments for the inculcation of opinions specified by the donor.”⁴⁵ His reasons are as follows:⁴⁶

The performance of this function of seeking new truths will sometimes mean, as it has repeatedly meant since the beginning of modern science, the undermining of widely generally accepted beliefs. It is rendered impossible if the work of the investigator is shackled by the requirement that his conclusions shall never seriously deviate either from generally accepted beliefs or from those accepted by the persons, private or official, through whom society provides the means for the maintenance of universities.

3. Catholic Epistemology and the Catholic Conception of Academic Freedom

The Catholic can concede the truth of all that Lovejoy and the others say when the kind of knowledge at issue is natural knowledge, i.e., knowledge attained by the natural human powers of observation and reason. Fallibilism and the value of the market place of ideas may be true or false; when so limited in scope, however, they do not conflict with Catholic doctrine. The Catholic cannot, however, admit that these principles apply to the authoritative teachings of the Church.

Catholics and liberals can agree on the mission of a university—the attainment of new knowledge and the teaching of what is already known. They can also agree that academic freedom is appropriate because and to the extent that it serves that end.

Catholicism and liberalism differ however over the efficacy of various means of attaining knowledge and in particular over the extent to which free inquiry does

44 p. 384.

45 P. 386.

46 P. 384.

serve the end of discovering new truths in theology. The AAUP makes no distinction between theology and other sciences:⁴⁷

In the spiritual life, and in the interpretations of the general meaning and ends of human existence, we are still far from a comprehension of the final truths, and from a sincere agreement among all sincere and earnest men. In all of these domains of knowledge, the first condition of progress is complete and unlimited freedom to pursue inquiry and publish its results.

The Catholic, by contrast, believes that there is a distinction to be made. In contrast to the liberal commitment to free discussion as the exclusive road to truth, the Catholic is committed to a two-font epistemology. Vatican I summarized this epistemology in the following terms:⁴⁸

The perpetual universal belief of the Catholic Church has held and now holds that there are two orders of knowledge, distinct not only in origin but also in object. They are distinct in origin because in one we know by means of natural reason; in the other, by means of divine faith. And they are distinct in object because, in addition to what natural reason can attain, we have proposed to us as objects of belief mysteries that are hidden in God and which, unless divinely revealed, can never be known.

Catholics and liberals also differ in their understanding of institutions and their relation to the pursuit of knowledge. The first point of difference over institutions concerns their trustworthiness. Harold J. Laski once wrote:⁴⁹

If liberalism be defined as the attitude which tests the validity of behavior and of institutions in terms of the rational consent of men, it is permissible to regard it as the younger and unwanted child of the Reformation.

A Catholic is free to be liberal or not with respect to human institutions and traditions. With respect to one particular institution, however, there is no such freedom. The Catholic Church is different in this respect. The Second Vatican Council said:⁵⁰

Christ, the one Mediator, established and ceaselessly sustains here on earth His holy Church ... as a visible structure. ... Her He has erected for all ages as “the pillar and the mainstay of the truth” (1

⁴⁷ “Declaration of Principles,” Joughin, p. 164.

⁴⁸ Constitution on the Catholic Faith, ch. 4 (Denziger 1795).

⁴⁹ “The Rise of Liberalism, in *The Encyclopaedia of the Social Sciences* (Macmillan, 1930), pp. 103ff., here p. 103.

⁵⁰ *Lumen Gentium* 8.

Timothy 3:15). This Church, constituted and organized in the world as a society, subsists in the Catholic Church.

The second point of difference is over the institutional locus of the concern with knowledge and teaching. Lovejoy says of the university that it is “the chief organized agency for the advancement of science and the canvassing of new ideas.” The word “chief” is susceptible of various interpretations, but, with respect to theology and disciplines whose subject matter in part overlap with that of theology (saliently, philosophy), the Catholic must express reservations. The chief (in the sense of final and most authoritative) agency for evaluating new ideas in theology is the college of bishops and, when he needs to act alone, the Pope.⁵¹

Liberals are ambivalent about church-related institutions. It is awkward to say that such institutions have no right to exist. After all, although there is no logical link between the two, epistemological liberals are often political liberals as well, and as such are supposed to be for individual freedom. And associating for a common purpose (e.g., to form an institution for teaching and research guided by the principles of Catholicism, or Islam) is just one of the things that individuals have freely chosen to do. The AAUP Statement of 1940, therefore states only:

Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.

Nevertheless, the AAUP has always been explicitly hostile to the idea that there is any road to truth other than the one they recognize. In its 1915 Declaration, the AAUP characterized as “proprietary schools” those institutions “designed for the propagation of specific doctrines prescribed by those who have furnished its endowment.” Although conceding the obligation of the trustees of such an institution to act in accordance with the design, it went on to say:⁵²

Concerning the desirability of the existence of such institutions, the committee does not desire to express any opinion. But it is manifestly important that they should not be permitted to sail under false colors.

“What false colors?”, one might ask. A few lines earlier, the document had stated:

their purpose is not to advance knowledge by the unrestricted research and unfettered discussion of impartial investigators, but rather to subsidize the promotion of opinions held by ... persons, usually not of the scholar’s calling....

⁵¹ “In virtue of his office, that is, as Vicar of Christ and pastor of the whole Church, the Roman Pontiff has full, supreme, and universal power over the Church. And he can always exercise this power freely.”—*Lumen Gentium* 22.

⁵² Joughin, p. 159.

That these institutions might have as their purpose the advancement of knowledge (not opinion) attained by other methods, or indeed that knowledge might best be had from someone whose calling was not scholar, but fisherman, tax collector, bishop, or carpenter, seems not to be considered by the liberal scholars who formed the AAUP. The Catholic view is that bishops do have such a function:⁵³

Christ gave the apostles and their successors [sc., the bishops] the command and the power to teach all nations....

In exercising their duty of teaching, they should announce the Gospel of Christ to men, a task which is eminent among the chief duties of bishops.

In 1970, the Association tried to take back what it had grudgingly conceded in 1940. In what it tendentiously call "Interpretive Comments", it states:

Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 *Statement*, and we do not now endorse such a departure.

One can understand the AAUP's hostility. Catholics also reject roads accepted by others (e.g., seances) and the legitimacy of many putative revelations (e.g., *The Book of Mormon*). But the question is not whether their hostility is understandable, the question is whether it is based on a true understanding of the ways to truth.

The use of the phrase "limits on academic freedom" is a commonplace of liberal commentary on the practices of religious institutions. It is tendentious, of course. We saw above that liberals too place limits on what professors can say. On their view, the limits of academic freedom are the limits of rational disagreement, as identified by the consensus of the practitioners of a given discipline. When judgments of competency have to be made, they must be made by other scholars. Given liberal epistemological principles, these are sensible limits; greater restriction would be oppressive. Their naming of their own restrictions as "limitations of" academic freedom and that of their opponents as "limits on" academic freedom is, then, sincere. But the fact that liberals call Catholic restrictions "limits on" rather than "limits of" is no reason why Catholics should agree to the liberal version of this distinction.

If liberals are entitled to use their guide (consensus) to set the limits of academic freedom, there is no reason why Catholics should not be equally entitled to use theirs (magisterium) to set limits in their institutions. If liberals grant the right to judge competence to those persons whose expertise they recognize (other scholars), Catholics should be equally free to grant the right to those persons whose expertise *they* recognize (bishops). In doing so, Catholics are no more imposing limits on academic freedom than are liberals; they are merely distinguishing, in accordance with their epistemological principles, those areas which academic freedom does protect from those which it does not.

⁵³ *Christus Dominus* 12 and 2.

From this it follows that, since the liberal need not recognize a right to teach young-earth creationism, the Catholic need not recognize a right to teach anti-Trinitarianism. Since the liberal need not recognize a right to advocate political assassination, the Catholic need not recognize a right to advocate abortion. This, perhaps is the meaning of the assertion of *Ex corde ecclesiae* that the individual academic's right to teach whatever he personally thinks is limited by the truth.

4. Conclusion

There is no legitimate sense in which *Ex corde ecclesiae* or other measures which in recent years have evoked so much protest from American academics are infringements on academic freedom. They do, to be sure, have a somewhat different conception of the limits of that freedom, but, as we have seen, the American conception of academic freedom is based on assumptions which no Catholic can accept. Indeed that they are based on assumptions that not even all liberals accept was made clear by the contrast of the American and German conceptions of that same liberty. If the American conception of academic freedom is based on principles inconsistent with Catholic doctrine, it should be clear where the duty of the American Catholic university lies.