

14. Walter P. Metzger, "The Age of the University," pp. 367-479.

operativeness, have been part of the scientific bequest. Two other values deserve particular emphasis. The scientific criterion of reliability—the dissociation of a scientific work from the beliefs and associations of its author—has bestowed on academic freedom the value of universalism. By universalism is meant the elimination of particularistic criteria—creedal, racial, or national—in judging the merits of a work, and the elimination of unearned advantages—connections, rank, and caste—in considering the merits of a man. The second value is that of neutrality, an interest in disinterestedness that is deeply ingrained in science. By assimilating the value of universalism, academic freedom has come to signify the brotherhood of man in science that is akin in aspiration to the brotherhood of man in God. Attempts to foist upon the academic community an American or a Presbyterian science, or a class or color yardstick in appointments and promotions, are thus infringements of academic freedom. By acquiring the value of neutrality, academic freedom has come to stand for the belief that science must transcend ideology, that professors must renounce all commitments that corrupt the passion for truth. Attempts to suborn professors by pay or other preferences, attempts by professors themselves to hold departments to a particular “line,” are thus infringements of academic freedom. As the symbol and the guardian of these two values, academic freedom has come to be equated not only with free intellectual activity, but with an ethic of human relations and an ideal of personal fulfillment.

We should not interpret these changes in the colleges and in the rationale of academic freedom as evidences of a law of progress. Leaving the cocoon of religious authority, the colleges did not emerge at once into sunlit freedom. Taking over the concepts of science, the rationale of academic freedom was not thenceforth complete and unambiguous. In the next chapter, when we examine the last stage in the educational revolution—the building of the graduate school on the model of the German university—we shall see that the new university in some ways compromised the independence of the academic. We shall see—by comparing American academic freedom with German *Lernfreiheit* and *Lehrfreiheit*—that the principles of neutrality and competence were susceptible to restrictive interpretations. The paradox of revolutions—and here our analogy holds too—is that the freedom in the name of which they conquer is often gravely endangered by the new conditions they create.

## VIII: THE GERMAN INFLUENCE

THE FULL STORY of the contacts between the American university and the German university has never been told.<sup>1</sup> Fully treated, it would reveal, first of all, a relationship of one-sided dependence. More than nine thousand Americans studied at German universities in the nineteenth century. Through these students, through the scores of Americans who knew Germany from books and an occasional *Wanderjahr*, through German expatriates teaching in American colleges, the methods and ideals of the German university were transported into this country.<sup>2</sup> The story of this contact would also show the effects of cultural selection. America took from German sources only that which fitted her needs, only that which was in harmony with her history. In a certain sense, the German academic influence, powerful as it was, reinforced rather than initiated native American tendencies toward change. Before 1850, for example, comparatively few American candidates for academic posts followed the trail to Göt-

<sup>1</sup> This is a wide gap in American historiography. There is only one study that attempts directly to relate the German and the American universities: Charles Franklin Thwing, *The American and the German University, One Hundred Years of History* (New York, 1928). While this book has the virtue of regarding the German impact comprehensively, taking into account institutional, personal, and scholarly influences, it is skimpy on details and superficial in analysis. John A. Walz, *German Influence in American Education and Culture* (Philadelphia, 1936), is a little essay too thin to justify its title. B. A. Hinsdale, “Notes on the History of Foreign Influences upon Education in the United States,” *Report of the Commissioner of Education*, I (1897-98), 610-13, gives a list of the names of American students at Göttingen, Halle, Berlin, and Leipzig, a valuable but unfortunately incomplete listing. On the over-all impact of German culture on the United States, there are several studies of tangential value. Albert B. Faust, *The German Element in the United States* (New York and Boston, 1909), is a two-volume compendium of bits of information that overstates the German contribution to American culture. Orin W. Long, *Literary Pioneers* (Cambridge, Mass., 1935) is an excellent study of literary influences, and contains much that is illuminating on the reaction of Everett, Bancroft, Cogswell, Ticknor, Longfellow, and Motley to the German university. Two studies of the American magazines’ reaction to German literature contain bibliographical references pertinent to this theme: Scott H. Goodnight, “German Literature in American Magazines Prior to 1846,” and Martin H. Haertel, “German Literature in American Magazines, 1846 to 1880,” both in *Bulletin of the University of Wisconsin Philology and Literature Series*, IV (1908).

<sup>2</sup> Thwing, *The American and the German University*, p. 41.

tingen blazed by Ticknor and Bancroft.<sup>3</sup> Of those who went, a disproportionate number were graduates of atypical Harvard.<sup>4</sup> The denominational college was neither eager for German-trained scholars nor ready for German-trained scholarship. German theology was too skeptical, German philology too specialized, German *Wissenschaftslehre* too strenuous.<sup>5</sup> It was not until a German degree offered advantages to career chances at home—which is to say, it was not until the American college had already grown more secular, specialized, and intellectually ambitious—that the great exodus of American scholars began. It must be assumed, therefore, that the increase in the number of Americans going to Germany in the second half of the nineteenth century—the figures are roughly 200 before 1850 and go up to 2,000 in the peak decade of the 1880s—tells as much about the pace of indigenous change as about the growth of our cultural debt.<sup>6</sup>

Finally, the story would reveal the effects of cultural modification. The Germany seen through American eyes was bound to be, in part, a figment of American preconceptions. Brought into contact with our own ideals

<sup>3</sup> Harold S. Jantz objects to the traditional view that the publication of Mme. de Staël's *De l'Allemagne* in this country in 1814 and the pioneer activities of the Göttingen Four were America's first introduction to German culture and the German university. See "German Thought and Literature in New England, 1620-1820," *Journal of English and Germanic Philology*, IV (1942), 1-45. But his evidence hinges on the interests of a few scholars of particularly broad reading and not on those of the mass of American college graduates, whose interest in English culture was dominant before 1820.

<sup>4</sup> Hinsdale, "Notes on the History of Foreign Influences," pp. 610-13; William Goodwin, "Remarks on the American Colony at Göttingen," *Proceedings of the Massachusetts Historical Society*, XII, Second Series (1897-99), 366-69.

<sup>5</sup> Particularly was there a great reluctance to admit German-trained theological students into the colleges. George Bancroft, though he was provided with a three-year scholarship by the Harvard Corporation to become a philologist and Biblical critic, felt that he had to make his Christian invulnerability to German skepticism quite clear to his Harvard sponsors. Writing to President Kirkland of Harvard in 1819, he assured him that he had nothing to do with German theology except insofar as it was merely critical. "Of their infidel systems I hear not a word: and I trust I have been too long under your eye, and too long a member of the Theological Institution under your inspection to be in danger of being led away from the religion of my Fathers. . . . I say this explicitly, because before I left home I heard frequently expressed fears, lest I join the German school." Long, *Literary Pioneers*, pp. 114-15. A folkish fear of German theology remained long past the midpoint of the century. In 1863, William Graham Sumner, deciding to acquire a German theological training, was thought by his family to do so with considerable risk to his immortal soul. Harris E. Starr, *William Graham Sumner* (New York, 1925), p. 56. Similarly, George Sylvester Morris' family feared for his orthodoxy when he decided to go to Germany in 1866. R. M. Wenley, *The Life and Works of George Sylvester Morris* (New York, 1919), p. 115.

<sup>6</sup> Thwing, *The American and the German University*, p. 42.

and on our own ground, German academic ideals were bound to be greatly altered. The analysis that follows covers briefly only two of many German contributions—the ideal of academic research, and the ideals of *Lernfreiheit* and *Lehrfreiheit*. But even this incomplete account of a complex cultural connection illustrates the three-fold process of dependence, selection, and modification.

### ACADEMIC RESEARCH

The conception of a university as a research institution was in large part a German contribution. In this country, the meaning of "university" had been depreciated and obscured by an inflation of institutional claims. Before the mid-century, the word "university" variously denoted: (1) a college with at least one professional school attached to it, such as the University of Pennsylvania or Harvard University; (2) simply a state-controlled institution of higher learning, such as the University of Georgia and the University of North Carolina; (3) a state-controlled institution with one or more professional schools which also offered a wider assortment of elective courses, such as the University of Virginia; (4) any college that aspired to be grand, as did numerous institutions in the South and West.<sup>7</sup> Neither the word nor the thing it referred to encompassed the activity of research. As long as the techniques of research could be self-taught, as long as private libraries could keep pace with the growth of knowledge, there was no cause for a Franklin to seek a professorship, for an Emerson to soliloquize before schoolboys, for a Jefferson, an Irving, or a Motley to try didactically to reproduce his kind. The adoption of research as an academic function awaited changes in the conditions of inquiry—the vast extension of empirical knowledge and the refinement in the techniques of investigation; the overcoming of academic resistance; and, very important, a greater familiarity with the German university which, in the nineteenth century, was a model for reformers and a spur.

<sup>7</sup> Daniel C. Gilman, first president of Johns Hopkins, tells in his memoirs of a dignitary who visited Yale and introduced himself as "chancellor of the University." "How large a faculty have you," asked Dominic Day. "Not any," was the answer. "Have you any library or buildings?" "Not yet," replied the visitor. "Any endowment?" "None" came the monotonous and saddening negative. "What have you?" persisted the Yale President. The visitor brightened as he said, "We have a very good charter." *Launching of a University* (New York, 1906), pp. 5-6. For a brief account of the evolution of the word "university" in American academic life, see Carnegie Foundation for the Advancement of Teaching, *Second Annual Report of the President and Treasurer* (1907), pp. 81-85.

The German universities had not always been famed as research institutions. For two centuries following the Reformation they had been little more than agents of the prescribed theology, drowsy centers of scholasticism, branches of the state bureaucracy. Leibnitz' refusal to accept a position at a German university is one indication of their lack of appeal for scholars.<sup>8</sup> That they forged ahead of all others in the nineteenth century and became the cynosures of richer and older institutions was the result of many factors, among which two—their peculiar structural advantages and the revival of academic philosophy—deserve our special notice.

In organization the German universities in the late eighteenth and early nineteenth centuries were stronger than the clustered colleges of Oxford and Cambridge and the independent technical and professional schools that emerged in France after the Revolution.<sup>9</sup> First of all, the German universities had retained the philosophical faculty in its old medieval conjunction with theology, law, and medicine. Thus they had been, even in their darkest days, something more than theological seminaries or professional schools. Secondly, the relegation of preparatory courses to lower schools, the abandonment of the communal student life in *Bursen* and colleges, the gradual rise in the age of entering students, liberated the German professor from most parental responsibilities. There was less danger, where the student-teacher relation was an *entente cordiale* and not a forced alliance, that the presence of students would spoil the inspiration of searchers; there was a greater chance, in the freer devotion of mind to mind, for the habit of discipleship to be reborn. Thirdly, the German universities were the possessions and the pride of the several territorial states—which, if not an unmixed blessing, at least allowed them to benefit from the princely penchant for display.<sup>10</sup> Finally, the development of a civil bureaucracy and the adoption of the Roman law in the

<sup>8</sup> See Paul Farmer's excellent but all too brief essay on this break between academic and intellectual life in Europe, in "Nineteenth Century Ideas of the University: Continental Europe," Margaret Clapp, ed., *The Modern University* (Ithaca, N.Y., 1950), pp. 3-24.

<sup>9</sup> See Stephen d'Irsay, *Histoire des universités françaises et étrangères des origines à nos jours* (2 vols.; Paris, 1933-35), II, 168-77; John Theodore Merz, *A History of European Thought in the Nineteenth Century* (4 vols.; Edinburgh and London, 1907-14), Chap. I: "The Scientific Spirit in France."

<sup>10</sup> Friedrich Paulsen, *The German Universities: Their Character and Historical Development* (New York, 1895), pp. 57-64; Paulsen, *The German Universities and University Study* (New York, 1906), pp. 44-46, 137-39. The debt of this section to Paulsen is very large.

German states in the eighteenth century created a need for officials with university training. Even the nobility had to study the new jurisprudence in order to maintain its supremacy in the German bureaucracies—and this did much to enhance the power and the prestige of the German professor and the university.<sup>11</sup>

The flowering of German philosophy came in the eighteenth and early nineteenth centuries. The history of universities provides no example of a philosophical movement so academic in origin (unless it be the development of Scottish common-sense realism at Edinburgh and Glasgow);<sup>12</sup> the history of philosophies hardly recounts a phase so thoroughly academic in flavor. Whereas French Encyclopedism and the English Enlightenment flourished outside the universities, their German counterpart was well ensconced at Göttingen from the year of its founding (1737), at Halle after the reinstatement of Christian Wolff by Frederick the Great in 1740, at Königsberg during the glorious reign of Immanuel Kant (1755-1797).<sup>13</sup> Long before romantic idealism infiltrated the French and English universities, it prospered under Fichte and Schelling at Jena, and under Fichte, Hegel, and Schelling at Berlin. It is worth noting that whereas the great philosophers of England, from Bacon to John Stuart Mill, were men of affairs, the great figures in the heroic age of German philosophy were academic men. From this circumstance may be traced both the glory of English philosophy and the grandeur of the German university.

The philosophical revival revitalized the universities by redefining the idea of searching. Under the long-reigning scholastic system, to philosophize had meant to explain dogma, to deduce its consequences, and to demonstrate its validity: searching, within this confine, was an act of ratiocination. To philosophize, according to the philosophical rationalists, was to submit all belief, even the very conditions of knowledge, to the verification of reason: with them, searching became an act of intellectual criticism.<sup>14</sup> With the rise of German idealism, searching was defined as a positive act of creation: to philosophize, in Fichtean terms, was to find

<sup>11</sup> Paulsen, *German Universities and University Study*, pp. 119-21; W. H. Bruford, *Germany in the Eighteenth Century: The Social Background of the Literary Revival* (Cambridge, 1935), p. 251.

<sup>12</sup> See Gladys Bryson, *Man and Society: The Scottish Inquiry of the Eighteenth Century* (Princeton, N.J., 1945).

<sup>13</sup> Frederick Lilge, *The Abuse of Learning: The Failure of the German University* (New York, 1948), Chaps. I and II. Lilge is a good antidote to the idyllic view of the German university presented by Paulsen.

<sup>14</sup> Immanuel Kant, *Der Streit der Fakultäten* (Königsberg, 1798), Rossmann ed. (Heidelberg, 1947), pp. 21-26.

the content of reality through the very activity of thought.<sup>15</sup> In part, this apotheosis of mind was compensation for the German's failure in action. It helped make amends for defeats on the field of battle to seek spiritual and moral goals in a sphere that was free from contingencies. It was to counteract the materialism of French philosophy that the Idealists sought a suprasensual reality behind the screen of perceived appearances. In addition, deep religious aspirations, evidenced in disguised religious symbols, were met by this abstruse metaphysics. Fichte's selfless scholar may be identified with the celibate priest; the intellect conscious of the Absolute, with the mystic union of man with God; the search for philosophical truth, with the quest for religious certainty.<sup>16</sup> Each of the several schools of idealism was like a militant church whose creed was revealed to its founder. To these academic philosophers, the search for truth was not an occupation, but a calling—a transcendent necessity, a requirement for salvation.

The hegemony of philosophy in the German universities broke down in the 1820s and 1830s with the introduction of the natural and experimental sciences. For decades a war of methods was fought between the scientists, who sought to explain nature through quantitative measurement and careful observation, and the speculative philosophers of Schelling's school, who regarded nature as knowable through *a priori* schemes, more or less intuitively derived. With the success of Johannes Mueller's pioneer work in physiology, the wide acclaim given to Liebig's chemical laboratory, the popularity of Alexander von Humboldt's lectures on natural science, the victory of the methods of science was assured. After 1840, intense specialization, rigid objectivity, the mustering of footnoted evidence, became the hallmarks of German scholarship. But the philosophic spirit was not rooted out of academic thought by these empirical procedures. The idealistic mood lingered over the German universities long after it was severed from the circumstances of its origin. Nineteenth-century German scholarship, even when it exhibited the most painstaking empiricism, was polemical and subjective. "In no other country," Santayana has written, pointing to this characteristic,

has so large, so industrious and (amid its rude polemics) so co-operative a set of professors devoted itself to all sorts of learning. But as the original motive was to save one's soul, an apologetic and scholastic manner has often

<sup>15</sup> J. G. Fichte, "Bestimmung des Gelehrten," *Nachgelassene Werke*, III, 183-93.

<sup>16</sup> See George Santayana's brilliant analysis of this philosophy in *Egotism in German Philosophy* (New York, 1940), Chaps. I and II.

survived: the issue is prejudged and egotism has appeared even in science. . . . If the controlling purpose is not political or religious, it is at least "philosophical," that is to say, arbitrary. . . . Hence a piece of Biblical or Homeric criticism, a history of Rome or of Germany, often becomes a little system of egotistical philosophy, posited and defended with all the parental zeal and all the increasing conviction with which a prophet defends his supernatural inspirations.<sup>17</sup>

The very notion of *Wissenschaft* had overtones of meaning utterly missing in its English counterpart, *science*. The German term signified a dedicated, sanctified pursuit. It signified not merely the goal of rational understanding, but the goal of self-fulfillment; not merely the study of the "exact sciences," but of everything taught by the university; not the study of things for their immediate utilities, but the morally imperative study of things for themselves and for their ultimate meanings.<sup>18</sup>

The German university undertook to train as well as to maintain its scientists and scholars. The lecture, through which the results of new research was transmitted, replaced the old medieval *praelectio*, the exposition of canonical texts.<sup>19</sup> The seminar, which once had been the means for training acolytes in the art of disputation, became, along with the laboratory, a workshop of scientific practice. Working in the vineyard of knowledge side by side with his master, the student learned the methods of his discipline and undertook his own investigations.<sup>20</sup> Gradually, as the faculty of philosophy grew in size and importance, this technique was extended to the other professional faculties. The joining of teaching and research gave the four-part German university a distinctive purpose and character. To a large extent, though not entirely, it arrested the tendency of theology to seek antecedent certainties, of law to become the study of procedures, of medicine to become exclusively clinical.<sup>21</sup> Not pastors

<sup>17</sup> *Ibid.*, pp. 17-18.

<sup>18</sup> See John Theodore Merz's discussion in *A History of European Thought in the Nineteenth Century*, pp. 90, 168-74, 170n, 172n.

<sup>19</sup> Herbert Baxter Adams, "New Methods of Study in History," *Johns Hopkins University Studies in Historical and Political Science* (Baltimore, 1884), II, 64-65.

<sup>20</sup> See Rudolph Virchow, Rectorial Address, "The Founding of the Berlin University and the Transition from the Philosophic to the Scientific Age," in *Annual Report of the Board of Regents of the Smithsonian Institution* (Washington, D.C., 1896), pp. 685 ff.

<sup>21</sup> One exception to this was to be found in theological instruction in the Catholic faculties. Religious compromise had provided for parallel Catholic and Protestant faculties of theology at Bonn, Breslau, Strasbourg, and Tübingen, and Catholic theology faculties at Freiburg, Munich, Münster, and Würzburg. The presence in a university of a faculty over which the Roman Catholic Church exercised a con-

but theologians, not lawyers but jurists, not practitioners but medical scientists, were the desired products. The German university was not a place where anyone could study anything, nor was it a place, despite the practical preparations demanded by state examinations, where the interest in practice was predominant. Technological training in nineteenth-century Germany, by no means neglected, was usually made available in separate schools and institutes; basic courses and tool subjects, by no means disregarded, were offered in the efficient *Gymnasien*. This indifference to vocational ambition, this insistence on disinterested research, created a gulf between the spirit of the university and that of everyday life. Like an independent spiritual order, the German university trained its own personnel, held novitiates to its own standards, and kept the secular world at a certain remove.

To these radiant ideals and great accomplishments, many Americans reacted enviously, and with contempt for their own institutions. "What has heretofore been the idea of an University with us?" wrote the young Henry Wadsworth Longfellow while a student at Göttingen in 1829. "The answer is a simple one:—Two or three large brick buildings,—with a chapel, and a President to pray in it!" How inferior was this to the Göttingen idea "of collecting together professors in whom the spirit moved—who were well enough known to attract students to themselves, and . . . capable of teaching them something they did not know before."<sup>22</sup> As the Gilded Age approached, contrasts of this sort became more and more common. Reform-minded intellectuals, unhappy in the universe of Ulysses Grant, yet sharing its spirit of expansionism, held up the achievements of the German university as indictments of American education. To Benjamin Apthorp Gould, the noted Harvard astronomer, it was intolerable that America, like Rome, should have to send her sons abroad for intellectual nourishment.<sup>23</sup> The reviewer of Noah Porter's book on American education compared the German *Gelehrte* with the

trolling influence both in appointments and dogma was a source of friction throughout the nineteenth century. The argument against removal to separate institutions relied on the fear of communal divisionism in Germany and on the hope, not unwarranted, that the scientific method would penetrate Catholic theology too. See Max Müller, *Die Lehr- und Lernfreiheit: Versuch einer systematisch-historischen Darstellung mit besonderer Berücksichtigung der französischen, deutschen und schweizerischen Verhältnisse* (St. Gallen, 1911), pp. 191–200.

<sup>22</sup> Long, *Literary Pioneers*, p. 166.

<sup>23</sup> Benjamin A. Gould, "An American University," *American Journal of Education*, II (September, 1856), 289.

American professor, and found the native product to be "a nondescript, a jack of all trades, equally ready to teach surveying and Latin eloquence, and thankful if his quarter's salary is not docked to whitewash the college fence."<sup>24</sup> Almost all of those destined to become presidents of the great new universities compared the frowsiness of Alma Mater with the charms of the foreign Lorelei. Andrew Dickson White, as a student at the University of Berlin, saw his "ideal of a university not only realized, but extended and glorified," and resolved to "do something" for American education.<sup>25</sup> Three decades later, Nicholas Murray Butler savored the matchless knowledge of German scholars at the same institution, and acknowledged that it "left an inefaceable impression of what scholarship meant, of what a university was and of what a long road higher education in America had to travel before it could hope to reach a place of equal elevation."<sup>26</sup> James Burrill Angell, Charles W. Eliot, Daniel Coit Gilman, and Charles Kendall Adams were also in this company of future college presidents who admired Germany.<sup>27</sup> In America's continual rediscovery of her cultural inferiority, the German paradigm played a conspicuous part.

Before the 1850s, those who turned to German universities for inspiration were more impressed by the advancement and specialization of their teaching than by their commitment to scholarly research.<sup>28</sup> It was the elementary quality of American collegiate education that discouraged Joseph Green Cogswell at Harvard and made him leave to found his little *Landschule* at Northampton, Massachusetts.<sup>29</sup> It was the thorough-

<sup>24</sup> "The Higher Education in America," *Galaxy*, XI (March, 1871), 373.

<sup>25</sup> Andrew Dickson White, *Autobiography* (New York, 1922), I, 291.

<sup>26</sup> Nicholas Murray Butler, *Across the Busy Years* (New York, 1935), I, 126.

<sup>27</sup> See James Burrill Angell, *Reminiscences* (New York, 1912), p. 102; Henry James, *Charles W. Eliot*, I, 136–37; Gilman, *Launching of a University*, p. 275; Charles Foster Smith, *Charles Kendall Adams, A Life-Sketch* (Madison, Wis., 1924), pp. 12–13. See also, S. Willis Rudy, "The 'Revolution' in American Higher Education, 1865–1900," *Harvard Educational Review*, XXI (Summer, 1951), 165–69.

<sup>28</sup> For example, the primary object of George Ticknor's projected reforms at Harvard in 1825 was to provide for a wider range of subjects, an elective choice of subjects, lectures instead of recitations. This admirer of the German universities did not try to make Harvard over into an institution of research. See George S. Hilliard, *Life, Letters and Journals of George Ticknor* (Boston, 1877), I, 358; George Ticknor, *Remarks on Changes Lately Proposed or Adopted at Harvard University* (Boston, 1825). The early attempts to found graduate schools envisioned advanced studies, but rarely the deliberate encouragement of research. Richard F. Storr, "Academic Overture," unpublished Ph.D. dissertation (Harvard University, 1949).

<sup>29</sup> *Life of Joseph Green Cogswell* (Cambridge, Mass., 1874), p. 134; Joseph Green Cogswell, "University Education," *New York Review*, VII (1840), 109–36.

ness of the German system that drew high encomiums from the Reverend Henry E. Dwight, son of the Yale president, who wrote a widely reviewed book about Germany in 1829.<sup>30</sup> Not until after the middle of the century was the German ideal of academic research approved for emulation. Henry P. Tappan's *University Education* (1850), perhaps the first full-length book by an American author dealing exclusively with advanced studies, was one of the earliest attempts to define a university as a place where, among other things, "provision is made for carrying forward all scientific investigation."<sup>31</sup> The tendency to regard the university from the point of view of the scholar as well as of the student became marked in the next few decades. The object of the German university, wrote James Morgan Hart, in the first extensive study of the German university published in this country, is the "ardent, methodical, independent search after truth in any and all its forms, but wholly irrespective of utilitarian applications."<sup>32</sup> Research, under academic auspices, he argued, breathed life into the university. It attracted men of outstanding abilities, not pedagogues and disciplinarians. It gave students a genuine concern for matters of the mind.<sup>33</sup> This belated recognition of Germany's real glory points up the factor of cultural selection. Cultural goods can only be imported into friendly markets, and before 1850 our canons of education were not receptive to the idea of academic research.<sup>34</sup>

<sup>30</sup> Henry E. Dwight, *Travels in the North of Germany* (New York, 1829), p. 175 and *passim*.

<sup>31</sup> Henry P. Tappan, *University Education* (New York, 1850), pp. 43-45, 68. See, also, Alexander D. Bache, "A National University," *American Journal of Education*, I (May, 1856), 478.

<sup>32</sup> James Morgan Hart, *German Universities: A Narrative of Personal Experience* (New York, 1878), p. 264.

<sup>33</sup> *Ibid.*, pp. 257, 338-55.

<sup>34</sup> Without attempting the almost impossible task of providing a full bibliography, the following arguments for research as an academic function are worthy of mention: George S. Morris, "University Education," in *Philosophical Papers of the University of Michigan* (Ann Arbor, 1886-1888), Series 1-2, pp. 8-9; many addresses by Daniel C. Gilman, including his "Inaugural Address" (1876), in *University Problems in the United States* (New York, 1898), pp. 18-19; David Starr Jordan, "The Building of a University" in *The Voice of the Scholar* (San Francisco, 1901), p. 28; Jordan, "Inaugural Address" (1891) in David Weaver, ed., *Builders of American Universities* (Alton, Ill., 1950), p. 356; F. W. Clarke, "American Colleges versus American Science," *Popular Science Monthly*, IX (August, 1876), pp. 467-74; Charles Phelps Taft, *The German University and the American College* (Cincinnati, 1871), p. 23; Francis A. March, "The Scholar of Today," in Northrup, Lane, Schwab, eds., *Representative Phi Beta Addresses* (New York, 1915), pp. 112-23; John W. Hoyt, "Address on University Progress," delivered before the National Teachers' Association, 1869, in *National University Pamphlets*, (Columbia University Library), pp. 6-79. Opposition to the idea of searching as an academic function was voiced by many traditionalists; they did not, however,

In time, however, the old assumptions were challenged and were cast aside. In the centennial year of the nation's independence, Johns Hopkins University, the first university in America based on the German model, opened its doors. The aim of this university, said Daniel Coit Gilman when he assumed the duties of the presidency, was "the encouragement of research; the promotion of young men; and the advancement of individual scholars, who by their excellence will advance the sciences they pursue, and the society where they dwell."<sup>35</sup> Suiting action to his words, he appointed a small but eminent faculty, giving it time and freedom for research, and assembled a small but remarkable group of graduate students, giving them incentives for scholarly work; and the names of these men—James J. Sylvester, Henry A. Rowland, Herbert B. Adams, Henry C. Adams, Josiah Royce, Thorstein Veblen, Woodrow Wilson, Richard T. Ely, John Dewey—are the best testimonials of his success.<sup>36</sup> Aptly was this university called the Göttingen at Baltimore. Of fifty-three professors and lecturers on the roster in 1884, nearly all had studied at German universities, and thirteen had been awarded the doctoral degree.<sup>37</sup> Johns Hopkins adopted the lecture, the seminar, and the laboratory, and brought teachers and students together in close and congenial association. What it called the graduate school was the equivalent of the German faculty of philosophy—broad in its range of specialties, nonutilitarian in its objectives, devoted to the tasks of research. And the spirit was German too: "One longed," wrote Josiah Royce, "to be a doer of the word, and not a hearer only, a creator of his own infinitesimal fraction of a product, bound in God's name to produce it when the time came."<sup>38</sup>

Inspired by Johns Hopkins, fifteen major graduate schools or departments were established by the end of the nineteenth century.<sup>39</sup> Decade by

decade unite on any one argument. Some opposed the German emphasis on self-discipline and argued for the older notion of mental discipline, see "The American Colleges versus the European Universities," *Nation*, XXXIV (Feb. 16, 1882), 142-43, 143-44. Some continued to fear the irreligion of German education, see L. H. Atwater, "Proposed Reforms in Collegiate Education," *Princeton Review*, X (July, 1882), 100-120. Others defended the classical subjects and the prescribed curriculum; see Andrew F. West, *A Review of President Eliot's Report on Elective Studies* (New York, 1886).

<sup>35</sup> Gilman, *University Problems*, p. 35.

<sup>36</sup> John C. French, *A History of the University Founded by Johns Hopkins* (Baltimore, 1946), p. 41 and *passim*.

<sup>37</sup> Thwing, *The American and the German University*, p. 43.

<sup>38</sup> Josiah Royce, "Present Ideals of American University Life," *Scribner's Magazine*, X (September, 1891), 383.

<sup>39</sup> W. Carson Ryan, *Studies in Early Graduate Education* (New York, 1939), pp. 3-14.

decade, the output of American degrees of doctor of philosophy increased almost geometrically. Before 1861 not a single doctorate had been awarded by an American institution; in 1890, 164 such degrees were conferred; in 1900, more than twice that number.<sup>40</sup> In 1871, the total number of postgraduate students in American institutions was 198; by 1890, the number had risen to 2,872.<sup>41</sup> Whatever these figures reveal as to the crowding of the graduate schools and the lowering of standards and results, their chief import is the evidence they give of the thorough domestication of the ideal of academic research.

Rarely, however, does an ideal undergo a drastic change of scene and remain intact in form or spirit. Original meanings are lost in new ideological surroundings; new implications are acquired in strange institutional settings. In practice, America transformed, even as she borrowed, the notion of academic research. Americans did not approach the task of building universities as did the French: no minister of education, like Jules Ferry, could cast our institutions into one comprehensive system: the molding forces were public and private, local and national, lay and professional. Americans did not build their universities with the logical consistency of the Germans: for various reasons no sharp lines separated colleges from graduate schools, or technical from intellectual concerns. In answering the question: "What should the new university be?" every need clamored for satisfaction, every craft hoped for inclusion. Our post-war institutions of higher learning were therefore not merely motley, but mongrel; not only different from each other in size, quality, independence, and sophistication (which was a familiar American pattern), but eclectic in their character and purposes (which on the whole was something new). In calling attention to this fact we do not imply, as do certain critics of the American university, that consistency is a supreme educational good.<sup>42</sup> It may well be that diversity is a sign of effectiveness, that consistency can only be bought at the price of real vitality. But it does appear that our eclecticism was responsible for a confusion and ambivalence in the rela-

<sup>40</sup> Walton C. John, *Graduate Study in Universities and Colleges in the United States* (Washington, D.C., 1935), pp. 9, 19.

<sup>41</sup> *Report of the Commissioner of Education, 1872*, pp. 772-81; *Report of the Commissioner of Education, 1890-1891*, II, 1398-1413.

<sup>42</sup> Critics of American higher education have made much of its hodge-podge character. See, particularly, Abraham Flexner, *Universities: American, English and German* (New York and London, 1930); Robert Maynard Hutchins, *The Higher Learning in America* (New Haven, 1936); Jacques Barzun, *Teacher in America* (Boston, 1945), pp. 253-319; Carnegie Foundation for the Advancement of Teaching, *Second Annual Report of the President and Treasurer* (1907), pp. 76-97.

tion of the university to its publics which affected in turn the spirit and goals of academic research.

It was apparent to certain reformers that colleges and universities were not only different, but essentially incompatible, institutions. In a famous manifesto of the university movement, John W. Burgess, the Columbia political scientist, argued that the college was an educational anomaly, unable to become a university and unwilling to become a *Gymnasium*; and that therefore it should cease to exist.<sup>43</sup> G. Stanley Hall wanted to make Clark University into a "school for professors," designed for original research and instruction of the highest grade, without the encumbrance of an undergraduate department.<sup>44</sup> But this drastic excision of the college did not and indeed could not take place. Sentiment overruled logic, and sentiment is always the main conduit of academic financial support. The alumni and friends of the older colleges were willing to pay to see them exalted, not destroyed, by graduate schools. The state universities would not take so "undemocratic" a step as to differentiate intellectual interests. Even the brand-new universities—Johns Hopkins, Clark, Chicago, Stanford—retained, or (as in the case of Clark) in time acquired, an undergraduate division, either out of deference to local sentiment, or because of a lack of qualified graduate students, or out of a sheer obsession with size. As a consequence the parental assumptions of higher education were never dispelled. Comparing the aims of college educators in 1843-76 with those in 1909-21, one writer has demonstrated the persistence of "morality and character" as basic collegiate values, while the greater attention given in the later period to "civic and social responsibility" was a kind of secular substitute for piety.<sup>45</sup> The existence of the college on university grounds perpetuated a residual belief in the immaturity of academic students, and as their age at the time of entry mounted, their putative age of in-

<sup>43</sup> John W. Burgess, *The American University: When Shall It Be? Where Shall It Be? What Shall It Be?* (Boston, 1884), p. 18. Burgess had returned from the seminars of Droysen and Von Gneist to teach survey courses in history at Amherst College. Amherst in the 1870s was still a denominational college of the parental type, and Burgess' attempt to introduce a graduate seminar along German lines met with severe opposition. With higher hopes, he had then turned to Columbia University, only to find that this richer and less pious institution, located in a center of American sophistication, was also opposed to research. Though eventually he was able to establish a graduate school in political science, the lesson he learned was that the collegiate spirit was antipathetic to graduate research. John W. Burgess, *Reminiscences of an American Scholar* (New York, 1934), pp. 138-90.

<sup>44</sup> Ryan, *Studies in Early Graduate Education*, p. 48.

<sup>45</sup> Leonard V. Koos, "College Aims Past and Present," *School and Society*, XIV (Dec. 3, 1921), 500.



nocence was increased. In the public mind, the American university was not clearly defined as a center of independent thought, an agent of intellectual progress; it was also, perhaps primarily, a school of preparation for minors, a substitute parent for the young.<sup>46</sup>

The combination of technical and intellectual interests in each university was also a wedlock of incompatibles. The emergence of the university coincided with the growth of industrialism, urbanism, agricultural commercialism, and corporate enterprise. Dynamic and growing, the machine society needed technical skill to run it, scientific knowledge to improve it, managerial experience to organize it, engineering competence to give it cost advantages. The land-grant colleges were the most famous product of the industrial movement in education. Set up under the terms of the Morrill Act (1862), they reflected the activities of leaders of scientific agriculture, of advocates of a free public education, of politicians free with public lands.<sup>47</sup> As teaching organizations, the land-grant colleges purveyed the abundant and complicated "know-how" that American industry was acquiring. As research organizations, they emphasized the applied sciences—the "better-ways-of-doing"—that American culture was geared to accept. The significant point, however, is not that land-grant colleges and graduate schools coexisted, for each served its own area of need; the significant thing is that they coexisted in the same institutions. In the original disposition of the land-grant fund, agricultural and mechanical arts colleges were added to ten existing universities; ultimately some of the independent land-grant colleges increased their size and added to their purposes by taking on graduate schools.<sup>48</sup> Cornell University, the perfect example of the academic crossbreed, was a land-grant college, a Germanized graduate school, a private university, a liberal arts college.<sup>49</sup> Eclecticism could be achieved, however, in institutions which did not include a land-grant

<sup>46</sup> See Richard H. Shryock's interesting discussion of this point in "The Academic Profession in the United States," *Bulletin, AAUP*, XXXVIII (Spring, 1952), 37 ff.

<sup>47</sup> The best analysis of the industrial movement in education is provided by Earle D. Ross, *Democracy's College: The Land-Grant Movement in the Formative Stage* (Ames, Iowa, 1942), pp. 1-45; Merle Curti and Vernon Carstensen, *The University of Wisconsin, 1848-1925* (Madison, Wis., 1949), Vol. I, Chap. I; Frank T. Carlton, *Education and Industrial Evolution* (New York, 1913); Philip R. V. Curcio, *Educational Attitudes and Policies of Organized Labor in the United States* (New York, 1926), pp. 61, 88, 95-98.

<sup>48</sup> Ross, *Democracy's College*, pp. 68-86.

<sup>49</sup> Walter P. Rogers, *Andrew Dickson White and the Modern University* (Ithaca, N.Y., 1942), pp. 90-123 and *passim*.

college. The University of Chicago, sharing the imperious spirit of the Standard Oil tycoon who was its patron, served both practical and intellectual interests from the outset: it was a community center for the popular diffusion of knowledge, a great institution for scientific and scholarly research, a workshop of practical engineering, a center for professional training, and an undergraduate college.<sup>50</sup>

As a result, the American university united two divergent conceptions of research. In the one view, research was an activity to be initiated and directed from within the university. The searcher was to be independent, not only with respect to his conclusions, but to his choice of an area of work. To fill the gaps in knowledge that continuing inquiry revealed, to conduct investigations as the logic of a discipline directed—these were to be the functions of academic inquiry. Practical results might be forthcoming, but inquiry should be allowed to push against any of the frontiers of knowledge, and not merely along that border where material benefits were promised. Fundamentally, this was the graduate school's conception of research.<sup>51</sup> Adopting the methods of the German seminar and laboratory, it favored an unremitting quest for facts, a strenuous objectivity, the reconstruction of past events "as they actually happened."<sup>52</sup> With the constant development of new specialties, the graduate-school scholar tended to submit his work to a small group of the *cognoscenti* upon whose recognition and approval his professional advancement depended. Moreover, like the German faculty of philosophy, the graduate school preserved its cultural independence by training its own personnel. Not entirely by design,<sup>53</sup> the Ph.D. in America

<sup>50</sup> Thomas W. Goodspeed, *A History of the University of Chicago* (Chicago, 1916), p. 26.

<sup>51</sup> See Daniel C. Gilman, "The Future of American Colleges and Universities," *Atlantic Monthly*, LXXVIII (August, 1896), 175-79; G. Stanley Hall's statement in *Clark University, 1890-1899, Decennial Celebration* (Worcester, Mass., 1899), p. iii, for contemporary expressions of this view of graduate research.

<sup>52</sup> For the German influence on this version of research, see Herbert B. Adams, "New Methods of Study in History," *Johns Hopkins University Studies in Historical and Political Science*, II (1884), 94; Adams, *The Study of History in American Colleges and Universities* (Washington, D.C., 1887); Edward A. Ross, *Seventy Years of It* (New York, 1936), pp. 37-38; Ray Stannard Baker, ed., *Woodrow Wilson: Life and Letters* (New York, 1927), I, 174-75; Carl Murchison, ed., *A History of Psychology in Autobiography* (Worcester, Mass., 1930), I, 2-4, 102-7, 301-10, 450-52; II, 214-20. Paul Shorey, "American Scholarship," *The Nation*, LCH (May 11, 1911), 466-69; C. M. Andrews, "These Forty Years," *American Historical Review*, XXX (January, 1925), 225-50.

<sup>53</sup> The hope of some of the founders of the graduate school that it would also train men for the higher ranks of government was disappointed by the slow development

turned out to be marketable mostly in the type of institution that conferred it, or in the colleges ranking immediately below. But unlike the German faculty of philosophy, which was *primus inter pares* and spiritual leader of the other faculties, the graduate school in the American university was only one of a heterogeneous group of divisions. In the other schools and departments, research was often geared to external and ulterior purposes. The Agricultural College, for example, took its cues for research from the problems of the agricultural community, often from the requests of the Dairyman's Association or the local horticultural society.<sup>54</sup> The departments of commerce, the schools of engineering, the schools of business administration, tended to perfect the skills required by the industrial and business community. In this second view, research was a public service that originated in a client's need and ended in a client's satisfaction.

It would be a mistake to conclude that, compared with the German university, our hybrid university possessed and offered no advantages. From the standpoint of science there was much to be said for keeping open the channels between pure and applied research. From the standpoint of social policy it could be argued that there was something intrinsically good about a system that did not draw tight distinctions between one kind of interest and another, one kind of student and another, one kind of inquiry and another. And we shall see that, from the standpoint of academic freedom, one of the cues taken from the workaday world by university scholars was a bolder demand for civil liberty. Yet it is no less true that our eclecticism carried penalties. It blurred the public's picture of what a university was and ought to be. Like Hamlet's cloud, it appeared in the shape of a camel, or a weasel, or a whale. Some saw in that indistinct image a refuge for recondite thought; others perceived a public station, catering to all comers. Each delineation of the university carried a different interpretation of its rights. As a culturally autonomous gild, the university was independent of all social groups and stood above the clash of their in-

of the civil service and the superiority of the study of law as a threshold to political careers. Nor, as originally planned, did the graduate schools fill the higher echelons of journalism, business, and secondary education, once these functions were taken over by special graduate institutions after the turn of the century. See Richard Hofstadter and C. De Witt Hardy, *The Development and Scope of Higher Education in the United States* (New York, 1952), pp. 57-100.

<sup>54</sup> An excellent analysis of community initiative in the research projects of the "Ag" college can be found in W. H. Glover, *Farm and College: The College of Agriculture of the University of Wisconsin* (Madison, Wis., 1952).

terests; as a serviceable folk institution, it was the instrument of all social groups and dared not rasp the interests of constituents. The members of the university did not relieve this confusion. In undertaking to perform a variety of services, the university engaged many teachers to whom unqualified freedom of inquiry was not desirable or not germane. In the university, searchers, the seekers for truth wherever it led, hobnobbed with technicians, who were the purveyors of *ad hoc* techniques, and craftsmen, who were the executors of someone else's designs. In a faculty composed of accountants, home economists, sociologists, military scientists, physicists, physicians, physical educationalists, fashion designers, marketing experts, and mining engineers, there could be no unified sense of the need for academic freedom, no united front against attacks on university independence, no sure definition of the university.

#### LEHRFREIHEIT AND LERNFREIHEIT

All through the nineteenth century, but particularly after the establishment of the Empire, German scholars boasted of their academic freedom and brought it to the attention of the scholarly world. And the scholarly world, in the habit of paying homage to the German universities, agreed that freedom was triumphant there, the proof and cause of their superiority. In recent times, it is worth noting, the reality of this vaunted freedom has been sharply questioned. With the recent capitulation of the German universities to pseudo-science and the totalitarian state, doubt has arisen as to whether, at any time in the pre-Hitler period, they had ever truly been free. It is pointed out that professors as civil servants had been subject to a special disciplinary code; that under the Kaisers, Social Democrats, Jews, and other minorities had been discriminated against in appointments; that on most questions of national honor and interest (witness the performance of the German professors during the First World War), the academic corps had docilely taken its place in the chauvinistic chorus.<sup>55</sup> It is also pointed out that the German universities were state universities in an undemocratic state,

<sup>55</sup> See E. Y. Hartshorne, "The German Universities and the Government," *Annals of the American Academy of Political and Social Science*, CC (November, 1938), 210-12; Louis Snyder, "German Universities Are on the March Again," *Prevent World War III*, XIV (April-May, 1946), 28-30; R. H. Samuel and R. H. Thomas, *Education and Society in Modern Germany* (London, 1949), pp. 114-15; Frank Smith, "Presidential Address, Association of University Teachers," *Bulletin*, AAUP, XX (October, 1934), 383-84; Paul R. Neureiter, "Hitlerism and the German Universities," *Journal of Higher Education*, V (May, 1934), 264-70.

dependent upon the uncertain good will of the minister of education and on a dynasty far more autocratic than the constitutional forms reveal.<sup>66</sup> Granting all this to be true, however, there remains the question of what was the basis of the boast that the German universities were free.

Two factors point to the answer. The first is the greater independence enjoyed by the universities under the Empire than at any time before. The Reformation had fixed the universities in the theology of the territorial ruler. Though test oaths for students had been abolished in the Protestant universities during the eighteenth century, and speculative philosophy and theological skepticism had flourished at the expense of orthodoxy, it was not until complete separation of church and state was achieved under the Hohenzollerns that the universities were finally free from church control.<sup>67</sup> Likewise punitive action by the state became comparatively rare after unification. The German states lost much of their cameralistic urge to regulate everything directly. The territorial oaths and religious tests in force in the seventeenth century, such as the official resolution of the University of Marburg in 1653 to ban Cartesian philosophy,<sup>68</sup> the capricious absolutism of the eighteenth century, revealed in Frederick William I's expulsion of Christian Wolff and the

<sup>66</sup> For the activities of the high-handed Friedrich Althoff, head of the Prussian Ministry of Education (1897-1907), see Friedrich Paulsen, *An Autobiography* (New York, 1938), pp. 361-69; Ulrich Wilamowitz-Moellendorf, *My Recollections, 1848-1914* (London, 1930), pp. 300-303. The case of the Berlin *Privatdozent* Leo Arons, who was deprived of the *venia legendi* by the Prussian authorities over the pointed objections of the Berlin philosophical faculty, suggests the power that could be exercised by the throne. *Die Aktenstücke des Disziplinarverfahrens gegen den Privatdozenten Dr. Arons* (Berlin, 1900), gives the essential documents in the case. For late 19th century infringements of the faculty's control over *Privatdozenten*, see William C. Dreher, "A Letter from Germany," *Atlantic Monthly*, LXXXV (March, 1900), 305.

<sup>67</sup> Except for the seven Roman Catholic theological faculties, where the appointment of professors, under the religious compromise, had to receive the sanction of the bishop of the diocese.

<sup>68</sup> Similarly at Jena in 1696, the unanimous consent of the faculty was required before a teacher might point out Aristotle's mistakes. Frequently, it was the sovereign who gave distinguished scholars protection against the gild oaths and narrow-mindedness of professors. For example, Karl Ludwig, Elector Palatine, invited Spinoza in 1673 to his University of Heidelberg, where the latter was guaranteed every freedom of philosophical instruction, hedged only by the Elector's expectation that he would not disturb the established religion. The Great Elector, Frederick William of Brandenburg, proposed that all scholars oppressed in their homelands assemble in one of his cities—a plan that did not materialize. See G. Kaufmann, *Die Lehrfreiheit an den deutschen Universitäten im neunzehnten Jahrhundert* (Leipzig, 1898).

reprimand of Kant by Prime Minister Wollner,<sup>69</sup> and the repressive censorship of the early and middle nineteenth century, exemplified by the Carlsbad Decrees and the dismissal of the Göttingen Seven,<sup>70</sup> all seemed part of an inglorious but forever finished past. The provision in the Prussian Constitution of 1850 that "science and its teaching shall be free" epitomized the more permissive attitude of the new order. Finally, the German universities were not directly affected by public opinion under the Empire. Public opinion in general never reached the degree of crystallization, organization, and articulation that it achieved in England, France, or the United States. Like the army, the universities belonged to the state, which protected them against local and sectarian pressures.

The German system of control allowed the universities considerable corporate autonomy. The states drew up the budgets, created new chairs, appointed professors, and framed the general scheme of instruction. But the election of academic officials, the appointment of lecturers or *Privatdozenten*, and the nomination of professors were powers enjoyed by the faculty.<sup>71</sup> No lay board of control was interposed between

<sup>69</sup> On the charge that he was encouraging desertion in the army with his fatalistic philosophy, Christian Wolff was run out of Halle on forty-eight hours' notice under pain of the halter (1723). Frederick the Great (1740-86) had no real sympathy for German scholarship, though he reinstated Christian Wolff and was tolerant in religious and intellectual matters. After his death, there was a sharp reaction. A royal decree restricted freedom of teaching and publication in 1788; it was under the authority of this edict that Kant was reprimanded by Prussian Minister Wollner for having used his philosophy "for the purpose of distorting and deprecating several basic teachings of the Holy Bible and of Christianity." Lilje, *The Abuse of Learning*, p. 7.

<sup>70</sup> Military defeat and the great spiritual revival of Prussia in the early nineteenth century brought the brief flowering of German liberal humanism. As Secretary of the Department of Education and Religion in the Prussian Ministry of Education, Humboldt secured the abolition of censorship for scholarly, scientific, and literary works in 1809-10. But with the general reaction that came with the Congress of Vienna, a system of espionage and repressive control was established over the universities. The Carlsbad Resolutions of 1819 provided for strict censorship and a curatorial system to control the universities. During this period of reaction, seven professors at Göttingen, led by Dahlmann, refused to swear allegiance to a new and less liberal constitution in 1837 and were dismissed. There were other dismissals: Mommsen from Leipzig, David Strauss from Tübingen, Maleschott and Kuno Fischer from Heidelberg. See Robert B. Sutton, "European and American Concepts of Academic Freedom, 1500-1914," unpublished Ph.D. dissertation (University of Missouri, 1950), pp. 177 ff.

<sup>71</sup> The federal nature of the German Empire allowed for a certain amount of variation in the forms of state control. In Prussia, the faculty submitted the names of three men to the king to fill vacancies in professorial chairs; the king

the ultimate authority of the state and the plenary powers of the professors. No elaborate administrative structure was required; no office of the president was established. Each faculty was presided over by a dean elected by and chosen from that faculty; each university was represented by a rector chosen from and elected by the whole professorial corps. The German universities were state institutions, but the combination of governmental restraint, cultural isolation, limited professorial co-option, and elected administrators gave them the appearance of self-governing bodies.<sup>62</sup>

The German definition of academic freedom offers the second clue. When the German professor spoke of academic freedom,<sup>63</sup> he referred to a condition summed up by two words: *Lernfreiheit* and *Lehrfreiheit*. By *Lernfreiheit* he meant the absence of administrative coercions in the learning situation. He referred to the fact that German students were free to roam from place to place, sampling academic wares; that wherever they lighted, they were free to determine the choice and sequence of courses, and were responsible to no one for regular attendance; that they were exempted from all tests save the final examination; that they lived in private quarters and controlled their private lives.<sup>64</sup> This freedom was deemed essential to the main purposes of the German university: to forward research and to train researchers. By *Lehrfreiheit*, the German educator meant two things. He meant that the university professor was free to examine bodies of evidence and to report his findings in lecture or pub-

usually, but not invariably, chose one of them for the position. On the other hand, Prussia granted the faculty full right to appoint *Privatdozenten* (until the passage of the *Lex Arons*, 1898, which made the minister of education the final court in the disciplining of lecturers). In Bavaria, the king granted the *venia legendi* to all university teachers; in Saxony, Württemberg, and Mecklenburg-Schwerin, the consent of the minister of instruction was necessary.

<sup>62</sup> See, for a good short résumé in English of the structure of university control in Germany, "The Financial Status of the Professor in America and in Germany," *Bulletin*, Carnegie Foundation for the Advancement of Teaching, II (1908), 66.

<sup>63</sup> Actually, the literal translation of academic freedom, *akademische Freiheit*, usually denoted *Lernfreiheit* alone. See J. G. Fichte, "Ueber die einzig mögliche Störung der akademischen Freiheit," in *Sämtliche Werke*, VI, 449-76; Hermann von Helmholtz, "Ueber die akademische Freiheit der deutschen Universitäten," in *Vorträge und Reden* (2 vols.; Braunschweig, 1884), II, 195-216. When the Germans referred to freedom of teaching, or what in current American usage is called academic freedom, they used the term *Lehrfreiheit* or *akademische Lehrfreiheit*. Viz., Friedrich Paulsen, "Die akademische Lehrfreiheit und ihre Grenzen: eine Rede pro domo," *Preussische Jahrbücher*, XCI (January-April, 1898), pp. 515-31.

<sup>64</sup> See Helmholtz, "Ueber die akademische Freiheit," pp. 195-216.

lished form—that he enjoyed freedom of teaching and freedom of inquiry. This, too, was thought to follow from the searching function, from the presumption that knowledge was not fixed or final, from the belief, as Paulsen put it, that *Wissenschaft* knew no "statute of limitation," no authoritative "law of prescription," no "absolute property right."<sup>65</sup> This freedom was not, as the Germans conceived it, an inalienable endowment of all men, nor was it a superadded attraction of certain universities and not of others; rather, it was the distinctive prerogative of the academic profession, and the essential condition of all universities. Without it, no institution had the right to call itself a "university."<sup>66</sup> In addition, *Lehrfreiheit*, like *Lernfreiheit*, also denoted the paucity of administrative rules within the teaching situation: the absence of a prescribed syllabus, the freedom from tutorial duties, the opportunity to lecture on any subject according to the teacher's interest. Thus, academic freedom, as the Germans defined it, was not simply the right of professors to speak without fear or favor, but the atmosphere of consent that surrounded the whole process of research and instruction.

The German's pride in these two freedoms can be attributed in part to the status they conferred and to their significance as patriotic symbols. To the university student, coming from the strict and formal *Gymnasium*, *Lernfreiheit* was a precious privilege, a recognition of his arrival at man's estate. To the university professor, extremely sensitive to considerations of social esteem, *Lehrfreiheit* was a dispensation that set him apart from the ordinary civil servant. In a nation still aristocratic and feudalistic in its mores, caste considerations thus underlay the loyalty to academic freedom.<sup>67</sup> In addition, *Lern-* and *Lehrfreiheit* had patriotic associations. They were identified with the national revival. The renewal of student peregrinations in the eighteenth century symbolized the breakdown of territorial exclusiveness and the growth of national consciousness. The University of Berlin, dedicated to academic freedom, was a phoenix that had arisen from the ashes of military defeat. The denial of academic freedom in the Metternich era had been the work of Catholic dogmatism, Protestant particularism, petty absolutism—all enemies of a united Reich.<sup>68</sup> Moreover, after unification, academic free-

<sup>65</sup> Paulsen, *The German Universities and University Study*, p. 228.

<sup>66</sup> Paulsen, "Die akademische Lehrfreiheit," pp. 515-31.

<sup>67</sup> For analysis of social structure in nineteenth-century Germany, see Ernst Kohn-Bramstedt, *Aristocracy and the Middle Classes in Germany* (London, 1937).

<sup>68</sup> See Paulsen, *German Universities and University Study*, pp. 36-67, 227-62;

dom was thought to atone for the lack of political freedoms and to prove the special virtue of the Fatherland.<sup>69</sup> The romantic nineteenth century was given to equating freedom and nationality, but it was a peculiarity of German thought that it made academic freedom one of the major terms in this equation.

The German conception of academic freedom, reflecting the philosophical temper of German academic thought, distinguished sharply between freedom *within* and freedom *outside* the university. Within the walls of academe, a wide latitude of utterance was allowed, even expected. 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. Among certain professors, to be sure, there were proponents of a more restrained and cautious conception. In 1877, in the heat of the Darwinian controversy, Rudolph Virchow, the great German pathologist, argued that unproved hypotheses should never be taught as true, that professors should stay within their spheres of competence, that they should consult the *consensus gentium* before expressing possibly dangerous beliefs.<sup>70</sup> But in a famous reply to Virchow, Ernst Haeckel, the biologist, contended that no line between objective and subjective knowledge could or ought to be drawn, that science advances only through the open clash of wrong and correct opinions, that the obligation of the professor to adhere to indubitable facts or to defer to existing opinion would relinquish the field of education to the religious infallibilists.<sup>71</sup> The leading theorists<sup>72</sup> of academic freedom in this period adhered to the latter position—Max Müller of St. Gallen, Georg Kaufmann, von Helmholtz, Friedrich Paulsen. Reasoning from ration-

Virchow, "The Founding of Berlin University," p. 685; Fichte, "Ueber die einzig mögliche Störung der akademischen Freiheit," *Sämtliche Werke*, VI, 451-76.

<sup>69</sup> Helmholtz, "Ueber die akademische Freiheit," p. 214.

<sup>70</sup> R. Virchow, *Freedom of Science in the Modern State*. Discourse at the Third Meeting of the 50th Conference of the German Association of Naturalists and Physicists, Munich, 1877 (London, 1878), pp. 8, 22-24, 41, 49-50.

<sup>71</sup> Ernst Haeckel, *Freedom of Science and Teaching* (New York, 1889; first printing 1878), pp. 63 ff.

<sup>72</sup> Max Weber was an exception. See "Die *Lehrfreiheit* der Universitäten," *Hochschul-Nachrichten*, XIX (January, 1909), 89-91. Weber argued for neutrality on normative issues, insisting, however, that the professor be the judge of his own transgressions.

alistic or idealistic premises, they believed that the only alternative to the presentation of personal convictions was the prescription of authoritative dogma, that the only alternative to polemical controversy was the stoppage of academic inquiry. Recognizing that there were dangers in subjective and polemical teaching, they thought there were adequate safeguards in the freedom and maturity of the student, who was neither captive nor unprimed. As Paulsen put it:

The content of instruction is not prescribed for the academic teacher; he is, as searcher as well as teacher, attached to no authority; he himself answers for his own instruction and is responsible to no one else. Opposite him is his student with complete freedom to accept or to reject; he is not a pupil but has the privilege of the critic or the improver. There is only one aim for both: the truth; only one yardstick: the agreement of thought with reality and with no other outside authority.<sup>73</sup>

To Helmholtz,

Whoever wants to give his students complete conviction about the accuracy of his statements must first of all know from his own experience how one wins conviction, and how one does not. Thus he must have had to know how to struggle for this by himself when no predecessor had yet come to his aid; this means that he must have worked on the boundaries of human knowledge and conquered new realms for it. A teacher who imparts convictions that are not his own is sufficient for students who are to be directed by authority as the source of their knowledge, but it is not for such as those who demand a foundation for their conviction down to the very last fundamentals. . . . The free conviction of scholars is only to be won if the free expression of conviction on the part of the teacher, freedom of teaching, is assured.<sup>74</sup>

But outside the university, the same degree of freedom was not condoned. Though quite a few German professors played prominent political roles in the nineteenth century, and a number of these—notably Mommsen and Virchow—were outspoken critics of Bismarck, it was not generally assumed that *Lehrfreiheit* condoned or protected such activities. Rather, it was generally assumed that professors as civil servants were bound to be circumspect and loyal, and that participation in partisan politics spoiled the habits of scholarship. Even so firm a libertarian as Paulsen held that

the scholars cannot and should not engage in politics. They cannot do it if they have developed their capacities in accordance with the demands of their calling. Scientific research is their business, and scientific research calls for

<sup>73</sup> Paulsen, "Die akademische Freiheit," p. 517.

<sup>74</sup> Helmholtz, "Ueber die akademische Freiheit," pp. 208-9.

constant examination of thoughts and theories to the end of harmonizing them with the facts. Hence those thinkers are bound to develop a habit of *theoretical indifference* with respect to the opposing sides, a readiness to pursue any other path in case it promises to lead to a theory more in accordance with the facts. Now every form of practical activity, and practical politics particularly, demands above everything else a determination to follow *one* path that one has chosen. . . . Political activity . . . produces a habit that would prove fatal to the theorist, the habit of *opportunism*.<sup>75</sup>

A university teacher who violated this canon by working for the Social Democratic Party (a legal party after 1890) might find the temporal power rigid and severe. The removal of Dr. Leo Arons, *Privatdocent* at the University of Berlin, for having delivered speeches for the Social Democratic Party is a case in point. The Prussian Minister of Education declared, in removing him, that every teacher "must defend the existing order against all attacks."<sup>76</sup> The philosophical faculty of Berlin had admonished Arons some years before "to cease from such agitation . . . as may bring . . . the good name of the university into obloquy."<sup>77</sup> When, however, their power to discipline the *Privatdocenten* was infringed upon by the Prussian Minister, they defended Arons and demanded that he be retained. Their verdict, which was overruled, contained the statement that university professors "were not strictly comparable to other officials" and that they should enjoy "a wider realm of utterance." But they did concede that professors were not "free and independent citizens," and that professors were obliged, as members of state institutions, to adhere to a special code of decorum.<sup>78</sup> What was noticeably missing from their statement was any assertion that professors, as citizens, enjoyed an unfringeable right to freedom of extramural speech. The issue was debated on the ground of prerogative, not on the ground of civil liberty.

In this dichotomy between freedom within and freedom without, we perceive, in transmuted form, some of the classic dualities in German philosophy. The assumption that there were two realms of professorial existence—the one, within the university, the realm of freedom; the other, outside the university, the realm of legal compulsion—suggests Kant's division of the noumena and the phenomena, of the world of

<sup>75</sup> Paulsen, *German Universities and University Study*, pp. 255–56.

<sup>76</sup> *Die Aktenstücke . . . gegen den Privatdocenten Dr. Arons*, p. 12.

<sup>77</sup> *Ibid.*, pp. 18–19.

<sup>78</sup> *Ibid.*, pp. 16–17.

free will and the world of causal necessity. The limitation of freedom to the inner realm suggests Luther's formula of spiritual freedom combined with temporal obedience. And the injunction that the scholar withdraw from the sphere of practical matters to the anchorite's world of contemplation suggests Fichte's distinction between the true student and the false one, between him who is dedicated to truth and him who seeks selfish advantage.

The American reaction to the German universities' concept of academic freedom again shows striking evidences of dependence, selectivity, and modification.<sup>79</sup> Dependence appeared from the days of the first expatriates, when the freedom of the German professor in theological affairs gripped the attention and won the admiration of Americans. Ticknor wrote from Göttingen:

No matter what a man thinks, he may teach it and print it; not only without molestation from the government but also without molestation from public opinion. . . . The same freedom in France produced the revolution and the same freedom in England would now shake the deep foundations of the British throne—but here it passes as a matter of course. . . . If truth is to be attained by freedom of inquiry, as I doubt not it is, the German professors and literati are certainly on the high road, and have the way quietly open before them.<sup>80</sup>

Considerably cooler to the skepticism and impiety of the Göttingen theologians, George Bancroft also marveled at the fact that

the German literary world is a perfect democracy. No man acknowledges the supremacy of another, and everyone feels himself perfectly at liberty to

<sup>79</sup> We have uncovered only one article that deals with this aspect of the impact of German ideals: Leo L. Rockwell, "Academic Freedom—German Origin and American Development," in *Bulletin, AAUP*, XXXVI (Summer, 1950), 225–36. Scattered references to *Lehrfreiheit* and *Lernfreiheit* abound, but no attempt has been made to follow their career in American thought, and sometimes the one is confused with the other, as for example by Morison in his *Three Centuries of Harvard* (p. 254), when he gives the false impression that it was freedom of teaching and not the freedom of learning that first appealed to the Harvard reformers. The bulk of the material bearing on this question must be sought in autobiographical statements. Autobiographical information is unreliable, however, first on the general ground that it is subject to faulty memory and prejudiced interest, and second on the particular ground that during and after the First World War, American academic opinion changed from admiration of to hostility toward the freedoms of the German university, so that an opinion expressed at the later date may be a distortion of the author's first impression.

<sup>80</sup> Ticknor to Jefferson, October 14, 1815, quoted in Orie W. Long, *Thomas Jefferson and George Ticknor: A Chapter in American Scholarship* (Williamstown, Mass., 1933), pp. 13–15.

follow his own inclinations in his style of writing and in his subject. . . . No laws are acknowledged as limiting the field of investigation or experiment.<sup>81</sup>

Decades later, William Graham Sumner, no Germanophile, paid tribute to the freedom and courage of the German scholar in an area designated as sacrosanct in America:

I have heard men elsewhere talk about the nobility of that spirit [the seeking of truth]; but the only *body* of men whom I have ever known who really lived by it, sacrificing wealth, political distinction, church preferment, popularity, or anything else for the truth of science, were the professors of biblical science in Germany. That was precisely the range of subjects which in this country was then treated with a reserve in favor of tradition which was prejudicial to everything which a scholar should value.<sup>82</sup>

After the Civil War, when theological freedom under university auspices no longer occasioned surprise, American economists, psychologists, and philosophers sang the praises of German freedom. "The German University is to-day the freest spot on earth," wrote G. Stanley Hall, the psychologist;<sup>83</sup> the German university made him "free intellectually, free spiritually," attested Paul Russell Pope, professor of German at Cornell;<sup>84</sup> "we were impressed in the German university by a certain largeness and freedom of thought," said Richard T. Ely, speaking for himself and for other founders of the American Economic Association.<sup>85</sup>

Since the propensity of Americans to acknowledge that others are free is not usually great, we are led to seek the reason for the lavishness of this praise. As far as the earlier enthusiasts are concerned, the reason may lie in the fact that most of them attended the freest of the German universities, Göttingen and Berlin. This was not by chance: at these universities they did not have to take the religious oaths that would have

<sup>81</sup> Bancroft's journal and notebook, March, 1819, in Long, *Literary Pioneers*, p. 122.

<sup>82</sup> "Sketch of William Graham Sumner," *Popular Science Monthly*, XXXV (June, 1889), 263. See also Philip Schaff, *Germany: Its Universities, Theology and Religion* (Philadelphia, 1857), pp. 48, 146-51.

<sup>83</sup> G. Stanley Hall, "Educational Reforms," *Pedagogical Seminary*, I (1891), 6-7.

<sup>84</sup> Thwing, *The American and the German University*, p. 63.

<sup>85</sup> Ely, "Anniversary Meeting Address," *Publications, American Economic Association*, XI (1910), 77. "The American Economic Association took a stand at its organization for entire freedom of discussion. We were thoroughly devoted to the ideal of the German university—*Lehrfreiheit* and *Lernfreiheit*; and we have not hesitated to enter the lists vigorously in favor of freedom when we have considered it endangered" (p. 78).

tried their consciences at the South German Catholic universities or at the universities of Oxford and Cambridge.<sup>86</sup> In addition, it should be recalled that most of the Americans who went to Germany throughout the century were young men who were suddenly projected into an older and more permissive culture than their own. Temperament decided how this situation would be used, but we can assume that it would be an American in whom the asceticism of Calvin and the prudishness of Victoria were deeply and ineradicably ingrained who would resist the blandishments of the carefree German Sabbath, the *Kneipe* in the afternoon, and perhaps an innocent, initiating love affair. Biography and autobiography are not very revealing on this score, but it is not unlikely that many an American small-town boy shared, with G. Stanley Hall, a sense of deliverance from "the narrow, inflexible orthodoxy, the settled lifeless *mores*, the Puritan eviction of joy." "Germany almost remade me," the president of Clark University wrote in his candid autobiography. "It gave me a new attitude toward life . . . I fairly revelled in a freedom unknown before."<sup>87</sup> To an unmeasurable degree, the German university's reputation rested on the remembrance of freedoms enjoyed that were not in any narrow sense academic. Needless to say, this did not diminish its reputation.

"To the German mind," wrote James Morgan Hart, "if either freedom of teaching or freedom of learning is wanting, that institution, no matter how richly endowed, no matter how numerous its students, no matter how imposing its buildings, is not . . . a University."<sup>88</sup> If one were to single out the chief German contribution to the American conception of academic freedom, it would be the assumption that academic freedom, like academic searching, *defined* the true university. This simple though signally important idea fastened itself upon American academic thought. It became an idea to which fealty had to be expressed. It took hold in the rhetoric of academic ceremonials, a rhetoric that,

<sup>86</sup> See Goldwin Smith, *A Plea for the Abolition of Tests* (Oxford, 1864). Not until 1854 was the requirement of the student's submission to the Thirty-nine Articles of the established church remitted for the degrees of Bachelor of Arts, Law, and Medicine at Oxford; not until 1856 was it remitted at Cambridge. Test oaths for fellowships were not removed until 1871 and other religious restrictions not until 1882. See John William Adamson, *English Education, 1789-1902* (Cambridge, 1930), Chaps. III, VII, XV.

<sup>87</sup> G. Stanley Hall, *Life and Confessions of a Psychologist* (New York, 1923), pp. 219, 223.

<sup>88</sup> Hart, *German Universities*, p. 250.

for all its flamboyance, tells much about underlying assumptions. Charles W. Eliot in his 1869 inaugural address decked this idea with memorable words:

A university must be indigenous; it must be rich; and above all, it must be free. The winnowing breeze of freedom must blow through all its chambers. It takes a hurricane to blow wheat away. An atmosphere of intellectual freedom is the native air of literature and science. This university aspires to serve the nation by training men to intellectual honesty and independence of mind. The Corporation demands of all its teachers that they be grave, reverent and high-minded; but it leaves them, like their pupils, free.<sup>88</sup>

Not since Jefferson had an academic leader acclaimed academic freedom so aphoristically and from so high a tribunal. But where Jefferson's tribute to the "illimitable freedom of the human mind" spoke for a waning hope, Eliot's words were harbingers of a mood that would thoroughly conquer. Again and again, high-placed figures in the academic world gave this idea their support. Gilman, at his inauguration, asserted that freedom for teachers and students was essential to a true university.<sup>89</sup> Andrew Dickson White, commenting on the Winchell case, declared that "an institution calling itself a university thus violated the fundamental principles on which any institution worthy of the name must be based."<sup>90</sup> William Rainey Harper of Chicago spoke these glowing words:

When for any reason, in a university on private foundation or in a university supported by public money, the administration of the institution or the instruction in any one of its departments is changed by an influence from without, when an effort is made to dislodge an officer or a professor because the political sentiment or the religious sentiment of the majority has undergone a change, at that moment the institution has ceased to be a university, and it cannot again take its place in the rank of universities so long as there continues to exist to any appreciable extent the factor of coercion. . . . Individuals or the state or the church may found schools for propagating certain special kinds of instruction, but such schools are not universities, and may not be so denominated.<sup>92</sup>

Nor did these hosannas swell from the throats of reformers alone: a president of a small church-related college, a trustee to whom Ricardo

<sup>88</sup> Charles W. Eliot, "Inaugural Address," *Educational Reform* (New York, 1898), pp. 30-31.

<sup>89</sup> Gilman, "Inaugural Address," *University Problems*, p. 31.

<sup>90</sup> Andrew Dickson White, *History of the Warfare of Science with Theology* (New York, 1896), I, 315.

<sup>92</sup> University of Chicago, *President's Reports, 1892-1902*, p. xxiii.

was the last word in economics, an alumnus proud of his university's achievement at games, were also willing choristers.<sup>93</sup>

It need hardly be said that a gap existed between these words and their implementation. Early in his regime, Charles W. Eliot told a professor to omit a doctrine offensive to Boston businessmen from his projected book, or else erase any reference to his Harvard connection from the title page: the Harvard president was to regret his arbitrary imposition.<sup>94</sup> Andrew Dickson White's understanding of the principle of tenure was so underdeveloped when he took office that he proposed an annual scrutiny of the performance of each professor by the trustees, with dismissal to follow upon a sufficient number of unsatisfactory ballots.<sup>95</sup> White's discreditable role in the Adler case has already been recounted. William Rainey Harper's statement on behalf of academic freedom was preceded some years before by the dismissal of the economist Edward W. Bemis on what appeared to be ideological grounds.<sup>96</sup> And many a eulogy to academic freedom was followed by a contradictory recitative proclaiming the absolute right of trustees to hire and fire whomsoever they pleased.<sup>97</sup> Nevertheless, the idea that academic freedom was part of the definition of a university was new and consequential. It was a norm from which the distance to practice could be measured. It was a belief which, in entering the ambit of good form, more easily won advocates and an audience. It was an ideal that elevated academic freedom from an undefined and unconscious yearning to a conscious and declared necessity of academic existence.

<sup>93</sup> See Julius Hawley Seelye, "The Relation of Learning and Religion," Inaugural Address as President of Amherst College, 1877, in Weaver, ed., *Builders of American Universities*, pp. 181-82; Judge Alton B. Parker, "The Rights of Donors," *Educational Review*, XXIII (January, 1902), 19-21; Thomas Elmer Will, "A Menace to Freedom: the College Trust," *Arena*, XXVI (September, 1901), 255.

<sup>94</sup> Charles W. Eliot, *Academic Freedom*, Address, Phi Beta Kappa Society (Ithaca, N.Y., 1907), p. 13. This address also appeared in *Science*, XXVI (July 5, 1907), 1-12, and *Journal of Pedagogy*, XX (September-December, 1907), 9-28.

<sup>95</sup> "Report of a Committee on Appointment of Faculty" (1867), in Rogers, *Andrew Dickson White*, pp. 161-64. The plan was never put into effect.

<sup>96</sup> For discussion of this case, see Chap. IX.

<sup>97</sup> Thus D. B. Purinton: "It is the business of any board of trustees to see that every instructor under its charge has absolute freedom to investigate truth in his department and to promulgate the results of his careful and deliberate investigation." BUT: "In case the published doctrines of an instructor in a state institution are plainly subversive of the state, of society or good morals, the trustees cannot sustain the instructor in such doctrines. . . . Whether a given doctrine is or is not thus subversive in character, is a question to be decided by the trustees themselves." "Academic Freedom from the Trustees' Point of View," *Transactions and Proceedings, National Association of State Universities*, VII (1909), 181-82.



The contribution to the development of academic freedom in America made by German-trained scholars was more than oratorical. From the nineties to the First World War, a good proportion of the leaders and targets in academic-freedom cases had studied in Germany: Richard T. Ely, E. Benjamin Andrews, Edward A. Ross, John Mecklin, J. McKeen Cattell.<sup>98</sup> Others—E. R. A. Seligman, Arthur O. Lovejoy, and Henry W. Farnam—worked on behalf of embattled colleagues.<sup>99</sup> Eight of the thirteen signers of the 1915 "Report on Academic Freedom" of the American Association of University Professors had studied in Germany: Seligman, Farnam, Ely, Lovejoy, U. G. Weatherly, Charles E. Bennett, Howard Crosby Warren, Frank A. Fetter.<sup>100</sup> Some of the leaders in the fight for professorial self-government were German university alumni: Cattell, Joseph Jastrow, and George T. Ladd.<sup>101</sup> That the attitudes of these prominent professors were formed solely by their sojourn abroad is not, of course, certain. It is possible that their very prominence, combined with their interest in the threatened social sciences, placed them in the forefront of battle. But it is not too fanciful to see also in their remarkable showing a pattern of withdrawal-and-return wherein American scholars, temporarily abandoning their world and drawing courage from alien springs, returned to dispense their inspiration.

This much we take to be the direct German contribution. But evidence of selection and modification can also be perceived. The 1915 "Report on Academic Freedom" of the AAUP opened with the statement that "'academic freedom' has traditionally had two applications—to the freedom of the teacher and to that of the student, to *Lehrfreiheit* and *Lernfreiheit*."<sup>102</sup> This was a gracious acknowledgment of the influence the Germans exerted. When, however, one reads further in that classic

<sup>98</sup> See Chaps. IX and X for discussions of these cases.

<sup>99</sup> Seligman supported Ely when the latter was attacked at Wisconsin, was the chairman of the committee of the American Economic Association that investigated the Ross dismissal, and took a leading part in the formation of the AAUP. Arthur O. Lovejoy was one of those who resigned from the Stanford faculty in protest against the dismissal of Ross and Howard, and was a leading theorist on the subject of academic freedom. Henry W. Farnam was one of the economists who investigated the Ross case. All three, as noted, took part in the framing of the 1915 Report.

<sup>100</sup> See Chap. X for a discussion of the founding of the AAUP.

<sup>101</sup> See J. McKeen Cattell, *University Control* (New York and Garrison, N.Y., 1913), pp. 6–8; Joseph Jastrow, "The Administrative Peril in Education," *ibid.*, p. 321; George T. Ladd, *ibid.*, p. 31.

<sup>102</sup> *Bulletin*, AAUP, 1 (December, 1915), 20.

document, it soon becomes apparent that the American conception was no literal translation from the German. The idea had changed its color, its arguments, and its qualifications in the process of domestication. All the peculiarities of the American university—its inclusion of a college, its eclectic purposes, its close ties to the community—and all the peculiarities of American culture—its constitutional provision for free speech, its empiricist traditions, its abundant pragmatic spirit—contributed to a theory of academic freedom that was characteristically American.

One obvious difference was the dissociation of *Lernfreiheit* and *Lehrfreiheit* in the American pattern of argument. "It need scarcely be pointed out," wrote the authors of the 1915 report, "that the freedom which is the subject of this report is that of the teacher."<sup>103</sup> The frame of reference had not always been so limited. Indeed, before the nineties, "academic freedom" had alluded primarily to student freedoms, particularly the freedom to elect courses. In 1885, when Dean Andrew F. West of Princeton wrote an article asking "What Is Academic Freedom?" he answered: the elective system, scientific courses, voluntary chapel attendance.<sup>104</sup> But once the battle for elective courses had been won, and attention came to be focused on the collision of social ideologies that was leading to faculty dismissals, the phrase came to be applied to professorial freedoms, to the producer rather than the consumer in education. The new reference became fixed in the nineties, when, at the nearest hint of a violation of professorial freedom, "academic freedom" and *Lehrfreiheit* were invoked, as though merely to sound the phrases had a certain incantational value.<sup>105</sup> In 1899, when Professor Albion W. Small of Chicago wrote an article entitled "Academic Freedom," he made no mention of student freedoms.<sup>106</sup> After that date, only one of

<sup>103</sup> *Ibid.*

<sup>104</sup> Andrew F. West, "What Is Academic Freedom?" *North American Review*, CXL (1885), 432–44.

<sup>105</sup> Seligman wrote Ely: "I was very much disturbed reading in the papers that they have appointed a committee at Madison to investigate your teaching. I had thought that in our State Universities, if anywhere, 'Lehrfreiheit' would be respected." (August 13, 1894; Ely Papers, Wisconsin State Historical Society). H. H. Powers wrote to Ely: "Our 'Lehrfreiheit' [is] sharply challenged." (Oct. 4, 1892; Ely Papers). H. P. Judson offered his congratulations to Ely on the successful outcome of his trial, "in the interest of 'lehrfreiheit' of which every university should be jealously regardful." (Sept. 3, 1894; Ely Papers).

<sup>106</sup> Albion W. Small, "Academic Freedom," *Arena*, XXII (October, 1899), 463–72.

the important documents of academic freedom linked *Lernfreiheit* with *Lehrfreiheit*; this was Charles W. Eliot's 1907 Phi Beta Kappa address. Under the heading of "Academic Freedom," the septuagenarian Harvard president included the student's freedom to choose his studies, to refuse to attend chapel, to compete on even terms for scholarships, and to choose his own friends, as well as the professor's freedom to teach in the manner most congenial to him, to be free from harassing routines, to enjoy a secure tenure, and to receive a fixed salary and a retirement allowance.<sup>107</sup> But this catholic approach was exceptional.

A close reading of Eliot's Phi Beta Kappa address provides the reason for the subordination or exclusion of student freedoms in later definitions. Eliot's discussion of *Lehrfreiheit* was almost entirely given over to administrative issues: to the hazardous relations of professors with nonprofessional boards of trustees, to the friction between professors and dictatorial presidents. He made a point of the fact that "so long as . . . boards of trustees of colleges and universities claim the right to dismiss at pleasure all the officers of the institutions in their charge, there will be no security for the teachers' proper freedom," that "it is easy for a department to become despotic, particularly if there be one dominant personage in it."<sup>108</sup> The status of the American professor in the university organization presented a unique set of problems. He was an employee of a lay board of control; he was not, as in Germany, a civil servant of the state or, as in England, a director in a self-governing corporation. Further, he was governed by an administrative hierarchy which possessed the power to make important decisions; not by officials elected from the professors' ranks, as in Germany and England, or by a Ministry of Education removed from the scene, as in Germany. To resolve the anomaly of being at one and the same time an employee and a scientific researcher, to cope with the problem of maintaining spontaneity in a highly bureaucratized system—these problems absorbed the interest of American theorists. Faced with the task of adorning, democratizing, and protecting the academic job, they lost sight of the goal of *Lernfreiheit*. The focus of the problem of academic freedom in this country became institutional, not primarily educational.

Another difference between the American and the German theories of academic freedom lay in their arguments for the defense of the independence of the university. German theorists leaned on the protective

<sup>107</sup> Eliot, *Academic Freedom*.

<sup>108</sup> *Ibid.*, pp. 2, 4.

power of the state and on traditional gild prerogatives. Neither of these was meaningful on the American scene. Here government by trustees not only prevented professorial independence, but encouraged the widespread notion that professors were incapable of self-government. The state was an unreliable mainstay. The tradition of local sponsorship in American education made federal intervention—assuming that it might have improved the position of the university—impossible. The courts were unwilling to upset decisions of the administrative authorities save when these clearly conflicted with the university's charter. To appeal to state legislatures was hazardous, since their members were so often no better disposed toward intellectual freedom or academic independence than were trustees or private pressure groups. Thus, American theorists, unable to appeal with practical effect to the lawmakers or the courts, yet searching for some authority which could be used to check continual encroachments, appealed to the will of the whole community. They asserted that all universities, private or state, belonged to the people as a whole; that the trustees were merely public servants, the professors public functionaries, the universities public properties. Hence, regardless of legal provisions for control, to treat the universities as though they were private possessions, to tie them to a particular faith or ideology, to bend them to the interest of a class or sect or party, was to violate a public trust. At this point, American theorists faced a further problem. What if, as so often happened, the public should consent to the violation of that trust? What if crusading newspapers or patriotic groups, presuming to speak for the whole community, should try to warp the university toward their particular goals? American theorists had to maintain that the real public interest was not the same as the public opinion of the moment. Indeed, from Tocqueville to Lippmann, no group was more critical of the workings of public opinion in democracy than the theorists of academic freedom.<sup>109</sup> In America, where the university presented such diverse and irreconcilable aspects, academic freedom was too new an idea to arouse patriotic feelings, too exclusive to prompt mass support. In sponsoring the public interest, therefore, American theorists were sponsoring something that transcended all the current and ephemeral forms of its expression. Like Rousseau, they found the true will and need of the public to lie not in

<sup>109</sup> See Eliot, *Academic Freedom*, p. 2; Arthur T. Hadley, "Academic Freedom in Theory and Practice," *Atlantic Monthly*, XCI (March, 1903), 344.

the public's own transient notions, but in something more nebulous and abstract. They fell back in the last resort upon a *mystique* of the general will.<sup>119</sup>

We come to the heart of the difference when we compare the American and German conceptions of inner and outer freedom. We need not assume that the lines of each were exactly drawn in order to assert that the areas they covered were incongruous. The German idea of "convincing" one's students, of winning them over to the personal system and philosophical views of the professor, was not condoned by American academic opinion. Rather, as far as classroom actions were concerned, the proper stance for American professors was thought to be one of neutrality on controversial issues, and silence on substantive issues that lay outside the scope of their competence. Innumerable statements affirmed these limitations. Eliot, in the very address that so eloquently declared that the university must be free, made neutrality an aspect of that freedom:

Philosophical subjects should never be taught with authority. They are not established sciences; they are full of disputed matters, open questions, and bottomless speculations. It is not the function of the teacher to settle philosophical and political controversies for the pupil, or even to recommend to him any one set of opinions as better than any other. Exposition, not imposition, of opinions is the professor's part. The student should be made acquainted with all sides of these controversies, with the salient points of each system; he should be shown what is still in force of institutions or philosophies mainly outgrown, and what is new in those now in vogue. The very word "education" is a standing protest against dogmatic teaching. The notion that education consists in the authoritative inculcation of what the teacher deems true may be logical and appropriate in a convent, but it is intolerable in universities and the public schools, from primary to professional.<sup>120</sup>

The norm of competence was neatly summarized in President Harper's convocation address, cited above:

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 abuses his privilege who takes advantage of a classroom ex-

<sup>119</sup> Cf. "Preliminary Report of the Joint Committee on Academic Freedom and Academic Tenure," *American Economic Review*, Supplement, V (March, 1915), 316; Thorstein Veblen, *The Higher Learning in America* (New York, 1918), *passim*, and Arthur O. Lovejoy, "Anti-Evolution Laws and the Principle of Religious Neutrality," *School and Society*, XXIX (Feb. 2, 1929), 137-38, for different approaches to this argument.

<sup>120</sup> Eliot, "Inaugural Address," *Educational Reform*, pp. 7-8.

ercise to propagate the partisan views of one or another of the political parties.

A professor abuses his privilege who in any way seeks to influence his pupils or the public by sensational methods.

A professor abuses his privilege 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 in many cases when, altho shut off in large measure from the world and engaged within a narrow field of investigation, he undertakes to instruct his colleagues or the public concerning matters in the world at large in connection with which he has had little or no experience.<sup>122</sup>

These were not merely the cautious constructions of conservative elements in education. If they were narrowly interpreted by certain members of boards of trustees to prevent professors from criticizing the social order,<sup>123</sup> if they were invoked by university presidents to justify disciplinary action against nonconformist professors,<sup>124</sup> they were also upheld by liberal professors like Howard Crosby Warren and John Dewey,<sup>125</sup> and by progressive college presidents like Alexander Meiklejohn of Amherst.<sup>126</sup> The liberal wing of the academic community, like

<sup>122</sup> University of Chicago, *President's Report* (December, 1900), p. xxiii.

<sup>123</sup> For an example of how conservative trustees interpreted these limitations, see Judge Alton B. Parker, "The Rights of Donors": "With the indoctrination in the minds of students of such social, political, economical or religious ideals as tend to subvert the purpose of the founders or directors of the chair he occupies, or which can have reference only to a more or less distant, revolutionary future, the professor and university should have nothing to do" (p. 21).

<sup>124</sup> For statements of conservative university presidents making use of the narrow code of propriety for this purpose, cf. William Oxley Thompson, "In What Sense and to What Extent Is Freedom of Teaching in State Colleges and Universities Expedient and Permissible," *Transactions and Proceedings*, National Association of State Universities, VIII (1910), 64-78; D. B. Purinton, "Academic Freedom from the Trustees' Point of View," pp. 177-86; Nicholas Murray Butler, "Is Academic Freedom Desirable?" *Educational Review*, LX (December, 1920), 419-21; Butler, "Concerning Some Matters Academic," *Educational Review*, XLIX (April, 1915), 397; Herbert Welch, "Academic Freedom and Tenure of Office," *Bulletin*, Association of American Colleges, II (April, 1916), 163-66.

<sup>125</sup> John Dewey, "Academic Freedom," *Educational Review*, XXIII (January, 1902), 1-9; Howard Crosby Warren, "Academic Freedom," *Atlantic Monthly*, CXIV (November, 1914), 691. One article has been uncovered which expresses the spirit of German academic freedom in the classroom: Josiah Royce's "The Freedom of Teaching," *The Overland Monthly*, Vol. II, New Series (September, 1883), pp. 237-38. "Advanced instruction aims to teach the opinions of an honest and competent man upon more or less doubtful questions. . . . Honesty . . . requires that as a teacher of doctrines the instructor should be free to teach what doctrines he has been led freely to accept." Compare with the statements of Eliot and Harper above.

<sup>126</sup> Alexander Meiklejohn, "Freedom of the College," *The Atlantic Monthly*, CXXI (January, 1918), 88-89.

every other, still believed that college students were in constant danger of mental seduction by their teachers. The old fear that students were easy prey to heretical doctrine became the new fear that students had but fragile defenses against subtle insinuation of "propaganda."<sup>117</sup> The norms of "neutrality" and "competence" constituted a code of fair practices in ideas, and as such won assent from all sides.

Of course, the roots of these norms went deeper still. "Neutrality" and "competence" describe not only the limits of American academic freedom, but the very temper of American academic thought. They reflect, in the first place, the empiricist bias of that thought. Even in the ante-bellum period the main accent of American philosophy, sounded by the Scottish school, was empirical, realistic, commonsensical.<sup>118</sup> No invading Napoleon in that period forced our professors to seek refuge in thought against disturbing realities. The transcendental philosophy, the American version of German idealism, generally could not breach the academic barrier. Its intuitionism was opposed by our clerics, lest each man disclose his own religion and become unto himself a church; its idealism was resisted by our philosophers, lest mind or nature be deified, and atheism or pantheism result.<sup>119</sup> With the advent of the university, the triumph of science-oriented philosophies deepened the commitment to empiricism. Kant and Hegel had a brilliant revival, yet their luster was dimmed somewhat by the more effulgent light of evolutionary pragmatism and positivism. Most Americans who went to study in Germany in this period took home the methods of her seminars and laboratories, but left the *Anschaung* of idealism behind. To this empiricist heritage, one must add the influence of Darwinism on American academic thought. In Germany, the first success in the attack upon religious authority was achieved by philosophy; in America, as we have seen, the hold of religious authority was broken by the advocates of science. The empiricist heritage fostered the belief that facts must be the

<sup>117</sup> An interesting contemporary analysis of the norm of neutrality can be found in Paul S. Reinsch, "The Inner Freedom of American Intellectual Life," *North American Review*, CCI (May, 1915), 733-42.

<sup>118</sup> James McCosh, "The Scottish Philosophy as Contrasted with the German," *Princeton Review*, LVIII (November, 1882), pp. 326-44.

<sup>119</sup> See Ronald Vale Wells, *Three Christian Transcendentalists: James Marsh, Caleb Sprague Henry, Frederick Henry Hedge* (New York, 1943), for an analysis of the limited appeal of transcendentalism in the ante-bellum colleges; for orthodox expressions of hostility to transcendentalism, see Francis Bowen, "Transcendentalism," *Christian Examiner*, XXI (January, 1837), 371-85, and "Locke and the Transcendentalists," *Christian Examiner*, XXIII (November, 1837), 170-94.

arbiters between competing notions of truth, thus strengthening the standard of neutrality; that universal and synthetic speculation must give way to specialized knowledge, thus promoting the standard of competence. The Darwinian influence, as we have noted, fostered the belief that certainty was as alien to inquiry as immutability was to the processes of life (neutrality); that the right to pass judgment on scientific questions was reserved to those who possessed special credentials (competence). The German and American theories of intramural freedom thus reflected different philosophical traditions.<sup>120</sup>

These theories, it should be emphasized, were concerned with norms for intramural utterance, for the utterances of professors in their role as teachers. Outside the university, for professors in their civil roles, the American norm was more permissive than the German, because it reflected a stronger social and constitutional commitment to the idea of freedom of speech. The connections between free speech and academic freedom are many and subtle. One thing is clear as far as their historical linkages are concerned: the advance of the one has not automatically produced a comparable advance of the other.<sup>121</sup> We have seen, for example, that academic freedom scored victories in which freedom of speech did not share. The masters of the North European medieval uni-

<sup>120</sup> One notes that the partisanship, dogmatism, and metaphysics of German professors frequently repelled the American student; often this was the single stain of disapproval in his otherwise generous endorsement. Ticknor reacted unfavorably to the "spirit of philosophical vehemence" that he observed among German professors. (Hilliard, *Life, Letters, and Journals of George Ticknor*, p. 97). G. Stanley Hall observed that the professors of philosophy in Germany "seemed to be almost mouthpieces of the Divine. Some of them claimed to ignore all other authors and to lecture only upon their own ideas or discoveries, to demonstrate God—as though He had been waiting all these years to have the honor of this proof conferred upon Him—or they established the reality of the world as though it depended upon their ratiocination" (*Life and Confessions*, p. 212). Nicholas Murray Butler condemned von Treitschke for giving "scant attention to the teaching of the history of Europe and Germany, altho his chair was supposed to deal with these subjects. What von Treitschke really did was to make lectures on the history of Europe and of Germany the vehicle for the very effective and emphatic expression of his own personal opinions on men and things in the world about him. . . . There is something to be said for the policy of making academic teaching effective by relating it to present-day interests and problems, but there is nothing to be said for turning academic teaching into an exercise in contemporary journalism." "Concerning Some Matters Academic," *Educational Review*, XLIX (April, 1915), 397.

<sup>121</sup> This point does not appear often in the literature of academic freedom, probably because it is strategic to identify academic freedom, a comparative stranger to our loyalties, with revered constitutional rights. For one of the earliest clear-cut distinctions between the two, see Arthur T. Hadley, "Academic Freedom in Theory and Practice," p. 157.

versities won a measure of philosophical freedom without like benefits being conferred on the laity; Halle and Göttingen in the eighteenth century were islands of intellectual freedom amid seas of petty despotism; Imperial Germany was far less free in the political sphere than in the sphere of academic education. Conversely, freedom of speech has made gains while academic freedom stood still. Thus, the abolition of the Alien and Sedition laws coincided with the expansion of denominational colleges and the sectarianizing of the state universities. One may therefore conclude that the two freedoms develop independently for different reasons, or that they are causally related to a common long-term factor, such as the diffusion of political power or the growth of the habit of tolerance.<sup>122</sup>

Nevertheless, it can also be demonstrated that, under certain favorable conditions, these two freedoms do affect one another directly, and that the secure position of the one may improve the position of the other and deepen and broaden its meaning and potency. Free speech was protected in America; the post-bellum university presented the favorable conditions. First, the university granted its teachers the time to engage in outside activities: it removed the old residence requirement, it ended the boarding-house vigil. Secondly, the university appointed men whose interests were not engrossed by campus duties. It brought in the professional scholar, whose works were appraised by other specialists; it brought in the new-style president, a man of wide affairs; it brought in the technical expert, available for outside consultation. Thirdly, the university professor began to give up the quiet retreat of moral philosophy for the more worldly concerns of social science. This movement was accelerated by a fourth development, the rise of the philosophy of pragmatism, which sanctioned the application of the trained intelligence to the varied problems of life. For these reasons, the American university professor, much more than his German counterpart, functioned in the arena of social and political action.<sup>123</sup> In that arena, he demanded the prerogative of free speech that was given to other citizens. There he felt that he had the right to express his opinion even on controversial subjects, even on matters outside his scholarly

<sup>122</sup> Thus, the universities of France lost their autonomy when the Crown asserted its unqualified authority, and the fate of both freedoms under the totalitarian system is well known.

<sup>123</sup> See the report of Committee G, "Extra-collegiate Intellectual Service," *Bulletin*, AAUP, X (May, 1934), 272-86. Surveying 32 articles and books, the report showed overwhelming approval of professors who engaged in extramural activities.

competence. There academic freedom became an aspect of the struggle for civil liberty.

And it was precisely in that arena that the greatest amount of academic friction was generated. The attempt to assimilate the doctrine of free speech into the doctrine of academic freedom aroused hostility in certain quarters. It seemed to demand a special protection for professors when they engaged in the rough give-and-take of politics. To argue that the institutional position of professors should not be affected by what they said as citizens was to urge immunity for them from the economic penalties that may repay unpopular utterances—the dwindling of clients, the boycott of subscribers, the loss of a job. Such a demand for immunity, exceeding anything provided by the constitutional safeguard of free speech, going even further than the "free-market" conceptions of the great philosophers of intellectual liberty,<sup>124</sup> was bound to strain the less tensile tolerance of American trustees and administrators. A barrage of argument was touched off by this demand. In its favor, professors and certain presidents mustered methodological arguments: "ideas must be tested in action,"<sup>125</sup> the function of philosophy "is to clarify men's ideas as to the social and moral strifes of their own day";<sup>126</sup> administrative arguments: "If a university or college censors what its professors may say . . . it thereby assumes responsibility for that which it permits them to say . . . a responsibility which an institution of learning would be very unwise in assuming";<sup>127</sup> pedagogical

<sup>124</sup> Thus Milton, in fighting for free speech and publication against public censorship, did not argue that social penalties were inadmissible. There is, moreover, in his picture of free intellectual competition the suggestion that ostracism or worse will ultimately repay the purveyor of falsehood. "And though all the winds of doctrine were let loose to play upon the earth, so Truth being in the field, we do injuriously, by licensing and prohibiting, to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse in a free and open encounter: Her confuting is the best and surest suppressing. . . ." *Areopagitica* (Regnery edition, pp. 58-59). John Stuart Mill's *On Liberty* addressed itself to the tyranny of the majority rather than the tyranny of the state, and in it the pregnant statement occurs that "in respect to all persons but those whose pecuniary circumstances make them independent of the good will of other people, opinion, on this subject, is as efficacious as law; men might as well be imprisoned, as excluded from the means of earning their bread" (Regnery edition, p. 39). But Mill did not say that this immunity belonged to any particular body of men, but to all men, or to a minority of one, against the despotism of numbers.

<sup>125</sup> See John Dewey, *Democracy and Education* (New York, 1916), pp. 76-77 and *passim*.

<sup>126</sup> John Dewey, *Reconstruction in Philosophy* (New York, 1920), p. 26.

<sup>127</sup> A. Lawrence Lowell, "Report for 1916-17," in Henry Aaron Yeomans, *Abbott Lawrence Lowell* (Cambridge, Mass., 1948), p. 311.

cal arguments: what young men need "are not hermit scholars, but active zealous citizens, with opinions to express upon public questions, and power to express them."<sup>128</sup> The answering volleys were usually, but not exclusively, returned by presidents and trustees. They too used methodological arguments: when a teacher enters politics, he acts "as a partisan and [loses his] place as a judge and an unbiased individual";<sup>129</sup> administrative arguments: "to use this institution and the funds so contributed for a purpose foreign and contrary to the ideas both of the contributors and of the whole community, and appropriate them to the propaganda of the exceptional ideas of a single individual, is a perversion of public trust";<sup>130</sup> pedagogical arguments: the professor who uses his university position as "an object of political purpose" destroys his educational effectiveness.<sup>131</sup> And the salvos resound to this day.

The second source of friction was the closely allied problem of professional ethics in the public forum. Despite the invocation of the right of free speech, it was generally conceded by the academic fraternity that professors reached a limiting line of professional propriety long before they approached the boundary of libel, slander, or sedition. But where was that line to be drawn? Was it proper for a professor to run for political office or to work actively for a political party? The academic community spoke with two voices on this point.<sup>132</sup> Was it proper for a professor publicly to criticize the actions of a colleague or a superior? In this most bureaucratically controlled of all the professions, it was not easy to decide where free speech left off and insubordination began. Was the professor's relation to his trustees analogous to the relation of the judiciary to the executive power? The analogy was useful in suggesting that the trustees could not remove their appointee at will, but it was a two-edged sword, for it also suggested that professors were

<sup>128</sup> Editor's Table, *New England Magazine*, XVII, New Series (September, 1897), 126; cf. Edward P. Cheyney, "Trustees and Faculties," *School and Society*, II (Dec. 14, 1915), 795. Also, W. H. Carpenter, "Public Service of University Officers," *Columbia University Quarterly*, XVI (March, 1914), 169-82.

<sup>129</sup> Letter of President Frank L. McVey of the University of North Dakota to Professor Joseph L. Lewinsohn, in "The Participation of University Professors in Politics," *Science*, Vol. XXXIX, New Series (1914), pp. 425-26.

<sup>130</sup> "Free Thought in College Economics," *Guntton's Magazine*, XVII (December, 1899), 456.

<sup>131</sup> Letter of President McVey, in "The Participation of University Professors in Politics," p. 426.

<sup>132</sup> See U. G. Weatherly, "Academic Freedom and Tenure of Office," *Bulletin*, Association of American Colleges, II (April, 1916), 175-77.

bound by the staid public ethics of judges.<sup>133</sup> Again, the conflict between free speech and professional ethics created a storm center which has never lifted.

#### AN AMERICAN CODE

We can best summarize what has preceded by quoting more extensively from the classic 1915 Report of the Committee on Academic Freedom and Tenure of the American Association of University Professors. How representative of faculty opinion this report may have been is an open question. It was strictly a product of professorial thinking; college and university presidents and deans were explicitly banned from membership in the AAUP in its early years. The authors, being among the most illustrious, were perhaps not the most representative members of the profession. Seven of the thirteen members were social scientists, and may have reflected the bias of their disciplines. Still, the report has great value for synopsis and reference. It was not the product of haste or improvisation, nor was it an angry answer to some galvanic injustice. Many of the ideas contained in the report had been adumbrated by its authors in previous articles or can be traced back to a preliminary report of a joint conclave of economists, political scientists, and sociologists which was written a year before.<sup>134</sup> It created a widely favorable impression. One comment in the press hailed it as "the most comprehensive, general declaration of principles regarding academic freedom that has ever appeared in this country."<sup>135</sup> The United States Commissioner of Education called it "one of the most valuable contributions of the year to the discussion of educational policy," and the Bureau of Education distributed thousands of copies.<sup>136</sup> It was the basis for the statement of the principles of academic freedom and tenure endorsed

<sup>133</sup> For the academic debate over the use and limitations of the analogy of the judiciary, cf. John H. Wigmore, "An Analogy Drawn from Judicial Immunity," *The Nation*, CIII (Dec. 7, 1916), 539-40; Arthur O. Lovejoy's rejoinder, "Academic Freedom," *The Nation*, CIII (Dec. 14, 1916), 561; Wigmore's counter-reply, in *The Nation*, CIII (Dec. 14, 1916), 561-62. The debate was waged intensively in the succeeding decades. Cf. Raymond Buell, Letter to the *New York Herald Tribune* (June 17, 1936); Lippmann's rejoinder, Letter to the *New York Herald Tribune* (June 20, 1936); Walter E. Spahr in defense of Buell's position, Letter to the *New York Herald Tribune* (June 29, 1936).

<sup>134</sup> "Prefatory Note," 1915 Report, *Bulletin*, AAUP, I (December, 1915), 17.

<sup>135</sup> *Current Opinion*, LX (March, 1916), 192-93.

<sup>136</sup> *Report of the Commissioner of Education* (1916), I, 138.

in subsequent years by the Association of American Colleges, representing college administrative officers, and the American Association of University Professors.<sup>137</sup> One modern commentator has properly called it "a landmark in the development of the teaching profession."<sup>138</sup>

#### ACADEMIC FREEDOM AS AN INDISPENSABLE ATTRIBUTE OF A UNIVERSITY

The Committee tied academic freedom to three requirements—the needs for academic research, adequate instruction, and the development of experts for public service. Some of their arguments closely resembled those of the Germans. "In the earlier stages of a nation's intellectual development, the chief concern of educational institutions is to train the growing generation and to diffuse the already accepted knowledge." It was only slowly that the purpose of conservation gave way to that of searching. More and more, "the modern university is becoming . . . the home of scientific research." Now, in all the domains of knowledge, in natural science, in social science, in religion and philosophy, the chief condition of progress "is complete and unlimited freedom to pursue inquiry and publish its results. Such freedom is the breath in the nostrils of all scientific activity."<sup>139</sup>

Such freedom is no less important to the teacher. No man can be a successful teacher, wrote the framers of the report, who does not enjoy the respect of his students, and this respect will not be forthcoming if the confidence of students in his intellectual integrity and courage is impaired. Helmholtz would have endorsed the following:

It is not only the character of the instruction but also the character of the instructor that counts; and if the student has reason to believe that the instructor is not true to himself, the virtue of the instruction as an educative force is incalculably diminished. There must be in the mind of the teacher no mental reservation. He must give the student the best of what he has and what he is.<sup>140</sup>

The third justification for academic freedom was more originally American. Reflecting the mood of Progressivism, the authors also believed that the modern university should aim to develop experts to help solve the complex problems of society. The professor can only be of use

<sup>137</sup> Robert P. Ludlum, "Academic Freedom and Tenure," *Antioch Review*, X (Spring, 1950), 25.

<sup>138</sup> *Ibid.*, p. 19.

<sup>139</sup> *Ibid.*, p. 28.

<sup>140</sup> *Bulletin*, AAUP, I (December, 1915), 27–28.

to the legislator and the administrator if his conclusions are disinterested and his own.<sup>141</sup>

#### UNIVERSITY INDEPENDENCE AND THE GENERAL WILL

With the *legal* supremacy of the boards of trustees the professors who wrote the report did not quarrel: but legal power, to them, was not equivalent to moral duty. As they saw it, the moral obligations of university trustees were two. Where trustees were bound by their charters to propagate specific doctrines, they should be completely candid about it. The public should not be misled into thinking that the school is searching for truth when in fact it is communicating dogma. In all other cases, the trustees were trustees for the public, and "they cannot be permitted to assume the proprietary attitude and privilege, if they are appealing to the general public for support." If the basis of academic authority was public, the nature of the professor's calling was no less so. Any assumption that the professors were employees of the governing board was gratuitous and insupportable.

The responsibility of the university teacher is primarily to the public itself, and to the judgment of his own profession; and while, with respect to certain external conditions of his vocation, he accepts a responsibility to the authorities of the institution in which he serves, in the essentials of his professional activity his duty is to the wider public to which the institution itself is morally amenable.<sup>142</sup>

To nail down this point, the Committee used the analogy of the relationship between the executive and the judiciary, albeit (one gathers from the text) with some trepidation lest the analogy be misused.

So far as the university teacher's independence of thought and utterance is concerned—*though not in other regards*—the relationship of professor to trustees may be compared to that between judges of the Federal courts and the Executive who appoints them. University teachers should be understood to be, with respect to the conclusions reached and expressed by them, no more subject to the control of the trustees, than are judges subject to the control of the President, with respect to their decisions.<sup>143</sup>

But the authors of the report did not confuse the public with its political representatives, or the public will with contemporary opinion. To rely wholly on the government was dangerous:

<sup>141</sup> *Ibid.*, pp. 21–22.

<sup>142</sup> *Ibid.*, p. 26. Italics supplied.

<sup>143</sup> *Ibid.*, pp. 22–23, 26.

Where the university is dependent for funds upon legislative favor, it has sometimes happened that the conduct of the institution has been affected by political considerations; and where there is a definite governmental policy or a strong public feeling on economic, social, or political questions, the menace to academic freedom may consist in the repression of opinions.<sup>144</sup>

Similarly, public opinion, which was apt to regard any departure from convention with suspicion, was a weak staff on which to lean. Rather, the university

should be an intellectual experiment station, where new ideas may germinate and where their fruit, though still distasteful to the community as a whole, may be allowed to ripen until finally, perchance, it may become a part of the accepted intellectual food of the nation or of the world.<sup>145</sup>

The public for which the trustees acted and to whom the professors were responsible was an abstraction called "posterity."

#### THE NORMS OF NEUTRALITY AND COMPETENCE

On the assumption that freedom is never absolute and unqualified, but entails limits and obligations, the Committee gave its clear approval to the norms of neutrality and competence.

The liberty of the scholar within the university to set forth his conclusions, be they what they may, is conditioned by their being conclusions gained by a scholar's method and held in a scholar's spirit; that is to say, they must be the fruits of competent and patient and sincere inquiry, and they should be set forth with dignity, courtesy and temperateness of language.

This did not mean that the teacher had to hide his opinions under a mountain of equivocal verbiage. But he should

be a person of fair and judicial mind; he should, in dealing with such [controversial] subjects, set forth justly, without suppression or innuendo, the divergent opinions of other investigators; he should cause his students to become familiar with the best published expressions of the great historic types of doctrine upon the questions at issue; and he should, above all, remember that his business is not to provide his students with ready-made conclusions but to train them to think for themselves.<sup>146</sup>

The committee's opposition to oracular and dogmatic teaching rested in large part on the supposed immaturity of students:

In many of our American colleges, and especially in the first two years of the course, the student's character is not yet fully formed, his mind is still rela-

tively immature. In these circumstances it may reasonably be expected that the instructor will present scientific truth with discretion, that he will introduce the student to new conceptions gradually, with some consideration for the student's preconceptions and traditions, and with due regard to character-building.

The teacher must especially be on guard against

taking unfair advantage of the student's immaturity by indoctrinating him with the teacher's own opinions before the student has had an opportunity fairly to examine other opinions upon the matters in question, and before he has sufficient knowledge and ripeness of judgment to be entitled to form any definitive opinion of his own.<sup>147</sup>

Again, the assumption was that university education is adolescent education, and that the young mind yields to the imprint of ideas as easily and uncritically as wax.

#### FREEDOM OF SPEECH FOR EXTRAMURAL UTTERANCE

The Committee spoke boldly on the general principle of free extramural utterance. In their extramural utterances, the Committee contended, it is not desirable that scholars should be bound by the norms of neutrality and competence. It is not desirable that they be debarred "from giving expression to their judgments upon controversial questions, or that their freedom of speech outside the university should be limited to questions falling within their own specialties." Nor is it proper that they be prohibited "from lending their active support to organized movements which they believe to be in the public interest."<sup>148</sup> But the Committee also recognized that professors were saddled with the obligation of discretion incumbent upon professional persons. "It is obvious that academic teachers are under a peculiar obligation to avoid hasty or unverified or exaggerated statements, and to refrain from intemperate or sensational modes of expression." And this led to the vexing question of whether professors should be allowed to work for a political party or run for political office. As one of its members later revealed, the Committee was divided between those who took the view that scholarship and partisan action were not antipathetic, and those who held to the German position that political partisanship was incompatible with objective inquiry.<sup>149</sup> The Committee could only express its indecision. On the one hand, it wrote,

<sup>147</sup> *Ibid.*, p. 35.

<sup>148</sup> *Ibid.*, p. 37.

<sup>149</sup> See the statement of U. G. Weatherly in "Academic Freedom and Tenure of Office," pp. 175-77.

<sup>144</sup> *Ibid.*, p. 31.

<sup>145</sup> *Ibid.*, p. 32.

<sup>146</sup> *Ibid.*, pp. 33-34.



it is manifestly desirable that . . . teachers have minds untrammelled by party loyalties, unexcited by party enthusiasms, and unbiased by personal political ambitions; and that universities should remain uninvolved in party antagonisms.

On the other hand,

it is equally manifest that the material available for the service of the State would be restricted in a highly undesirable way, if it were understood that no member of the academic profession should ever be called upon to assume the responsibilities of public office.<sup>160</sup>

On this inconclusive note, the 1915 report closed.

The scheme of the 1915 report, like that of this chapter, was analytical rather than historical. But it did make one historical reference which leads us back to a sequential treatment of our subject. The authors of the report noted that the character of the infringements of academic freedom had changed in the last few decades:

In the early period of university development in America the chief menace to academic freedom was ecclesiastical, and the disciplines chiefly affected were philosophy and the natural sciences. In more recent times the danger zone has been shifted to the political and social sciences.

The present problem, as the Committee saw it, was that every question in the political, social, and economic fields affected the private interests of class, and that,

as the governing body of a university is naturally made up of men who through their standing and ability are personally interested in great private enterprises, the points of possible conflict are numberless. When to this is added the consideration that benefactors, as well as most of the parents who send their children to privately endowed institutions, themselves belong to the more prosperous and therefore usually to the more conservative classes, it is apparent that . . . pressure from vested interests may . . . be brought to bear upon academic authorities.<sup>161</sup>

More calmly and judiciously than some of their professorial contemporaries, the members of the Committee gave support to the thesis that wealth was an academic malefactor, and that a particular class was opposed to academic freedom. This is the thesis we must now evaluate, and we shall do so by turning to the Populist period in which the thesis was born.

<sup>160</sup> *Bulletin*, AAUP, I (December, 1915), 38.

<sup>161</sup> *Ibid.*, pp. 29-31.

## IX: ACADEMIC FREEDOM AND BIG BUSINESS

### CONFRONTATION

IN THE FINAL DECADES of the last century, the leaders of American business began to support our universities on a completely unprecedented scale. Before that period, old mercantile wealth, with its tradition of patronage, had had only modest resources for philanthropy, while new industrial wealth, with ever-growing resources, had been bent on unceasing acquisition and had not learned the great virtue of giving. Thus it is recorded that the largest single gift to an American college before the Civil War was Abbott Lawrence's \$50,000 to Harvard.<sup>1</sup> An institution like Amherst College, to take another example, had been founded on \$50,000, assembled from small contributions.<sup>2</sup> Weighed in the scale of big-business philanthropy, these sums seem almost negligible. Johns Hopkins University received \$3,500,000 from a Baltimore merchant and capitalist; Leland Stanford Junior University received \$24,000,000 from the estate of the California railroad king; the University of Chicago received \$34,000,000 from the founder of the Standard Oil Company.<sup>3</sup> The foundation came to supplement the endowment as a method of bestowing gifts. Among the early foundations assisting the colleges and universities in some way were the General Education Board, founded in 1902 by John D. Rockefeller, with assets of \$46,000,000; the Carnegie Corporation, founded in 1911, with assets of \$151,000,000; the Commonwealth Fund, founded in 1918 by Mrs. Stephen V. Hark-

<sup>1</sup> Charles F. Thwing, "The Endowment of Colleges," *International Review*, XI (September, 1881), 259.

<sup>2</sup> *Ibid.*, p. 260.

<sup>3</sup> Daniel Coit Gilman, *The Launching of a University* (New York, 1906), p. 28; Orrin L. Elliott, *Stanford University, the First Twenty-five Years* (Stanford, 1937), p. 251; Thomas W. Goodspeed, *A History of the University of Chicago* (Chicago, 1916), Appendix I, p. 487.

ness, with assets of \$43,000,000.<sup>4</sup> Truly, the new men of wealth organized their philanthropies as grandiosely as they organized their businesses.

Inevitably, the increase in the size of gifts changed the relations of donor to recipient. Borrowing a term from economic history, one may say that the givers became entrepreneurs in the field of higher education. They took the initiative in providing funds and in deciding their general purposes. William Rainey Harper wrote in 1905 that "in the case of 90 percent of the money given to a large institution the initiative is taken by the donor, and not by the university concerned."<sup>5</sup> This was a reversal of the procedure that had been in effect before the Civil War, when college presidents sued for alms on the basis of needs which they determined. But passive roles did not suit the new men of wealth. It was Jonas Gilman Clark, not G. Stanley Hall, who made the decision to found a new university at Worcester; Clark hired Hall to carry out his ideas.<sup>6</sup> It was Leland Stanford, not David Starr Jordan, who conceived the project at Palo Alto.<sup>7</sup> It was (to take a crowning example) Andrew Carnegie who decided to give retirement pensions to professors, and this without their prior solicitation.<sup>8</sup> Sometimes, depending upon inclination, these donors were also active in determining educational policies. Before the Civil War, businessmen did not usually earmark their gifts for specific educational projects. Abbott Lawrence's gift for an engineering school at Harvard was an exception, but it is interesting to note that President Everett thwarted the intention of the donor by converting the school into a department of natural science.<sup>9</sup> To compare Everett's treatment of Lawrence with Clark's treatment of Hall is to compare the power of \$50,000 with the power of several millions of dollars, and to compare the independence of a well-established college with the servility of a young university dependent on the benevolence of one man. In Hall's autobiography we find that the president

<sup>4</sup> Ernest V. Hollis, *Philanthropic Foundations and Higher Education* (New York, 1938), pp. 303-6.

<sup>5</sup> William R. Harper, *The Trend in Higher Education* (Chicago, 1905), p. 178.

<sup>6</sup> Calvin Stubbins, "Biography of J. G. Clark," *Publications of the Clark University Library*, 1 (April, 1906), 138-76.

<sup>7</sup> David Starr Jordan, *The Days of a Man* (New York, 1922), pp. 268-69.

<sup>8</sup> See letter of Andrew Carnegie to the trustees of the Carnegie Foundation (April 16, 1905). In *Annual Report of the Carnegie Foundation for the Advancement of Teaching* (Washington, D.C., 1906), pp. 7-8.

<sup>9</sup> Samuel Eliot Morison, *Three Centuries of Harvard* (Cambridge, Mass., 1936), p. 279.

was forced to break contracts at the orders of the founder, to reduce the scale of salaries because the founder wished to economize, to add an undergraduate college to what he had hoped would be a graduate institution, because the founder willed it so.<sup>10</sup> The antagonisms between Hall and Clark were not in any sense typical. More common was a harmonious association like that of Andrew D. White and Ezra Cornell, and more common still was an obsequious attitude like that of David Starr Jordan toward Mrs. Jane Stanford.<sup>11</sup> But Hall's story does exemplify the passage of academic initiative to the great providers who had come upon the scene.

The change in the occupational background of trustees measures the growing power of the business element in education. Whereas wealth and a talent for business had once been considered virtues in trustees, now they were thought to be prerequisites. The increase in income and endowment brought new problems of balances and budgets, of property investment and management, of the husbanding and parceling of resources, with which businessmen were presumed to be familiar. As a result, a trusteeship in a large university became, along with a listing in the Social Register, a token of business prominence and of pecuniary qualification. Charles and Mary Beard did not exaggerate when they wrote that "at the end of the century the roster of American trustees of higher learning read like a corporation directory."<sup>12</sup> In 1865, Ezra Cornell could boast of the representative composition of the board of the university that bore his name. Aside from ex-officio members representing the locality and the state, it included, he said, three mechanics, three farmers, one manufacturer, one merchant, one lawyer, one engineer, and one "literary gentleman."<sup>13</sup> By 1884, the Cornell Board of Trustees included five bankers, three lawyers, two manufacturers, two judges, and one editor.<sup>14</sup> Among the new arrivals was Henry W. Sage, the owner of the largest lumber business in the world at that time.<sup>15</sup> By 1918, new prizes had been added: Andrew Carnegie;

<sup>10</sup> G. Stanley Hall, *Life and Confessions of a Psychologist* (New York, 1923), pp. 225-57.

<sup>11</sup> Carl L. Becker, *Cornell University: Founders and the Founding* (Ithaca, N.Y., 1943), p. 118.

<sup>12</sup> Charles A. Beard and Mary R. Beard, *The Rise of American Civilization* (New York, 1927), II, 470.

<sup>13</sup> Becker, *Cornell University*, Document 11.

<sup>14</sup> In several cases, the occupations of trustees fall into more than one category.

<sup>15</sup> "Henry W. Sage," *National Cyclopaedia of American Biography*, IV, 478.

Charles W. Schwab, president of Bethlehem Steel; H. H. Westinghouse, chairman of the board of the Westinghouse Company; and others of the top business elite.<sup>16</sup> This trend was observable elsewhere. In a study of twenty private and state universities, McGrath found that 48 percent of the members of the boards of trustees were businessmen, bankers, and lawyers in 1860; in 1900, 64 percent belonged to those occupational categories.<sup>17</sup> The great anomaly of American higher education—that laymen dominate the domain of professionals—had become more patent than ever.

But the line between business and scholarship was not crossed from one side alone. Under the stimulus of a newly awakened interest in the workaday world and its problems, professors in the social sciences began to focus on the institutions by which society was organized and its activities maintained. The trend in the field of economics was toward historical and statistical analysis, and away from the speculative search for logically consistent systems. This was the period when E. R. A. Seligman wrote his studies of public finance; when Taussig wrote his *Tariff History*; when Henry Carter Adams wrote "The Relation of the State to Industrial Action"—all of them evidence of their authors' departure from the belief that life could be deduced from first principles.<sup>18</sup> This was the period when Ely wrote about labor and socialism and actually took these subjects seriously, proving that economics could be something more than conventional conservative apologetics.<sup>19</sup> Moreover, this was the period when the American Economic Association, in defiance of the edicts of Manchester, took its stand against *laissez faire*, and called upon the nation's economists to play a part in the shaping of public policy. In sociology, no less than in economics, the desire to take hold of realities was apparent and pervasive. "Pure" sociology—both Ward's and Sumner's—gave support to social programs; "applied" sociology—the other large division of the field—was little more than the art of social betterment.<sup>20</sup> By 1901,

<sup>16</sup> *Register of Cornell University, 1918-19*, p. 8.

<sup>17</sup> Earl McGrath, "The Control of Higher Education in America," *Educational Record*, XVII (April, 1936), 264.

<sup>18</sup> Joseph Dorfman, *The Economic Mind in American Civilization* (New York, 1949), III, 167, 245-57, 264-71.

<sup>19</sup> Richard T. Ely, *Ground under Our Feet* (New York, 1938), pp. 309-23.

<sup>20</sup> In announcing that a chair in sociology had been established, the Columbia Faculty of Political Science justified it by proclaiming: "it is becoming more and more apparent that industrial and social progress is bringing the modern commu-

hardly a college did not promise, under the heading of "sociology," a course on "the city and its problems," or "defectives, delinquents and dependents," or "socialism, its history and philosophy," or "the methods of social reform."<sup>21</sup> Finally, in the newest of the new social sciences—political science—the attention of scholars was given to political and administrative reform.<sup>22</sup> Throughout the field of the social sciences, the concern with public problems sought legitimation and expression.

More than anything else, it was the sense that the world was out of joint that gave rise to this new academic worldliness. By long habituation, Americans had become accustomed to social change: to the movement of rootless populations, to an economy permanently in flux. But the changes that came late in the nineteenth century were changes in the rhythm of change, upheavals in social relations, and they challenged settled assumptions. The traditional morality of individualism and the traditional injunction to get rich had produced an undisciplined wealthy elite that thought itself mightier than the laws and threatened democratic institutions. The classical world of small business and the classical law of competition had given birth to gargantuan trusts that were ruining or enveloping their rivals and were rigging the machinery of the market. Worst of all, the appearance of persistent poverty—hunger in the granary of the world, class war in the classless society, despair in the land of opportunity—put all our social shibboleths on trial.

This discomfiture of old ideologies helped vitalize American social science. It was not that our social scientists agreed on policies and programs. But there was one identifying bias that social Darwinists like Sumner and Darwinian socialists like Veblen, that gold-standard partisans like Laughlin and silver-standard partisans like Ross, that high-tariff advocates like Patten and low-tariff advocates like Walker, all

nity face to face with social questions of the greatest magnitude, the solution of which will demand the best scientific study and the most honest practical endeavor." Frank L. Tolman, "The Study of Sociology in Institutions of Higher Learning in the United States," *American Journal of Sociology*, VIII (July, 1902), 85; see, also, Albion W. Small, "Fifty Years of Sociology in the United States (1865-1915)," reprinted in the *American Journal of Sociology*, Index to Vols. I-LII (1947), pp. 187 ff.

<sup>21</sup> Tolman, "The Study of Sociology," pp. 88-104.

<sup>22</sup> Anna Haddow, *History of the Teaching of Political Science in the Colleges and Universities of the United States, 1636-1900* (New York, 1939).

significantly shared. This was the fundamental belief, of ancient lineage but of new allure, that science applied to society could alleviate social crises and remedy social problems. A number of invidious comparisons were used in support of this belief. It was thought that other groups were bound to ideology, but that social scientists were ideology-free. Other panaceas were looked upon as fanciful; the prescriptions of social science were presumably based on facts and social laws.<sup>23</sup> The distinguishing badge of competence that natural scientists wore was claimed by social scientists by right of direct descent.<sup>24</sup>

Thus big businessmen and professors came into fateful contact. The former supported the university and took command of its organ of government, the latter surveyed society and tried to sway its course: two spheres of action and interest, formerly far apart, drew close and overlapped. It was not immediately apparent, nor was it at any time inevitable, that this confrontation would be hostile. If there is truth in the popular antithesis between the "doers" and the "thinkers" of the world, there were also, in this case at least, substantial reasons for friendship. For one thing, some of the more articulate big businessmen, even of that parvenu generation, were fond of expressing admiration for the life of study and research. The contrary notion notwithstanding, the large contributors to the universities were usually not of that philistine crowd that undervalued the wisdom in books, or thought it far more edifying to meet a payroll than to meet a class. A philanthropist like Andrew Carnegie romanticized the life of intellectuals. He held up their "higher satisfactions" and "indifference to material possessions" as examples for the wealthy to follow; he consorted with writers and philosophers. Not every philanthropist was a Carnegie, yet the theme in his "Gospel of Wealth"—that the province and office of wealth was the diffusion and advancement of culture—proved strangely attractive to men whose one goal had been accumulation and who were themselves extravagantly uncultivated.<sup>25</sup> For all

<sup>23</sup> Cf. Lester F. Ward, *Applied Sociology* (Boston, 1906), pp. 5-6, 28-29; *Glimpses of the Cosmos* (New York, 1913-18), III, 172; IV, 11; Albion W. Small, *General Sociology* (Chicago, 1905), pp. 36-37.

<sup>24</sup> John Lewis Gillin, "The Development of Sociology in the United States," *Papers and Proceedings of the American Sociological Society*, XXI (1926), 1-6.

<sup>25</sup> Andrew Carnegie, "Individualism and Socialism," in *Problems of Today* (New York, 1908), pp. 121-39; "Wealth," *ibid.*, p. 35; "Variety and Uniformity," *ibid.*, p. 145. Cf. John D. Rockefeller, *Random Reminiscences of Men and Events* (New York, 1909), p. 166; Sarah K. Bolton, *Famous Givers and Their Gifts* (New York, 1896), pp. 108-28.

their quirks and vulgarities, the tycoons of Fifth Avenue and Newport were closer to the patricians of Beacon Street than to the business gentry of Main Street. Besides, the patrons of the university received from the academic world the ornate courtesies of gratitude. They did not enter academe as intruders; they were welcomed into the realm and escorted to its high places by its very grateful inhabitants. Within the academic fraternity, to cultivate the good will of donors was a highly approved activity, betokening fine public spirit. To offend the bearer of gifts was an action sometimes defined as the deepest disloyalty and treachery. Cordiality was thus demanded of professors by the most compelling of motives—self-interest and the desire for social approval.

In the light of these reasons for friendship, it is particularly surprising that sharp antagonisms developed over the issue of academic freedom. Yet almost from the moment of confrontation, the picture of the business patron as an enemy of academic freedom took form in the minds of professors. This began in the middle eighties, when Professor Henry Carter Adams was dismissed from Cornell for having delivered a pro-labor speech that annoyed a powerful benefactor.<sup>26</sup> The picture acquired lurid colors in the nineties, when such cases occurred in profusion, and when the victims, unlike Adams, would not suffer the blow in silence. In this period, it derived a certain plausibility from the Populist suspicion that big business supported the universities only to further its own interests, and that the attacks upon academic freedom were part of a plutocratic plot. In the Progressive period and beyond, the picture was colored and defined by another belief—that the values of the factory and the counting house were injurious to the values of research, and that the attacks upon academic freedom were the results of this basic disaccord. We have no way of measuring the popularity of the theses of "conspiracy" and "cultural incompatibility" among professors. It is probable that professors of social science were generally more hostile to businessmen than were professors of business administration. Undoubtedly, in every department, there was a minority of critics and crusaders who were more outspoken than the

<sup>26</sup> See E. R. A. Seligman, "Memorial to Former President Henry Carter Adams," *American Economic Review*, XII (September, 1922), 405; R. M. Wenley, Lawrence Bigelow, and Leo Sharfman, "Henry Carter Adams," *Journal of Political Economy*, XXX (April, 1922), 201-11. Letter of Henry C. Adams to E. R. A. Seligman, February 27, 1901, in Seligman Papers, Columbia University.

rest. But there can be no doubt that the image of the businessman as a malefactor became a potent academic stereotype. In the martyrology of wronged professors and the demonology of oppressive trustees, the businessman acquired, in the space of a few short decades, a conspicuous and infamous place.

A reappraisal of these beliefs is in order. How valid were the theses of conspiracy and cultural incompatibility? This question, we are aware, impinges on current ideological controversies. But we shall try to abstain from the present contest between "neo-conservatives" and "New Dealers," and from the provocative use of such terms as "Robber Barons" and "free enterprise." Our reasons for holding aloof are several. For one thing, it is doubtful whether high-order generalizations about the social role of big business can be deduced from these materials. Attitudes toward academic freedom are too specific for broad extrapolation. In this very circumscribed play, many facets of behavior are discrete: a man can give and give and be a villain, or be ungenerous with his purse and still a saint. Then, again, we deface the meaning of history by interlineating it with current knowledge. How the third generation of Rockefellers comports itself should not place a lien on our judgment as to how the founder of that house behaved. But most of all, we must let the evidence speak for itself, a difficult thing at best, yet hardly possible if we defend inclusive theories. Hence, in the following sections, we shall examine certain pre-World War academic freedom cases and certain trends in academic government with the modest ambition of putting two specific theses to a test.

#### THE THESIS OF CONSPIRACY

In 1901, Thomas Elmer Will, erstwhile professor and president of Kansas State Agricultural College, listed the academic-freedom cases that had occurred during the preceding decade. As he described them, they were all of the same ugly pattern: a professor had espoused reform, or had criticized the social order, and had thereupon been summarily dismissed. This, he wrote, was the story behind the dismissal of Dr. George M. Steele, president of Lawrence College, for leanings "toward free trade and greenbacks" (1892); the dismissal of President H. E. Stockbridge of North Dakota Agricultural College for "political" reasons (1893); the trial of Richard T. Ely, professor of economics at

Wisconsin, for heretical social and economic writings (1894); the dismissal of Docent I. A. Hourwich of the University of Chicago for participating in a Populist convention (1894); the dismissal of Edward W. Bemis, economist, from the University of Chicago, for championing antimonopoly views (1895); the dismissal of James Allen Smith, political scientist, from Marietta College for "antimonopoly teaching" (1897); the attack upon President E. Benjamin Andrews of Brown University for having promulgated views favorable to free silver, and his eventual resignation (1897); the dismissal of John R. Commons, economist, from Indiana University because of his economic views (1896), and the withdrawal of support from his chair at Syracuse University for the same reason (1899); the removal of Frank Parsons and Bemis from the Kansas State Agricultural College because of their "positions on economic questions" (1899); the forced resignation of President Henry Wade Rogers from Northwestern University for his opposition to imperialism (1900); the dismissal of Edward A. Ross from Stanford University for his opinions on silver and coolie immigration.<sup>27</sup> With this list, Will called the role of most of the well-known liberals in academic life at that time.

To Will, the cause of these attacks upon academic freedom was entirely self-evident. All academic-freedom cases were, he believed, the results of inevitable clashes between free disinterested inquiry and self-seeking vested interest. Formerly, this conflict had taken the form of a war between science and theology; now it was openly displayed as a war between science and wealth. Science is bent on telling the truth without favor. But the truth, dispassionately told, was what "the industrial monarchy" dared not and would not tolerate. It knows that "free investigation is all that is necessary to expose the rottenness of the existing economic system." Accordingly, "with the arrogance equalling that of the slave power, our plutocracy has issued its edict that the colleges and universities must fall into line." "Hence the inevitable conflict."<sup>28</sup> In the folklore of Populism, the three assumptions in this argument—that free inquiry exposes social evils and is therefore inherently reformistic, that big business dreads such exposure and is therefore incorrigibly intolerant, and that therein lies the cause of

<sup>27</sup> Thomas Elmer Will, "A Menace to Freedom: The College Trust," *Arena*, XXVI (September, 1901), 254-56.

<sup>28</sup> *Ibid.*, pp. 246-47.

infringements of academic freedom—gained wide acceptance.<sup>29</sup> And many later historians, pondering the cases that arose in the nineties, have also accepted these assumptions, though often not in their Populist frame.<sup>30</sup>

The first step in a reappraisal of this thesis is to ask: Was Will's catalogue of the cases accurate, was it complete and inclusive? In one case—that of George Steele—it is very likely that Will was in error, for Steele resigned in 1879, and his last presidential report suggests that he did so voluntarily.<sup>31</sup> In three other cases—those of Stockbridge, Hourwich, and Rogers<sup>32</sup>—the desolate wastes of the trustees' minutes reveal nothing that supports Will's contention, and without a statement from the participants there is nothing to go on, save the contention itself.<sup>33</sup> In another case—that of Commons—the evidence is entirely

<sup>29</sup> Charles A. Towne, "The New Ostracism," *Arena*, XVIII (October, 1897), 433-51; Edward W. Bemis, "Academic Freedom," *The Independent*, LI (August 17, 1899), 2196-97; Edward A. Ross, *Seventy Years of It* (New York, 1936), p. 64.

<sup>30</sup> Cf. Russel B. Nye, *Midwestern Progressive Politics* (East Lansing, Mich., 1951), pp. 154-55; Eric F. Goldman, *Rendezvous with Destiny* (New York, 1952), pp. 100-104; Arthur M. Schlesinger, *The Rise of the City* (History of American Life Series, X, 1933), pp. 227-29; Howard K. Beale, *A History of Freedom of Teaching in American Schools* (New York, 1941), pp. 227-34.

<sup>31</sup> Steele's last annual report, dated April 7, 1879, reviewed the course of his presidency which had lasted fourteen years, and referred to his onerous duties as financial agent which had cost him a considerable sum of money. "The reasons for my resignation are implied in the present situation of the College. I feel that the time has come for a movement which I do not feel that I have the ability or energy to conduct with any assurance of success. I am confident that someone else can, and that it is my duty, as well as yours, to heed the indications of God's providence in the premises." Letter of H. A. Brubaker, Librarian, Lawrence College, to the author, October 7, 1953.

<sup>32</sup> The librarian of North Dakota Agricultural College reports that many of the records of the trustees and of the president's office have been destroyed, and those that are available are not informative. Letter of H. D. Stallings to the author, January 13, 1954.

The University of Chicago archives reveal nothing about Hourwich or his dismissal: his name was simply dropped from the *Annual Register*. The trustees' minutes merely record the resignation of I. A. Hourwich, Docent, on February 1, 1895.

The only published material on Rogers' resignation in the Northwestern University archives is a letter of resignation, dated June 12, 1900. Whatever antagonism there might have been between Rogers and his board was masked by conventional politeness: "The time has come when in my judgment it is best for me to retire. . . . In thus terminating our official relations, I desire to express my grateful appreciation of the kindness you have always shown me in all our personal and official relations."

<sup>33</sup> The inference that Rogers was dismissed for his opposition to American policy in the Philippines was drawn from the bitter attack upon him in the press. See "The Menace to Free Discussion," *The Dial*, XXVI (May 16, 1899), 327. An article in

ex parte.<sup>34</sup> In the remaining six cases, however, there is a good deal of evidence to support Will's basic charges. Materials that have since come to light—the Ely correspondence, the Seligman letters, the Jameson papers<sup>35</sup>—show that in each of these cases the expression of personal opinion which was repugnant to officious conservatives led to the professor's undoing. It is true that Ely, compelled to defend his opinions, was vindicated and retained,<sup>36</sup> and that Andrews, asked to withhold his views, was not dismissed when he refused to do so.<sup>37</sup> Nevertheless, these six authenticated cases make it abundantly clear that the decade of the nineties—so curiously and inappropriately called "gay"—had seen the rise of a new kind of heresy defined as economic nonconformity.

But there are other genuine cases, not listed on Will's famous roster, in which the demand for economic conformity arose from the Populist "left." The career of J. Allen Smith provides an example of the bipartisan nature of intolerance. The author of a liberal dissertation on the money problem and a supporter of William Jennings Bryan

the Elgin (Ill.) *News*, November 8, 1895, may give some basis for assuming that Hourwich was dismissed for his opinions. "Chicago University seems to be singularly unfortunate in its professors of political economy. Following the lead of the old school writers of free trade, they not only teach their heresies but go a step further and champion the pernicious doctrines of socialism and populism. Prof. Bemis was 'resigned' for that cause, and now Dr. Isaac Hourwich is debarred from teaching because he is an 'avowed socialist, an infidel, and a sympathizer with the people's party.' The last count is not so bad, because every man has a right to his political convictions, but no self-respecting institution should retain for an hour among its lecturers one who holds such dangerous opinions as Dr. Hourwich. While the prompt action of President Harper saved the university from serious harm, he should be warned against nominating men to professorships till their fitness is fully ascertained." Mr. George Kennan Hourwich, the son, conveyed to the author his impression that President Harper had warned his father to give up politics or his post, but another member of the family denies that this had ever happened.

<sup>34</sup> John R. Commons, *Myself* (New York, 1934), pp. 50-68. To an earlier request to examine the Syracuse material, the librarian of Syracuse reported that the material could not be made available. S. R. Kolnick, "The Development of the Idea of Academic Freedom in American Higher Education," unpublished Ph.D. dissertation (University of Wisconsin, 1951), p. 169. To this writer the author of the forthcoming history of Syracuse University, reports that he was unable to discover "ground for assuming he was dismissed." Letter of Professor W. F. Galpin to author, November 20, 1953.

<sup>35</sup> The Ely papers are in the Wisconsin State Historical Society, Madison, Wisconsin. A microfilm of the letters bearing on academic freedom cases is in the Columbia University Special Collections. The Seligman letters are in the Columbia University Special Collections. The Jameson papers are in the possession of Dr. Leo Stock, Research Historian, Carnegie Institution, Washington, D.C.

<sup>36</sup> A discussion of the Ely case may be found on pp. 425-36.

<sup>37</sup> The best discussion of the Andrews case is Elizabeth Donnan's "A Nineteenth-Century Cause Célèbre," *New England Quarterly*, XXV (March, 1952), 23-46.

in the election of 1896, Smith was fired from Marietta College by a board of trustees dominated by Charles G. Dawes, a wealthy partisan conservative.<sup>38</sup> When, however, Smith applied for a university position in the West, he discovered that there monometallism was the heresy and free silver the orthodox creed. The Populist president of the University of Missouri proposed to make room for a true believer by firing a gold-standard professor; Smith saw the moral equivalence between this and Marietta's action, and would not accept the offer. Ideological considerations figured in his next appointment nevertheless. The Populist presidents of Kansas State Agricultural College and the University of Washington offered Smith jobs; he accepted the Washington offer.<sup>39</sup> The tendency in both parties was for like to seek out like.

The vicissitudes of the Kansas State Agricultural College are further proof that the conservatives did not sin alone. In 1894, the Board of Regents, then under the control of a Populist majority, decreed that "the principles maintained by the advocates of land nationalization, public control of utilities, and reform of the financial or monetary system shall be fairly stated and candidly examined . . . without bias or prejudice."<sup>40</sup> For this purpose, Thomas Elmer Will, a doughty champion of reform causes, was appointed professor of economics, thus insuring an "unprejudiced" examination in behalf of Populism, an "unbiased" statement against Republicanism. In 1896, the state-wide victory of Democrats and Populists resulted in a thorough reorganization of the college. All contracts with the faculty were at once terminated, and the president was forced to resign. Many of the professors were rehired, but the presidency and the department of economics were taken as Populist prizes.<sup>41</sup> Will was elevated to the presidency; Edward W. Bemis, expelled from Rockefeller's Eden in Chicago, was made professor of economics; Frank Parsons, reform crusader, was made professor of

<sup>38</sup> See "The Case of Professor James Allen Smith," *The Industrialist*, XXIII (September, 1897), 180, which effectively scotches the argument of the Marietta authorities that they were moved by financial considerations. It was the nation's, rather than the college's, finances that were uppermost in their minds, for the places of the dismissed professors were very quickly filled.

<sup>39</sup> Eric F. Goldman, "J. Allen Smith: The Reformer and His Dilemma," *Pacific Northwest Quarterly*, XXXV (July, 1944), 198 ff.

<sup>40</sup> Julius T. Willard, *History of the Kansas State College of Agriculture and Applied Science* (Manhattan, Kansas, 1940), p. 96. Willard gives most of the documents relevant to this case.

<sup>41</sup> George T. Fairchild, "Populism in a State Educational Institution, the Kansas State Agricultural College," *American Journal of Sociology*, III (November, 1897), 392-404.

history and political science.<sup>42</sup> A faculty organ, *The Industrialist*, became the spokesman for the party of reform.<sup>43</sup> The Populization of the college lasted for only three years. In 1899, by another turn of the wheel of politics, the Republicans returned to power. This was the occasion for partisan reprisal from the "Right." Abruptly, Will, Bemis, and Parsons were dismissed, and Kansas State was once more restored to sound conservative economics. In judging the actions of the Populist board, Bemis had written to his friend Ely that the Regents "were not really violating academic freedom." When he reflected upon the Republicans' purge, however, Bemis wrote that "there can be no doubt whatever that the present dismissals . . . were entirely for political reasons in order to prevent the possible development among the students and in the state at large of a point of view different from that usually favored by the donors to private universities and colleges."<sup>44</sup> The beam was always in the other's eye.

According to the thesis of conspiracy, there were certain essential conditions for and one effective cause of the curtailment of academic freedom. A liberal professor, pursuing his science; a conservative board, dominated by business—these were the necessary conditions. An antagonistic trustee or an imperious patron—this was the efficient cause. A closer look at two of Will's cases offers a test of this theory of causation. Richard T. Ely and Edward W. Bemis were economic infidels to about the same degree. Both subscribed to the "new" economics and rejected the immutability that had been claimed for laissez-faire doctrines. Both looked to the power of the state as the guardian of the general welfare; both looked upon the study of economics as a way of defending public interests.<sup>45</sup> And both were meliorists in social reform and gradualists in social action, rejecting the anarchist's method

<sup>42</sup> The course of events at Kansas State Agricultural College can be traced in notices of *The Outlook*. See LVI (May 15, 1897), 144, and (May 29, 1897), 240-41; LVII (September 4, 1897), 10, and (September 25, 1897), 209. On Parsons, see Arthur Mann, "Frank Parsons, The Professor as Crusader," *Mississippi Valley Historical Review*, XXXVII (December, 1950), 471-90; Benjamin O. Flower, "An Economist with Twentieth Century Ideals," *Arena*, XXVI (August, 1901), 157-60.

<sup>43</sup> *The Industrialist*, in the years of Will's presidency, gives an excellent picture of the one-sidedness of the faculty's point of view. See Vols. XXIV-XXV.

<sup>44</sup> Letter of Bemis to Ely, October 3, 1897, in Ely Papers: Bemis' statement, June 10, 1899, in Ely Papers.

<sup>45</sup> Cf. Sidney Fine, "Richard T. Ely, Forerunner of Progressivism, 1880-1901," *Mississippi Valley Historical Review*, XXXVII (March, 1951), 599-624; Edward W. Bemis, "A Point of View," *Bibliotheca Sacra*, LIII (January, 1896), 145-51.

and the socialist's total panacea.<sup>46</sup> Yet each, when taken to task, was treated and judged very differently. Ely, attacked for his heterodox views, was tried, acquitted, and vindicated; Bemis, attacked for his heterodox views, was dismissed without formality. The comparison automatically suggests that there existed a greater variety of factors, and more complex initial conditions, than were dreamed of in Populist philosophy.

In 1894 Ely, director of the University of Wisconsin School of Economics, Politics and History, was tried by a committee of the Regents for believing in "strikes and boycotts, justifying and encouraging the one while practicing the other." His accuser was Oliver E. Wells, superintendent of public instruction and an ex-officio member of the board. Ely was alleged to have threatened to boycott a local firm whose workers were on strike; to have said that a union man, no matter how dirty and dissipated, was always to be employed in preference to a nonunion man, no matter how industrious and trustworthy; to have entertained and advised a union delegate in his home. Ely's books, Regent Wells went on to charge, contained "essentially the same principles," provided a "moral justification of attack upon life and property," and were "utopian, impracticable or pernicious."<sup>47</sup> Given the hysteria of the times, the authority of the Regent, and the public nature of the charges, Ely's position was gravely jeopardized. With conservative lawyers and businessmen sitting on the board and on the trial committee, Ely and his supporters feared the very worst. Their fears, however, proved to be unfounded. The trial resulted not only in Ely's exoneration, but in a declaration in favor of academic freedom that

<sup>46</sup> Ely's conservatism appears in his "Fundamental Beliefs in My Social Philosophy," *Forum*, XVIII (October, 1894), 173-83. Bemis presented his views in a letter to President Harper, which he wrote when he learned that he was suspect. "Having been informed today on second hand but apparently trustworthy authority that some of the authorities (trustees, I assume) of our University are displeased with what they suppose has been my attitude in this RR strike, I write to correct any possible false reports. I wrote a letter to Mr. Debs, just before the strike, urging him, for I knew him slightly, not to have the strike. Then when all the trade unions were considering the propriety of a general strike in the city, I spent several hours in trying to dissuade the leaders of some of the unions. . . . In every way have I tried to calm the troubled waters while making use of the opportunity to urge upon employers a conciliatory Christ-like attitude." Letter of Bemis to Harper, July 23, 1894, in Harper Papers, University of Chicago Archives.

<sup>47</sup> Letter of Oliver E. Wells to *The Nation*, LIX (July 12, 1894), 27. Theodore Herfurth, *Sifting and Winnowing: A Chapter in the History of Academic Freedom at the University of Wisconsin* (Madison, Wisconsin, 1949), p. 8.

one historian of the University has called the "Wisconsin Magna Charta"<sup>48</sup> and that Ely hailed as "the strongest defense of freedom of instruction which was ever issued authoritatively from an American University."<sup>49</sup>

As Regents of a university with over a hundred instructors supported by nearly two millions of people who hold a vast diversity of views regarding the great questions which at present agitate the human mind, we could not for a moment think of recommending the dismissal or even the criticism of a teacher even if some of his opinions should, in some quarters, be regarded as visionary. Such a course would be equivalent to saying that no professor should teach anything which is not accepted by everybody as true. This would cut our curriculum down to very small proportions. We cannot for a moment believe that knowledge has reached its final goal, or that the present condition of society is perfect. We must therefore welcome from our teachers such discussions as shall suggest the means and prepare the way by which knowledge may be extended, present evils be removed and others prevented. We feel we would be unworthy of the position we hold if we did not believe in progress in all departments of knowledge. In all lines of academic investigation it is of the utmost importance that the investigator should be absolutely free to follow the indications of truth wherever they may lead. Whatever may be the limitations which trammel inquiry elsewhere we believe the great State University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone the truth can be found.<sup>50</sup>

At the very same time, Edward W. Bemis, one of Ely's former students, ran afoul of the authorities at the University of Chicago. He had delivered a speech against the railroad companies while the Pullman strike was going on, and had declared:

If the railroads would expect their men to be law-abiding, they must set the example. Let their open violation of the inter-state commerce law and the relations to corrupt legislatures and assessors testify as to their past in this regard. . . . Let there be some equality in the treatment of these things.<sup>51</sup>

The speech was reported in the press, and in certain Chicago circles it was considered nothing short of seditious. The president of the University, William Rainey Harper, was quick to express his displeasure.

Your speech . . . 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

<sup>48</sup> J. F. A. Pyre, *Wisconsin* (American College and University series, New York, 1920), p. 292.

<sup>49</sup> Letter of Ely to Henry D. Lloyd, December 24, 1894, in Ely Papers.

<sup>50</sup> Herfurth, *Sifting and Winnowing*, p. 11.

<sup>51</sup> Letter of Bemis to Ely, August 13, 1894, in Ely Papers.



all sides. I propose that during the remainder of your connection with the University you exercise very great care in public utterance about questions that are agitating the minds of the people.<sup>52</sup>

But it was already too late for repentance. At the end of the academic year, Bemis was dropped without a trial or an open specification of charges.

Contemporary opinion was greatly divided as to the causes of Bemis's dismissal. Ely, Ross, and Commons had no doubt that Bemis had been sacrificed on the bloody altar of Mammon.<sup>53</sup> Harper and Albion W. Small, head of the Sociology Department, were just as insistent that Bemis had been removed for incompetence.<sup>54</sup> One cannot judge motives from so far a remove, or take sides with complete assurance. But the timing of the dismissal and the self-incriminating letter of the President make the assumption highly plausible that a quiet or conservative Bemis would not have lost his position.

<sup>52</sup> *Ibid.*

<sup>53</sup> Ross wrote to Bemis: "I see that the issue between you and the Gas Trust University has become a national affair. I feel certain that the storm of public indignation while it may come too late to benefit you this year will react in your favor and ultimately more than compensate you for the treatment received by the University. I have known the tendencies there but have always tried to treat the University in a liberal spirit, but from now on I vow that I shall never recommend the economic, political or sociological departments of the University of Chicago to any student. . . . The Chicago concern has forfeited all right to the name and dignity of a University till it falls under other control." September 5, 1895, in Ely Papers. Ely wrote to Hamilton Mabie, the editor of *The Outlook*: "I will say, at once, that it is my firm conviction that Professor Bemis who is stronger than any man they now have in the department of economics, would be a member of the faculty of the University of Chicago in good standing had he not held the views which he entertains." August 24, 1895, in Ely Papers. However, Allan Nevins reports, in his biography of Rockefeller, that Ely in later years changed his mind and told him in 1939 that this was not a *bona fide* academic freedom case. *John D. Rockefeller* (New York, 1940), II, 263-65.

<sup>54</sup> Small insisted in letters and in articles that Bemis's dismissal had nothing to do with the doctrines he espoused. He attempted to explain away Harper's letter as follows: "It should be noted that President Harper's request that Mr. Bemis should exercise care in his statements was not made with reference to any utterances which Mr. Bemis was making in university work or in a university extension lecture, but in an outside capacity before a promiscuous audience. This was, as already intimated, at a time when agitation of any kind was universally regarded as imprudent. It should also be noted that President Harper did not even then take issue with Mr. Bemis on any 'doctrine' but that he requested him to be careful about making untimely and immature statements." Small's press statement on Bemis, October 18, 1895, in Ely Papers. The explanation is almost as damning as the action it seeks to explain. Small's exclusion of extramural utterance from the meaning of academic freedom was a truncated view of that principle and represented surrender on what to the pro-Bemis group was precisely the vital issue. His failure to grasp the intimidating overtones of Harper's letter was a quibble or a deliberate evasion.

Puzzled by the discrepancy in their treatment, Ely and Bemis searched for the key to explain it. Their conclusion, colored by the suspicion of conspiracy, was that the crucial factor in each case was the degree of big-business domination that existed in their respective institutions. Ely believed that state control of the University of Wisconsin minimized the influence of wealth. "Some of the Germans have a theory that society is tyrannical and that the state is an organ of freedom. This was illustrated in my case; the state protected me from the attacks of private persons." By contrast, he thought, a private university must pay court to its sources of support and need not publicly account for its actions.<sup>55</sup> Bemis believed that the pressure of local corporations was particularly strong at Chicago because of the University's crass commercial spirit. Pointing to the conservative Laughlin and the timorous Albion W. Small as key examples, he asserted that Chicago had established a "line" agreeable to those business interests; from this no professor could ever deviate and hope to keep his position.<sup>56</sup>

None of these interpretations adequately covers the facts. In the light of current and subsequent attacks on academic freedom in state universities, Ely's diagnosis was not perceptive, certainly not prophetic. The shaky tenure of faculties in the state universities was exemplified by the mass dismissals that occurred at Kansas State.<sup>57</sup> Even at Wisconsin, practice lagged behind principle, as Edward A. Ross discovered when he was reprimanded by the Board of Regents in 1910 for having announced to a class that the anarchist Emma Goldman would give a public lecture in Madison.<sup>58</sup> Ely's diagnosis is also refuted by later evidence compiled by Committee A of the American Association of University Professors from 1915, the year of its founding, to

<sup>55</sup> Letter of Ely to Henry D. Lloyd, December 24, 1895, in Ely Papers.

<sup>56</sup> At first Bemis blamed Rockefeller for his dismissal, but later thought that the manager of the Gas Trust of Chicago was the really sinister influence. Letter of Bemis to Ely, January 12, 1895, in Ely Papers. Nevins offers rather convincing proof that Rockefeller did not impose his economic views on the university, though he did intervene in theological matters. Nevins, *Rockefeller*, II, 259-62. The charge that the Gas Trust opposed Bemis and was responsible for getting him removed was made by George H. Shibley and denied by President Henry P. Judson of the University of Chicago before a House of Representatives Committee in 1914. See Rolnick, "Development of the Idea of Academic Freedom," p. 142.

<sup>57</sup> At the State University of Iowa in 1887, Democratic politicians led a movement to remove 3 Republican professors who were prohibitionists. In 1893 the Regents of West Virginia University dismissed the entire faculty including the President. Rolnick, "Development of the Idea of Academic Freedom," pp. 108, 116.

<sup>58</sup> Herfurth, *Sifting and Winnowing*, pp. 14-31.

the defendants. Before coming to Wisconsin, Ely had taught for eleven years at Johns Hopkins, at a time when its fame was unrivaled. No teacher in America had had a more brilliant group of graduate students, nor could any boast more devoted disciples. Among them were Frederick Jackson Turner, at the time of the trial, professor of history at Wisconsin; David Kinley, professor of political economy at Illinois; Charles Homer Haskins, professor of history at Wisconsin; H. H. Powers, professor of economics and sociology at Smith; William A. Scott, associate professor of political economy at Princeton; Edward A. Ross, professor of economics at Stanford; John R. Commons, professor of economics at Indiana; Albion W. Small; Albert Shaw, editor of the *Review of Reviews*; John H. Finley, president of Knox College; and George P. Morris, associate editor of the *Congregationalist*.<sup>67</sup> "These," said Ely, "are my jewels."<sup>68</sup> They were, indeed, priceless assets. Scott, Turner, and Kinley masterminded Ely's defense; Shaw, Warner, and Morris gave him a sympathetic press; Shaw, Small, Turner, and Kinley were character witnesses at the trial. Their agitation aroused the entire profession; social scientists everywhere rallied to Ely's defense.<sup>69</sup> They made the Regents aware that Ely was not an isolated individual, but a powerful academic force. They made the Regents aware of what the Regents tended to overlook, that the bonds of obligation were mutual, that if the professor was dependent on the institution for a salary and a platform, the institution was indebted to the professor for his popularity and renown.<sup>70</sup> As a factor in the trial and the acquittal, the importance of Ely's status cannot be overestimated.

<sup>67</sup> Many who had not studied formally under Ely expressed their debt to him. Among these were Frederick C. Howe, LaFollette, and Theodore Roosevelt. See Howe, *The Confessions of a Reformer* (New York, 1925), p. 28; Ely, *Ground under Our Feet*, pp. 216, 277-79.

<sup>68</sup> Ely's Chautauqua Statement, August 14, 1894, in Ely Papers.

<sup>69</sup> So confirmed a conservative as the Harvard economist Charles Dunbar, who had refused to join the American Economic Association because it was too radical, became one of Ely's supporters. Letter of W. J. Ashley to Ely, August 23, 1894, in Ely Papers. Albert Bushnell Hart, the Harvard historian, was in Paris when the case broke, and was so out of touch with academic sentiment that, almost alone among the nation's important academic men, he wrote a letter to the press condemning Ely. When he returned and could gauge the situation, he apologized to Ely. Letter of A. B. Hart to Ely, September 7, 1894, in Ely Papers.

<sup>70</sup> Thus, one of Ely's friends, Professor Jerome L. Raymond of the University of Chicago, wrote to a Wisconsin Regent: "I cannot imagine a greater loss to the University of Wisconsin than the loss of his ministrations. His reputation is not only national, but international. While you have him at Madison, you have the foremost department of Economics in this country. Scour the country throughout and you

By contrast, there can be no doubt that Chicago had less need of Bemis than Bemis had of Chicago. Though not an insignificant figure, Bemis was still on a low rung of fame and not yet rich in disciples. Since he was a teacher in the university's Extension Division, his institutional status was not high. Presumably—and this was a commercial consideration that counted at the University of Chicago—he did not attract enough students to cover the cost of his appointment.<sup>71</sup> Largely at Ely's instigation, many members of the profession took an interest in Bemis and his plight—but not with the same enthusiasm that they showed in Ely's behalf and usually with reservations or a certain condescension. Bemis, wrote Hamilton Mabie to Ely,

is a perfectly guileless, straight-forward and honest man,—industrious, conscientious and well up on his work; but . . . he lacks any notable personal power and is devoid of that contagious element which wins people from the platform and often in the classroom. . . . A year ago when your fight came on you had solid ground under your feet. I do not think Bemis has.<sup>72</sup>

Bemis lacked the personal and professional resources that might initially have averted the attack or else might have won the engagement.

A third difference lay in the extent to which Ely and Bemis put their theories into action. For all his talk of the need for concrete reform, Ely's criticisms of the social order tended to be general, not specific; hortatory, not programmatic.<sup>73</sup> For all his warm humanitarianism, he made no intimate contact with the multitude. "Only twice in my life," he once wrote, "have I ever spoken to audiences of working men, and I had always held myself aloof from agitations as something not in my province—something for which I am not adapted."<sup>74</sup> Replying to the charge by Regent Wells that he *had* acted on his sympathies for labor, he issued a categorical denial. This author of a friendly history of the labor movement denied, at his trial, that he had ever entertained a walking delegate in his home, that he had ever counseled workers to strike, that he had ever threatened an anti-union firm with a boycott, or

could not get a man who would do so much to attract students of Economics to Madison." Letter of Raymond to H. D. Dale, August 13, 1894, in Ely Papers.

<sup>71</sup> See Small's press statement, October 18, 1895, in Ely Papers.

<sup>72</sup> Letter of Mabie to Ely, October 4, 1895, in Ely Papers.

<sup>73</sup> There were occasional exceptions in his writings. See his attack on the Pullman Company in "Pullman: A Social Study," *Harper's New Monthly Magazine*, LXX (February, 1885), 452-66.

<sup>74</sup> Letter of Ely to Amos P. Wilder, July 22, 1894, in Ely Papers.

that he had ever favored the principle of a closed shop.<sup>75</sup> Were these charges true, Ely wrote, they would "unquestionably unfit me to occupy a responsible position as an instructor of youth in a great University."<sup>76</sup> These were the words of a very academic reformer.

Of all who wrote to congratulate Ely, Bemis alone perceived that he had won the particular case, but had relinquished a vital principle. "That was a glorious victory for you," he wrote. "I was sorry only that you seemed to show a vigor of denial as to entertaining a walking delegate or counseling strikers as if either were wrong, instead of under certain circumstances a *duty*."<sup>77</sup> This was the difference between them: Bemis was not only a partisan of, but an active party to, the fight for underdog causes. Bemis, wrote H. H. Powers to Ely, "is a moderate man in his views but he has unquestionably taken a vigorous stand in favor of 'doing something about it.' It is his very efficiency in this line that has made him so obnoxious to interested parties."<sup>78</sup> "I have no doubt," wrote Ely to Mabie,

[that] Professor Zeublin is quite as brave as Dr. Bemis but the nature of the work is such that he does not feel called upon to deal specially with the gas question, street car corporations, etc. Dr. Bemis is not by any means radical, but he happens to take interest in one or two lines of scientific work which appear to be particularly dangerous.<sup>79</sup>

These comments are very illuminating. They point to the significant fact that, in a secular milieu, professors ran greater risks by threatening concrete interests than by doubting accepted ideologies. Not disbelief alone, but disbelief when applied to gas rates, was what most aggrieved the business community. The subsequent careers of Ely and Bemis bear out the importance of this point. Ely survived (and in good part renounced) his spoken and written heresies.<sup>80</sup> He remained in a full state of academic grace for the rest of his life, taking a post at Northwestern in 1925 and one at Columbia in 1937. Bemis became an aca-

<sup>75</sup> *Transcript of the Ely Trial*, p. 19, in Ely Papers.

<sup>76</sup> Ely's Chautauqua Statement, August 14, 1894, in Ely Papers.

<sup>77</sup> Letter of Bemis to Ely, October 4, 1894, in Ely Papers.

<sup>78</sup> Letter of H. H. Powers to Ely, November 14, 1895, in Ely Papers.

<sup>79</sup> Letter of Ely to Hamilton W. Mabie, August 24, 1895, in Ely Papers.

<sup>80</sup> Ely became increasingly conservative as time went on. He became Director of the so-called Institute for Research in Land Economics and Public Utilities (an organization heavily subsidized by the National Association of Real Estate Boards and the public utilities companies) which was accused by labor organizations of pleading in its sponsors' interest. See Laura P. Morgan, "The Institute of Politics and the Teacher," *American Teacher*, XII (November, 1927), 12-14.

demic Ishmael, with a reputation as a partisan and a malcontent that he never was able to live down. Except for his brief and ill-starred tenure at Kansas State, he received no further academic appointments.<sup>81</sup> The trustees of the republic of learning could inflict on this kind of miscreant the terrible retribution of neglect.

Finally, in listing the factors that differentiate these cases, the personality, power, and standing of Ely's chief accuser must be mentioned. The idea of a trial; it should be noted, originated with the Regents, not with Ely and his friends. The latter had many misgivings about it. They were afraid that a trial in those troubled times would not be conducted with respect for the rights of the defendant.<sup>82</sup> They feared that a trial over matters of belief would mark a return to old inquisitorial habits, that Wisconsin would go the way of Andover. "It has been reserved for the University of Wisconsin," wrote a writer in the *Dial*,

to offer the first example, to our knowledge, of a trial for heresy in which theology has no part. To hale a public teacher of science before an investigating committee, for the purpose of examining his opinions . . . is a procedure so novel, and, we may add, so startling, that one may well pause to consider its significance, and the possible consequences of an extension of the principle thus involved.<sup>83</sup>

But the trial was intended to serve a purpose that Ely and his supporters did not suspect. At the start of the proceedings the Committee decided not to consider in evidence any of Ely's writings that did not bear directly on doctrines taught in class. It was reluctant, it declared, to censor books in the library or to indulge in the insidious sport of quoting passages out of context.<sup>84</sup> This decision proved fatal to the case of the accuser, for none of the other charges, as it turned out, could be substantiated. Wells walked out midway through the proceedings, objecting to the limitations that had been placed on the scope of the inquiry. After this, the Committee reversed its decision,

<sup>81</sup> From 1901 to 1909, Cleveland's reform mayor, Tom L. Johnson, made use of Bemis's practical talents by appointing him superintendent of the water department. From 1913 to 1923, Bemis was a member of the advisory board of the Valuation Bureau of the Interstate Commerce Commission. "Edward W. Bemis" (obituary), *New York Times*, September 27, 1930.

<sup>82</sup> Letter of William A. Scott to Ely, July 21, 1894. Letter of Frederick Jackson Turner to Ely, August 4, 1894, in Ely Papers.

<sup>83</sup> "The Freedom of Teaching," *The Dial*, XVII (September 1, 1894), 103.

<sup>84</sup> *Transcript of the Ely Trial*, p. 22, in Ely Papers.

and allowed Ely to read from his writings any extract that he chose! Plainly, the Committee was on the side of the professor, and the reason is not hard to find. Regent Wells was cordially disliked and distrusted. He had tangled with his colleagues before, and had earned a reputation as a troublemaker. He was a Regent only *ex officio*, and had been elected to his office only because of a freakish Democratic victory in a normally Republican state. And he had completely isolated himself by going over the heads of the Regents, by giving his charges to the public press, and by implying that the university condoned Ely's teachings and was an accessory to his sins. Therefore, the ulterior purpose of the trial was to discredit this enemy of the tribe, who had infiltrated its high council. In the old theological trials—as in certain congressional hearings that were to come at a later day—accuser and investigator were one. In the Ely trial at Wisconsin, the accuser stood accused.

Thus, in the concrete instance, the professor's fate was decided by a number of non-ideological factors. Admittedly, however, these two cases do not shed much light on the role of the business patron. At Wisconsin, the attack upon academic freedom was undertaken by a bungling, small-town teacher; the defense of academic freedom was made by a committee of the Regents composed of a city banker, a wealthy doctor, and a small-town lawyer. At Chicago, the attack was probably inspired by certain local big-business men. There are, however, two other cases that exhibit in a clear and unmistakable way the attitudes of business leaders. One was the case of Edward A. Ross at Stanford, the other the case of John S. Bassett at Trinity, which occurred in 1903. Both Ross and Bassett were members of institutions that were dependent on a single rich sponsor. Both were sharply attacked for speaking unpopular opinions. Ross was eventually dismissed, the victim of his patron's intolerance; Bassett was retained, the beneficiary of his patron's indulgence. Again, the comparison suggests complexities not embraced by the theory of class malevolence.

Under the provisions of the founding grant of Stanford University, the functions of the trustees were exercised solely by the Founders.<sup>85</sup> The death of Leland Stanford in 1893, and the assumption of full

<sup>85</sup> A board of trustees took over the power of the Founder when the charter was amended by Mrs. Stanford in 1903. Jane Lathrop Stanford, *Address on the Right of Free Speech*, April 25, 1903, pp. 3-6.

authority by his wife, converted this unusual oligarchy into a still more unusual matriarchate. Into the university built in memory of her son the strong-willed, emotional Mrs. Stanford poured all of her abundant energy. When, in the infancy of the institution, the Stanford estate was tied up in probate court, she contributed her personal income—even sold her personal possessions—to keep the University alive.<sup>86</sup> So well mothered, the infant institution survived, and very soon waxed strong. But universities must, like children, pay a price for filial dependence. Both kinds of organisms must be independent to mature, and both must be mature to be free. Stanford University became the victim of the commanding meddlesome love which an unbridled maternal instinct thrusts upon an only child.

It was not long before the professors found this motherly embrace oppressive. In 1898, Professor H. H. Powers, a popular teacher in political science, delivered a speech on religion which Mrs. Stanford happened to hear.<sup>87</sup> Intensely devout, the "Mother of the University" was shocked by its heretical sophistication.<sup>88</sup> As imperious as she was generous, she demanded that Powers be removed. The founding grant vested the power of dismissal in the hands of the president, and this power could be exercised at will, since all professors were on annual appointment. In David Starr Jordan, a well-known zoologist, an advocate of evolution, a pioneer in the university movement, the faculty had a president who well understood the danger of permitting lay preconceptions of propriety to interfere with academic expression. Unfortunately, the faculty also had, in David Starr Jordan, a president who was compelled by a sense of obligation and by his own sycophantic personality to defer to the wishes of the Founder. Agreeing with the one side, but subservient to the other, he was completely miscast in the role of mediator between the faculty and Mrs. Stanford. In this instance, he

<sup>86</sup> The story of the crisis of the infant Stanford University is graphically told in Elliott, *Stanford University*, pp. 251-308. The Ross case is discussed in this volume with unusual candor and fullness.

<sup>87</sup> The speech, as far as we know, was not recorded. Powers' version of it is as follows: "I offended Mrs. Stanford by an address of a somewhat philosophical religious character which I delivered at the request of a student organization. Mrs. S. whom I had never seen was there and was much offended by my pessimism and heterodoxy which it is needless to say she did not understand." Letter of H. H. Powers to Ely, January 14, 1898, in Ely Papers.

<sup>88</sup> See Bertha Berner, *Mrs. Leland Stanford, An Intimate Account* (Stanford University, 1935), for a chatty, adulatory biography written by Mrs. Stanford's personal secretary, which gives unintended evidence of the latter's naïveté.

pleaded that Powers should be retained and spoke of his valuable services; but yet, when the Founder refused to be moved, he did not challenge her verdict. In 1898, Powers was forced to resign, the first of a very large brood that soon was to be disinherited.

Edward A. Ross was exactly the man to ignite this situation. Fresh from Ely's seminar, fired by liberal causes, convinced that the aim of big business was to throttle social criticism, Ross had come to Stanford almost spoiling for a fight. "As secretary of the American Economic Association," Ross wrote many years later in his autobiography,

I had gained an inside view of the growing pressure on economists and resolved that I for one would be no party to this fooling of the public. I would test this boasted "academic freedom"; if nothing happened to me others would speak out and economists would again really count for something in the shaping of public opinion. If I got cashiered, as I thought would be the case, the hollowness of our rôle of "independent scholar" would be visible to all.<sup>89</sup>

With bravery that verged on bravado, Ross said and did just those things that would put him in the Founder's eye. At a time when the conservative community thought Eugene V. Debs the incarnate devil, Ross publicly defended him; in a university that had been founded by a railroad Republican whose ventures had depended on free labor, he advocated municipal ownership of utilities and a ban on Oriental immigration. At a time when most economists were for McKinley and gold, he wrote a tract in favor of free silver that was used by the Democratic party. Perhaps Leland Stanford, had he been alive, would have tolerated the iconoclasm of this professor. There was something of the iconoclast in Stanford, too, as witness his bill for fiat money that he proposed while a member of the Senate.<sup>90</sup> But his wife had all the prejudices of her class, and they had been hardened by her ignorance into absolutes. "When I take up a newspaper . . . and read of the utterances of Professor Ross," she wrote to Jordan,

. . . and realize that a professor of the Leland Stanford Junior University, who should prize the opportunities given him to distinguish himself among his students in the high and noble manner of his life and teachings before them, thus steps aside, and out of his sphere, to associate himself with the political demagogues of this city, exciting their evil passions, drawing distinctions between man and man, all laborers and equal in the sight of God, and literally plays into the hands of the lowest and vilest elements of socialism,

<sup>89</sup> Edward A. Ross, *Seventy Years of It* (New York, 1936), pp. 64-65.

<sup>90</sup> George T. Clark, *Leland Stanford* (Stanford, 1931), pp. 459-61.

it brings tears to my eyes. I must confess I am weary of Professor Ross, and I think he ought not to be retained at Stanford University.<sup>91</sup>

For several years, Jordan interceded with the Mother on behalf of the erring child. He argued that Ross's scholarship was impeccable, his teaching in the classroom judicious, his personal life unimpeachable. He called Ross (it was a eulogy he was later to regret) a "wise, learned and noble man, one of the most loyal and devoted of all the band" at the University.<sup>92</sup> At the same time, he entreated Ross to use restraint. To hold him in rein, he transferred him from the Department of Economics to the Department of Sociology.<sup>93</sup> As a desperate last step, he prevailed upon Ross to write the patroness directly and present his side of the case.<sup>94</sup> All of these efforts came to nought. Mrs. Sanford was adamant:

All that I have to say regarding Professor Ross, however brilliant and talented he may be, is that a man cannot entertain such rabid ideas without inculcating them in the minds of the students under his charge. There is a very deep and bitter feeling of indignation throughout the community . . . that Stanford University is lending itself to partisanism and even to dangerous socialism. . . . Professor Ross cannot be trusted, and he should go.<sup>95</sup>

Jordan was aware that his own prerogative was invaded by the implacable stand of the Founder.<sup>96</sup> It can be argued that this awareness made his ultimate capitulation more blameworthy. But cowardice never had better reasons. Had Jordan threatened to resign, Mrs. Stanford would no doubt have held her ground; had Jordan carried out his threat and taken the faculty with him, the University might well have expired. In Jordan's scale of judgment, the institution outweighed the individual: the value of the institution's existence was preponderant over other academic values. In 1900, Ross was forced to resign.

<sup>91</sup> Elliott, *Stanford University*, p. 340-41.

<sup>92</sup> *Ibid.*, pp. 346-47.

<sup>93</sup> Letter of Ross to Frank Lester Ward, April 25, 1897; reprinted in Bernhard J. Stern, "The Ward-Ross Correspondence, 1897-1901," *American Sociological Review*, XI (October, 1936), 594.

<sup>94</sup> Even Ross succumbed to the mood at Stanford and expressed his filial loyalty. "I have completely identified myself with the University you founded. I have devoted my whole soul and strength to the glory of Stanford, trusting that Stanford would look out for me. . . . Mrs. Stanford, I do not want to stay unless you can give me that degree of confidence which I deem my just due for faithful service, and without which I can do no good work here. I am loyal to you, and out of reverence for you as the Mother of this University will conform to your wishes in every way I can. I will do everything but sacrifice my self-respect. . . ." Elliott, *Stanford University*, p. 343.

<sup>95</sup> *Ibid.*, pp. 343-44.

<sup>96</sup> *Ibid.*

For Ross a silent retreat was unthinkable; it would have defeated the purpose of his rebellion. Hence, the day after he was dismissed, he issued a statement to the press and made the "Ross Case" public property. The statement was skillfully composed to show that there had been a clear-cut violation of academic freedom. Quoting from Jordan's own letters, Ross depicted the president as a victim unwilling to become a martyr. Playing on the Westerner's fear of the "Oriental menace," he implied that his speech on coolie immigration was the primary cause of his downfall. Appealing to academic opinion, he invoked the argument of scientific competence.

I cannot with self-respect decline to speak on topics to which I have given years of investigation. It is my duty as an economist to impart, on occasion, to sober people, and in a scientific spirit, my conclusions on subjects with which I am expert. . . . It is plain, therefore, that this is no place for me.<sup>97</sup>

By this time, academic-freedom cases, particularly those that involved wealthy donors, had become matters of national interest. Ross's charge was headlined in the newspapers throughout the land. By this time, too, a sizable public had been conditioned to accept such a charge at its face value. A large number and variety of journals took the side of the dismissed professor and condemned the Stanford authorities. Some of these journals, like the *Outlook*, had been schooled by a decade of suspicion to see conspiracy everywhere afoot.<sup>98</sup> Others, like *Gunton's Magazine*, had always defended the right of "academic management" to fire any of its employees, but happened to agree with Ross that Oriental immigration should be checked.<sup>99</sup> Ross's partisans ranged from the *New York Evening Post*, now atoning under a new editor for its illiberal views in the Ely case, to the Republican *San Francisco Chronicle*, which bore a grudge against the Southern Pacific.<sup>100</sup> For all sorts of reasons, protest welled in every section of the country.

When colleges were religious institutions, the expulsion of professors for their opinions often went unextenuated and undisguised. Sophistry and self-deception were not then basic to the art of administration.

<sup>97</sup> Ross, *Seventy Years of It*, pp. 69-72.

<sup>98</sup> Editorial, "Freedom of Teaching Once More," *Outlook*, LXVI (November 24, 1900), 727-28.

<sup>99</sup> *Gunton's Magazine*, XX (April, 1901), 367-69.

<sup>100</sup> *New York Evening Post* (February 23, 1901); *San Francisco Chronicle* (November 15, 16, 17, 21, 24, 25, 27, and 29; December 16 and 23, 1900; February 18, 1901). In Bancroft Library, University of California.

This was not a sign of moral superiority: candor comes easily to those who feel they have committed no wrong and who seek only parochial approval. The Stanford authorities, however, were too committed to academic freedom and too sensitive to public opinion to tell the unvarnished truth. They would not admit to themselves that Ross had been punished for heresy; they could not admit to others that his heresy had been detected by the donor. A sense of guilt and a concern for reputation made them seek their justification in the oldest source of absolution—the imperfections of the victim. The need to do this was not lost even on Mrs. Stanford, whose dim comprehension of what she had done was later tintured by misgivings. In 1903, in turning over the management of the university to a board of trustees, she denied that her objection to Ross had been based on his political opinions. He had had, she averred, perfect freedom to express his views in class. But he had violated the fundamental canon that no professor should use his position for electioneering or for participation in political campaigns. He had been dismissed because he had compromised the neutral position of the university.<sup>101</sup> Jordan let it be known that Ross had not been "the proper man for the place." Ross had been "slangy and scurrilous" in discussing current issues, and he had revealed an unscrupulous character by appealing to the public and divulging family secrets.<sup>102</sup> It may well be that Mrs. Stanford sincerely believed that she had preserved a precious neutrality, and it may well be that Jordan sincerely expected devotion even from a professor who had been ejected from the clan. But the fact remains that in 1896 fifty members of the Stanford faculty had endorsed McKinley without incurring the charge of "partisanism," and that Jordan had warmly defended Ross's character before the denouement.<sup>103</sup>

The argument of neutrality and the charge of moral turpitude did

<sup>101</sup> Stanford, *Address on the Right of Free Speech*, *passim*.

<sup>102</sup> Ross was also accused of attacking Stanford's business methods. This he completely denied. It is not beyond doubt, however, that he did not use the Southern Pacific Railroad as an illustration of the sharp practices of business. See "Still Deeper in the Mire," *San Francisco Chronicle*, November 17, 1900, in Bancroft Library, University of California.

<sup>103</sup> Among the signers of letters praising McKinley and attacking the Democratic standard-bearer in a two-page advertisement in the *San Francisco Chronicle* were 17 of the 37 professors and associate professors of the Stanford Academic Council who later justified Jordan's dismissal of Ross. See *San Francisco Chronicle*, September 27, 1896, pp. 27-28, in Bancroft Library, University of California. See, also, *Science*, New Series, Vol. XIII (May 10, 1901), p. 751.

not convince several Stanford professors. After Ross resigned, Professor George E. Howard took up the torch of rebellion. He declared, in a signed statement to the press, that

the summary dismissal of Dr. Ross for daring in a frank but thoroughly scientific spirit to speak the simple truth on social questions is . . . a blow aimed directly at academic freedom, and it is, therefore, a deep humiliation to Stanford University and to the cause of American education. The blow does not come directly from the founder. It really proceeds from the sinister spirit of social bigotry and commercial intolerance which is just now the deadliest foe of American democracy.<sup>104</sup>

The addition of Howard to the *dramatis personae* changed the whole tenor of the play. For where Ross was headstrong and brash, Howard, who was twenty years his senior and a member of the first Stanford faculty, was known to be circumspect. When Mrs. Stanford successfully put pressure on Jordan to expel this outspoken professor also, a chain reaction was produced. In all, seven professors presented their resignations in protest: Frank Fetter, professor of economics; Arthur O. Lovejoy, associate professor of philosophy; Morton A. Aldrich, associate professor of economics; William Henry Hudson, professor of English; Henry B. Lathrop, professor of rhetoric; Charles N. Little, professor of mathematics; and David E. Spencer, associate professor of mathematics. Ross was jubilant: "Stunning news from the Pacific Coast, isn't it?" he wrote to Ely. "So far \$12,000 of annual salary has been voluntarily renounced in protest against Mrs. Stanford's action. That's vindication!"<sup>105</sup> A socialist organ saw the most individualistic of exploited laborers finally developing class-consciousness.<sup>106</sup> This conclusion was premature, for the majority of the faculty remained loyal to Jordan. But it was true that never before had an American faculty demonstrated so great a sense of internal solidarity and so rebellious and courageous a spirit.

Equally unprecedented—and even more momentous—was the decision taken by economists, at the thirteenth meeting of the American Economic Association in 1900, to launch an investigation of the Ross case. With this decision, the first professorial inquiry into an academic-freedom case was conceived and brought into being—the predecessor,

<sup>104</sup> Elliott, *Stanford University*, pp. 361–62.

<sup>105</sup> Letter of Ross to Ely, January 19, 1901, in Ely Papers.

<sup>106</sup> "College Class-Consciousness," *International Socialist Review*, I (1901), 586–87.

if not directly the parent, of the proceedings of Committee A of the AAUP. It is doubtful that the "thirty or forty" economists who met that December in Detroit and appointed a committee of inquiry were conscious of the historical importance of the tactic they were devising. Perhaps there were some who did reason that the secular sophistication of administrators now rendered their explanations unreliable, that the greater complexity of the "cases" made disinterested fact-finding essential, that only independent outsiders could safely undertake such inquiries, that only the professor's peers possessed the competence to evaluate the issues.<sup>107</sup> But doubtless many acted on the spur of the moment and the case, impelled by Ross's personal popularity (he had been secretary of the Association, was the son-in-law of Lester Frank Ward, and was part of Ely's entourage), by the flagrancy of Mrs. Stanford's actions (they alarmed diehard conservatives no less than automatic liberals),<sup>108</sup> and by the flimsy excuses of Jordan (which promised easily to be exposed and to reveal a "case" of unparalleled transparency).<sup>109</sup>

Owing to either their lack of long-run objectives, or to their inexperience in these matters, the organizers of the committee made two serious tactical mistakes. First of all, out of the desire not to involve absent members, they did not use the aegis of the Association, but met as an informal body. This laid them open to the charge of lacking official authority and of not being truly representative. The fact that they constituted a large proportion of the members then attending the Detroit sessions, and the fact that they appointed to the committee of inquiry three highly reputed conservatives, did not erase the public impression that the entire investigation was *ex parte*.<sup>110</sup> Furthermore, the scope of the inquiry was too narrowly conceived. The committee sought

<sup>107</sup> Professor Sidney Sherwood of Johns Hopkins suggested to Ely at this time that a professional association should seize the opportunity to "investigate and report on the general subject of *Lehrfreiheit*" in order to "challenge public attention and create a method by which the professions might work unitedly." Letter of Sherwood to Ely, December 22, 1900, in Ely Papers.

<sup>108</sup> Even Albion W. Small, who had written an article flatly denying that donors infringed academic freedom, was nettled by Mrs. Stanford: "The Dowager of Palo Alto" he wrote to Ely, "has captured the booby prize, with no competition in sight." Letter of November 24, 1900, in Ely Papers.

<sup>109</sup> Letter of Ely to Seligman, June 7, 1901, in Seligman Papers.

<sup>110</sup> Taking this line, several journals refused to take seriously the conclusions of the committee. See *Science*, New Series Vol. X (March 8, 1901), pp. 361–62; *Dial*, XXX (April 1, 1901), 221–23.

the answer to one question—"What were the reasons which led Mrs. Stanford to force Professor Ross's resignation?"<sup>111</sup> In making this foray into feminine psychology, it lost sight of the significant questions that lay beyond the issue of motives: whether it was healthy for a university to be bound by the wishes of one person, however noble her intentions; whether it was good for the community as a whole for philanthropists to make donations to institutions which they then controlled as though they were private properties; whether it was helpful to the science of economics to shun, under the rubric of nonpartisanship, all subjects on which people were divided; whether it contributed to academic freedom to keep professors on year-to-year appointments.

The attempt to uncover motives encountered formidable difficulties. Powerless to subpoena witnesses, without the standing that would secure cooperation, the committee relied on voluntary testimony, which it acquired mainly through letters. This was not an efficient method for probing the inner recesses of the administrative mind. The committee did not even approach Mrs. Stanford—it did not suppose that she would admit its right to interfere in her affairs. With Jordan, the committee was more hopeful. "May we inquire," asked Seligman, the chairman, "whether there are other reasons than those mentioned for the resignation of Professor Ross, and may we hope that, if such other reasons exist, you may be disposed to communicate them to us."<sup>112</sup> Jordan replied that a faculty committee "in possession of the facts" would answer the committee's questions. But the letter of the faculty committee was as patronizing and laconic as any a college president might have written. "In reply," wrote Professors Branner, Stillman, and Gilbert of the Stanford faculty,

we beg to say that the dissatisfaction of the University management with Professor Ross antedated his utterances on the topics you refer to. His removal was not due primarily to what he published, said or thought in regard to coolie immigration or in regard to municipal ownership. We can assure you furthermore that in our opinion his removal cannot be interpreted as an interference with freedom of speech or thought within the proper and reasonable meaning of that expression. These statements are made with a full knowledge of the facts of the case.<sup>113</sup>

<sup>111</sup> "The Dismissal of Professor Ross," *Report of a Committee of Economists* (1901), p. 3.

<sup>112</sup> Letter of Seligman, Farnam, and Gardner to Jordan, December 30, 1900, in *Report of a Committee of Economists*, Appendix, p. 9.

<sup>113</sup> Letter of J. C. Branner, J. M. Stillman, and C. H. Gilbert to Seligman, Farnam, and Gardner, January 14, 1901, *ibid.*, p. 11.

The economists were not willing to take this judgment on faith, even from a faculty committee. They wrote to Jordan again, and received this pontifical reply:

[I do not] consider it expedient or proper to go into a discussion of extracts from my letters or conversations or my statements or alleged statements, or those of others, as published in the newspapers. . . . It will be necessary for you to assume my knowledge of all the facts.<sup>114</sup>

With this pronouncement, the correspondence came to a close.

The report of the committee had to disclaim any definite knowledge of motives. But it concluded, nevertheless, that the official explanations of why Ross was dismissed were spurious or unsupported by the evidence. It concluded further that there was evidence to show that Mrs. Stanford's objections were based, at least in part, on Ross's utterances and beliefs. As it did not indulge in sweeping generalizations, the report did not explicitly support the theory of the conspiracy of big business.<sup>115</sup> But the indictment of Mrs. Stanford—backed as it was by the signatures of eighteen professors high in the Who's Who of social science—gave those who accepted the theory implicit and impressive confirmation.<sup>116</sup> Because of its narrow focus, the report did not mention the many peculiarities of the case—the incapacities of the university's patroness, the dependence of the university, and the absence of such counteracting forces as an effective, long-standing tradition, a stalwart university president, or a functioning board of trustees. Instead, it gave a picture of capitalist aggression which was unrelieved by the tints of personality and circumstance.

The case of John S. Bassett, which occurred in a different setting, shows the business patron in a different light. In 1894, when Bishop John C. Kilgo became its president, Trinity College in Durham, North Carolina, was an impecunious denominational college; in 1910, when Kilgo retired, it could boast a larger endowment than any other Southern college.<sup>117</sup>

<sup>114</sup> Letter of Jordan to Seligman, Farnam, and Gardner, February 7, 1901, *ibid.*, pp. 14-15.

<sup>115</sup> *Ibid.*, p. 6.

<sup>116</sup> Those who joined the authors in signing the document were John Bates Clark, Richard T. Ely, Simon H. Patten, Franklin H. Giddings, Davis R. Dewey, Frank W. Taussig, Henry C. Adams, Richmond Mayo-Smith, William J. Ashley, Charles H. Hull, Henry C. Emery, Henry R. Seager, John C. Schwab, Sidney Sherwood.

<sup>117</sup> The best treatment of Trinity College's history can be found in Paul Neff Garber, *John Carlisle Kilgo* (Durham, N.C., 1937). This may be supplemented by Robert H. Woody's "Biographical Appreciation of William Preston Few," in *The Papers and Addresses of William Preston Few* (Durham, N.C., 1951), and John Franklin Crowell, *Personal Recollections of Trinity College, North Carolina, 1887-1894* (Durham, N.C., 1939).



It owed its growth and good fortune to the generous benefactions of the Duke family, and it was bound, like Stanford, by a silver cord of obligation. President Kilgo, who had once been a Populist, became a defender of gold and the tobacco trust, which led one unfriendly wit to say that the old motto of the college, "Eruditio et Religio," had been extended by the influence of the Dukes to read "Eruditio et Religio et Sugario et Cigarro et Cherooto et Cigaretto et Kilgo."<sup>118</sup> But Durham was not Palo Alto. The Dukes, who were unabashed Republicans and leaders of the industrial "New South," were a suspect minority in the region, despised by social conservatives as the foes of white supremacy, feared by agrarian reformers as monopolistic exploiters of the poor.<sup>119</sup> Moreover, Trinity College, retaining its Methodist identity, was not ruled by a single oligarch, but by a board of ministers and businessmen. There was another difference, too: Kilgo belonged to the school of self-righteous preacher-presidents, and not to the newer tribe of public-relations experts. A champion of unpopular causes (he opposed the state university and took a liberal view of the Negro problem), he, and with him Trinity College, did not seek to be universally beloved.<sup>120</sup>

In 1903, John S. Bassett, the editor of the *South Atlantic Quarterly* and a professor of history at the college, made himself a target of attack by writing an article on the Negro problem. A wave of lynchings, disfranchisements, and Jim Crow laws had come in the wake of Southern Populism, and Bassett tried to calm the troubled waters with an appeal to sense and understanding. The Southerner should realize, wrote Bassett, that there are wide differences among Negroes, and that a man like Booker T. Washington, although atypical of the race, was "all in all the greatest man, save General Lee, born in the South in a hundred years."<sup>121</sup> The Southerner should realize that the Negro was becoming "too intelligent and too refined" to accept an inferior position, and that, to avert costly racial conflict, the white man must adopt "these children of Africa into our American life." The Southerner should realize that unscrupulous

<sup>118</sup> Garber, *John Carlisle Kilgo*, p. 226.

<sup>119</sup> The attack upon the Dukes by local conservatives and reformers is described in Josephus Daniels, *Editor in Politics* (Chapel Hill, N.C., 1941), pp. 116-18, 232-33, 426-38; Aubrey Lee Brooks, *Walter Clark, Fighting Judge* (Chapel Hill, N.C., 1944), pp. 102-28.

<sup>120</sup> See Luther L. Gobbel, *Church-State Relationships in North Carolina since 1776* (Durham, N.C., 1938), pp. 132-71; Garber, *John Carlisle Kilgo*, pp. 43-83.

<sup>121</sup> John S. Bassett, "Stirring Up the Fires of Race Antipathy," *South Atlantic Quarterly*, II (October, 1903), p. 299.

elements had seized upon the Negro issue and had awakened "a demon in the South" merely for political advantage.<sup>122</sup> The Negro problem, Bassett declared, cannot be solved by violent aggression and intimidation, but by the infusion of a spirit of conciliation into the hearts of Southern whites. Himself a son of the South, Bassett thought he could speak these unpleasant truths to his kith and kin with complete impunity.<sup>123</sup>

But he had struck a painful nerve of the sensitive Southern conscience. The article was greeted at once with calumnious abuse. Josephus Daniels, publisher of the Democratic, reform-minded *Raleigh News and Observer*, led the attack. The University of Chicago, he wrote, is not "the only institution which harbors freaks who rush into absurd statements and dangerous doctrines—statements which, if true, damn the State of North Carolina, and doctrines which, if carried out, would destroy the civilization of the South." He trusted that the professor would issue a full retraction; otherwise, he added ominously, "let us not anticipate the feeling that Southern people must entertain for a man who can give utterance to such opinions." Almost every hamlet journal and village gazette, playing to its groundlings, devised some new invective. The Lumberton *Robesonian* called him an utter fool; the Greensboro *Telegram* thought he was insane; the Greenville *Eastern Reflector* considered him subversive and incendiary. The Littleton *News Reporter* thought he aimed at a chair at Tuskegee; the Henderson *Gold Leaf* suggested that he was currying favor in the North.<sup>124</sup> The demand arose that Bassett be summarily dismissed, as though to take the professor's scalp would refute the ideas under it. Though Bassett held a doctorate from Johns Hopkins University and was the leading historian of the state,<sup>125</sup> his article was thought to prove its author unfit for his post.<sup>126</sup> Only because he was unpopular, the argument was advanced that he had lost his usefulness to the college. When local pressures mounted, and a boycott of the college was threatened, Bassett submitted his resignation.

But in the Trinity College situation, counterpressures could be registered. Eminent North Carolinians, sojourning in the North and re-

<sup>122</sup> *Ibid.*, p. 304.

<sup>123</sup> For commentary on the writing of this article, see Wendell H. Stephenson, "The Negro in the History and Writing of John Spencer Bassett," *North Carolina Historical Review*, XXV (October, 1948), pp. 427-41.

<sup>124</sup> Garber, *John Carlisle Kilgo*, pp. 244-60.

<sup>125</sup> Bassett had already published his *Regulators of North Carolina, Slavery and Servitude in the Colony of North Carolina, Anti-Slavery Leaders in North Carolina, and Slavery in the State of North Carolina*.

<sup>126</sup> Garber, *John Carlisle Kilgo*, pp. 252-53.

flecting its cultural perspective, were in touch with the Dukes and the trustees. Fifteen alumni, now students at Columbia University, petitioned the trustees not to fire Bassett, lest the "national reputation" of Trinity College be impaired.<sup>127</sup> Walter Hines Page, whose brother was a member of the trustees, saw the issue as one of academic freedom, and so presented it to Benjamin N. Duke:

As to the correctness or incorrectness of the opinion he expressed in his article that has given offense, that is a question of no importance. But it is of the highest importance that a professor from Trinity College should be allowed to hold and express any rational opinion he may have about any subject whatever.<sup>128</sup>

And a powerful counterpressure built up within the college itself. Kilgo put his whole strength behind Bassett's defense. He addressed the board with a sermon on the virtues of Christian tolerance. Using religious rather than scientific rhetoric, he warned the trustees that the dismissal of Bassett would be a terrible blow to the college. It would "enthroned a despotism which the world thought was dead a thousand years ago"; it would commit Trinity to "the policies of the inquisition"; it would repudiate "the spirit and doctrines of the Methodist Episcopal Church, South."<sup>129</sup> He was prepared to resign if the board disregarded his urging. Not only Kilgo but every faculty member on the premises signed a petition for Bassett, and wrote a letter of resignation to be acted upon if the trustees were to fail them.<sup>130</sup> Undoubtedly, this unprecedented unanimity in the Trinity faculty was Kilgo's achievement. He gave them the moral support without which few would have dared to be bold; he urged no strategy of compromise to tempt them with safer options; he spared them the need to conspire, with its accompanying feelings of guilt.

The trustees voted 18 to 7 to keep Bassett on the faculty. Their decision was accompanied by a statement which was written by the Dean of the College. Though they disagreed with Bassett's opinions, the trustees took their stand for vindication on the ground of higher principles. They were, they declared, "unwilling to lend ourselves to any tendency to destroy or limit academic liberty, a tendency which has, within recent

<sup>127</sup> Petition of Bruce R. Payne and 14 others to Southgate, November 21, 1903, in Trinity College Papers, Duke University Library.

<sup>128</sup> Letter of Page to Benjamin N. Duke, November 13, 1903, in Trinity College Papers, Duke University Library.

<sup>129</sup> Garber, *John Carlisle Kilgo*, pp. 269-73.

<sup>130</sup> See "Memorial from the Faculty to the Trustees," December 1, 1903, *South Atlantic Quarterly*, III (January, 1904), 65-68.

years, manifested itself in some conspicuous instances." Extramural freedom of expression was included in their definition of academic freedom: "We cannot lend countenance to the degrading notion that professors in American Colleges have not an equal liberty of thought and speech with all other Americans." They used social, political, and religious arguments (not, it should be noted, scientific ones) to justify their view. Society must learn that the evils of intolerance and suppression are infinitely worse than the evils that folly can cause. "We believe that society in the end will find a surer benefit by exercising patience than it can secure by yielding to its resentments." Politically, it was important that "rights which were bought with blood and suffering must not now be endangered for want of patience, tolerance and a noble self-restraint." Finally, "Trinity College is affiliated with a great church whose spirit and doctrines are tolerant and generous, and a due regard for the teachings and traditions of this Christian society requires us to exercise our judgment in harmony with its spirit and doctrines."<sup>131</sup> These were memorable phrases, and they became notable additions to the *belles-lettres* of academic freedom.

The religious tone of the document would lead one to suppose that the ministers on the board, rather than the business elements, were the main supporters of Bassett. But the opposite was true. Five of the seven voting against Bassett were ministers in the Methodist Church, one was a United States Senator, and only one was a local businessman—the banker J. F. Bruton.<sup>132</sup> On the Bassett side, four ministers were aligned with twelve bankers and industrialists. The businessmen who voted for Bassett included James H. Southgate, head of the largest insurance firm in the state and a director in a Durham bank;<sup>133</sup> William G. Bradshaw, managing director of the largest furniture manufacturing company in the South at that time;<sup>134</sup> Edmund T. White, president of the Bank of Granville and a director in the Erwin Cotton Mills;<sup>135</sup> William R. Odell, owner of one of the largest textile manufacturing plants in the state;<sup>136</sup> James A. Long, director of the Lynchburg and Durham Railroad and

<sup>131</sup> "Trinity College and Academic Liberty: The Statement of the Trustees," *South Atlantic Quarterly*, III (January, 1904), 62-64.

<sup>132</sup> *National Cyclopaedia of American Biography*, XXXVI, 129.

<sup>133</sup> Samuel A. Ashe, et al., *Biographical History of North Carolina* (Greensboro, N.C., 1905), II, 410-16.

<sup>134</sup> *Ibid.*, III, 28-31.

<sup>135</sup> Archibald Henderson, ed., *North Carolina: The Old North State and the New* (Chicago, 1941), III, 129-30.

<sup>136</sup> Ashe, *Biographical History*, II, 1325-27.

president of the Roxboro Mills.<sup>127</sup> And not least, Benjamin N. Duke, the patron, voted in Bassett's favor. Did he do so because he saw the attack on Bassett as an indirect attack on himself, his interests, and his patronage? Would he have done so had Bassett been accused of favoring silver or socialism? Motives are obscure in this as in every case. What is indisputable is that the patron stood foursquare for tolerance, and refused to pander to prevailing prejudice. Duke was reported to have said to Kilgo:

This man Bassett maybe has played the fool and oughtn't to be on the faculty, but he must not be lynched. There are more ways of lynching a man than by tying a hempen rope around his neck and throwing it over the limb of a tree. Public opinion can lynch a man, and that is what North Carolina is trying to do to Bassett now. Don't allow it. You'll never get over it if you do.<sup>128</sup>

In the Avesta of academic freedom, some patrons wore the cloven hoof, but others, it has clearly been recorded, joined the side of the angels.

Though our samples have been arbitrarily chosen, there is enough in the foregoing cases to indicate some of the flaws in the thesis of conspiracy. First of all, like all simplistic explanations, it lacked the social and psychological dimensions that the complexity of situations calls for. It omitted many significant factors—the disposition of the president, the professional status of the accused, the standing of the accusers—that may decide the fate of professors. It omitted many other significant factors—the geographical location of the college, its particular ideals and traditions, its receptivity to various pressures, the power and personality of the patron—that may determine the role of the businessman. It did not draw basic distinctions between different kinds of professorial heretics, such as theorists and activists; or between different kinds of business patrons, such as those who shared the biases of their community and those who were themselves nonconformists; or between different kinds of pressure from business, such as that which originated from patrons and trustees and that which originated from outside. Secondly, like all highly partisan theories, it falsely ascribed to one faction—in this case, to economic conservatives—a uniquely sinister role. But we have seen from the cases we have examined that virtue was not monopolized by “liberals” and that guilt was very widely distributed. The Wisconsin charter of academic freedom, the Trinity College statement, and the economists' report on

<sup>127</sup> *Ibid.*, III, 231–36.

<sup>128</sup> Robert H. Woody, “Biographical Appreciation of William Preston Few,” pp. 40–41.

the Ross case, were not framed by liberal reformers, but by men of conservative leanings. Kilgo, Adams, and Seligman, no less than Ely, Ross, and Will, were in the vanguard in the battles for freedom. Indeed, one of the significant aspects of the cases of this period was the blurring of ideological lines within the academic profession, and the mustering of united support for professors under attack. This *tu quoque* theme can be applied to the infringements of academic freedom as well. In the altercations at Kansas State Populists were not morally superior to Republicans. There was little to choose between the attitudes of Mrs. Stanford, conservative, and those of Josephus Daniels, reformer. The weakness in the theory of conspiracy—and perhaps, too, the source of its psychological vitality—is that it projects the foibles of man onto particular men who are few, recognizable, and isolable. The germ of truth in the thesis of conspiracy is that power is conducive to evil. Devil theories of history are rarely categorically false, particularly when the devils they delineate are men who are very rich, who have taken controlling positions, and who are accustomed to being obeyed. But power may be a function of numbers, as well as a function of wealth; and power may be curbed and chastened by the safeguards of tradition and form.

#### THE THESIS OF CULTURAL INCOMPATIBILITY

The fear of conspiracy usually flourishes in times of social anxiety. When men face social problems too new for settled habits to control and too complex for current knowledge to explain, they will ascribe them to the work of outside agents—to the jealousy and malice of the gods, or to the intrigues of hostile strangers. But men abandon demonic explanations when, having lived with their problems awhile, they have lost their terror of them. In periods of confident reform, they will look upon social problems merely as functional disorders which intelligence is competent to correct; in periods of intellectual alienation, they will consider social problems rather as organic defects which satire best can expose. It was not by chance, therefore, that the thesis of conspiracy was exceedingly popular in the overwrought decade of the nineties. In the Progressive period that followed, and in the decade after the Great Crusade, the thesis of conspiracy lost favor, though it never disappeared from stock. By those devoted to good causes, a more profound analysis was desired on which to base a program of reform; by those who cultivated disillusion,

a more sweeping hypothesis was required to give scope to satirical commentary. The thesis of cultural incompatibility was, therefore, more in keeping with the temper of these times. Critics of the period looked to the culture of capitalism, rather than to the machinations of capitalists, as the source of academic evils. They saw the threat to academic freedom arising in certain habits and values, not in wicked intentions; they condemned the businessman's ethos, not his malice prepense.

Thorstein Veblen's *The Higher Learning in America* (published in 1918, but written in the preceding decade) was the prototype and most effective presentation of this thesis. With his penchant for dramatic abstraction, Veblen constructed a polarity between the culture of science on the one hand and the culture of business on the other. At the one pole were the scientists who, under the "impulsion and guidance of idle curiosity," sought the "profitless quest of knowledge." Veblen considered their curiosity "idle" because it ignored considerations of expediency; he considered their knowledge "profitless" because it was unconcerned with self-advantage. At the other pole, and newly arrived, were the businessmen on the governing boards and the businessmen in academic dress assigned to the presidents' chairs. Not intentionally, but owing to habits of thought conditioned by their occupations, they have foisted on American universities their crude, utilitarian outlook; their parasitical, predatory tactics; their ethos of "quietism, caution, compromise, collusion and chicane."<sup>139</sup> Unwittingly, they have turned what should have been mansions of learning into what tend to be ordinary business establishments. Under their dominant aegis, the universities of the nation have adopted the hierarchical gradation of staff common to business management; the techniques of salesmanship and promotion native to competitive enterprises; and they have reduced American professors to the status of business hirelings. To Veblen, each of these businesslike features acted as a subtle restraint on the academic freedom of professors. First of all, the bureaucratization of the university served as a convenient method for controlling the faculty from above. Secondly, the promotional activity of the university put a premium on intellectual acquiescence. Thirdly, the reduction of the scholar to the status of an employee destroyed his self-respect and narrowed his freedom of action.<sup>140</sup>

<sup>139</sup> Thorstein Veblen, *The Higher Learning in America* (New York, 1918), p. 70.

<sup>140</sup> Of the vast literature that gives expression to this kind of anti-business animus, the following may be regarded as a representative sample: Robert C. Angell, *The Campus* (New York, 1928), pp. 215-18; John E. Kirkpatrick, *Academic Organi-*

Each part of Veblen's indictment contained an element of truth and yet conveyed an erroneous impression. Acutely, he discerned that the trend toward bureaucratization was transforming the university's personnel, structure, and behavior. This change was already evidenced in the army of academic functionaries—the deans, directors, registrars and secretaries—who had come upon the scene to manage the affairs of the university. It was evidenced in the organization of the faculty into a graded hierarchy of ranks, within which passage was controlled by a series of official promotions.<sup>141</sup> It was evidenced in the writing of rules that defined the rights and obligations of professors and trustees.<sup>142</sup> It marked, though it did not cause, the end of an academic era in which the college had been a community and the faculty a body of peers. That this bureaucratizing tendency brought with it new problems and new dangers no one can deny. Perceptively, Veblen caught the strain that bureaucracy introduces between the university's interest in efficiency and its interest in creative thought. There was (and continues to be) the danger that the ponderous apparatus of administration would deaden the spirit of the university by burdening it with procedures and tying it to routines. There was (and continues to be) the danger that the standard of efficiency, made the measure of all things, would rate scholarship only by its quantity, personality only by its docility, services only by their cost.<sup>143</sup>

But to ascribe these changes to business was very far from the mark. Certain practices of the business corporations—particularly those of office management and finance—were, it is true, adopted by the universities. But this in turn was a symptom of certain basic conditions that business and education shared. For one thing, the drive toward rational efficiency was stimulated by the problem of size. The modern university

*zation and Control* (Yellow Springs, Ohio, 1931); Scott Nearing, "The Control of Public Opinion in the United States," *School and Society*, XV (April 15, 1922), 421-22; "Report of the Committee on Academic Freedom and Tenure," *Bulletin*, AAUP, IV (February-March, 1918), 20-23; Frank L. McVey, "Presidential Address," *National Association of State Universities*, as quoted in *Bulletin*, AAUP, X (November, 1924), 87-88; Robert Cooley, "A Primary Culture for Democracy," *Publications*, American Sociological Society, XIII (December, 1918), 9.

<sup>141</sup> See A. B. Hollingshead, "Climbing the Academic Ladder," *American Sociological Review*, V (June, 1940), 384-94.

<sup>142</sup> See C. R. Van Hise, "The Appointment and Tenure of University Professors," as quoted in *Science*, XXXIII (February 17, 1911), 237.

<sup>143</sup> The effects of bureaucratization on academic life have been examined by Logan Wilson, *The Academic Man: A Study in the Sociology of a Profession* (New York, 1942), pp. 60 ff., 80 ff.; Charles H. Page, "Bureaucracy and Higher Education," *Journal of General Education*, V (January, 1951), 91-100.

was complex: the various specializations it embraced, the multiple functions it assumed, could only be joined and coordinated through ganglions of administration. The modern university was large: the multitudes of students it enrolled, the vast numbers of teachers it engaged, rendered relationships impersonal. The modern university, it was said, was too much infatuated with size. But "bigness" in America was not only the businessman's idol: it was worshiped, even while it was cursed, by every social element seeking to improve its position. Size was the key to reputation, size was the emblem of power, in a sharply competitive society strewn across a vast continent. Hence, "Big Business" was matched by "Big Labor"; in time "Big Government" came; it could not have been expected that "Big Education" would tarry.

Moreover, it should not be overlooked that a strong impetus toward bureaucratization arose from the ranks of professors, partly in response to the growing competition for placement. Between 1890 and 1900, the number of college and university teachers in the United States increased by fully 90 per cent.<sup>144</sup> Though the academic market continually expanded, a point of saturation, at least in the more attractive university positions, was close to being reached. At the opening of the University of Chicago, for example, the academic world was treated to the depressing spectacle of thousands of men applying to Harper for a job, most of them without prior introductions.<sup>145</sup> The law of supply and demand did not spare the academic market: as the number of available teachers increased, their bargaining power diminished; as more job-hunters came on the scene, job-holders felt less secure. Under these competitive conditions, the demand for academic tenure became urgent and those who urged it became vociferous. And the demand for academic tenure was, after all, a demand for rules and regulations—for contractual definitions of function, for uniform procedures for dismissal, for definite standards for promotion based on seniority and service—in short, for the definiteness, impersonality, and objectivity that are the essence of bureaucratism. Again, the underlying cause of the coming of bureaucracy was not merely the emulation of business methods, but the desire for security in the job which was also exemplified in the fight for civil service in government and for rules of seniority in industry.

Nor were these bureaucratic features necessarily inimical to academic

<sup>144</sup> *Bulletin*, United States Department of Interior, Biennial Survey of Education 1928-30 (Washington, D.C., 1932), number 20, p. 18.

<sup>145</sup> Goodspeed, *The University of Chicago*, pp. 134-36.

freedom. Instinctively, Veblen was repelled by the automatism of bureaucracy; uncritically, he assumed that bureaucracy served the purposes of tyranny. But rule by bureaucratic directive must be judged in the light of its alternative, which is rule by discretionary choice. There can be no doubt that the establishment of tenure by rank instead of by constant ingratiation and the fixing of salaries by schedules instead of by individual negotiation made professors more independent, more confident, and more willing to take risks.<sup>146</sup> As for the despotic uses of bureaucracy, here too judgment must follow an examination of the system that had existed. The decline, with the growth of bureaucracy, in administrative meddling with minutiae and in presidential rule by caprice is not the kind of obsolescence that the lover of freedom should deplore. At the same time, it is perfectly true that, insofar as bureaucratic administration can never be fully achieved, in every opening for discretion there lies also an opening for tyranny. Again, it is perfectly true that the rules are not self-enforcing and that where there is the will to circumvent them, that will can find a way. The rules are not the thing wherein one catches the conscience of the president. Tenure by rank can be negated by overlong periods of probation, by refusal to make promotions, or by that "judicious course of vexation" that compels professors to resign. Salary by schedule can be subverted by a range of salaries within each grade, assigned to the various recipients with a malicious partiality. But this is merely to say that the bureaucratic organization, like other forms, requires implementation by men who are loyal to its standards and spirit.

In theory, the bureaucratic system is adaptable to autocratic or democratic procedures. Given a hierarchical order, policy can still be determined at the lowest bureaucratic level—the level of the department—instead of at the apex.<sup>147</sup> Given a chain of command, the wishes of the faculty can still be effected through representation on the board of trustees or through control of higher appointments.<sup>148</sup> In practice, the academic

<sup>146</sup> The idea that eccentricities were better tolerated under the personalistic government of the old college than in the bureaucratized university has had much play in academic circles. Thus John Dewey: "The old-fashioned college faculty was pretty sure to be a thorough-going democracy in its way. Its teachers were selected more often because of their marked individual traits than because of pure scholarship. Each stood on his own. . . . All that is now changed." "Academic Freedom," *Educational Review*, XXIII (January, 1902), 12-13.

<sup>147</sup> "Report of Committee T," *Bulletin*, AAUP, XXIII (March, 1937), 224-28.

<sup>148</sup> See W. A. Ashbrook, "The Organization and Activities of Boards Which Control Institutions of Higher Learning," unpublished Ph.D. dissertation (Ohio State University, 1930).

bureaucracy functions in a situation that combines autocracy and democracy in varying degrees and ways. Cornell University can be cited as an example of a university at the democratic extreme. In 1917-18 Cornell was the only institution out of 100 public and private colleges and universities that allowed for faculty representation on the board of trustees, was one of the 10 institutions that provided for faculty nomination of deans, was one of the 27 institutions that gave professors the formal right to participate in the determination of educational policy.<sup>149</sup> Cornell was atypical, as was the institution where all important decisions were handed down through channels from above and where the faculty whiled away its time voting on academic trivia.<sup>150</sup> In 1940, the typical college or university was one that had no definite system for facilitating exchange of opinion between the faculty and trustees or regents, that did not provide a definite procedure whereby the faculty might consult the board of control in the choice of a president, a dean, or departmental chairman, but that did provide for the consultation of department heads with reference to all departmental budgetary needs. As a group, state universities had more faculty participation in budgetary procedures in 1940 than had the total group; women's colleges had a significantly larger amount of faculty-trustee cooperation and faculty participation in appointments, promotions, and dismissals; while the teachers colleges, in general, were more autocratic in their administrative procedures. Interestingly enough, the large endowed universities with graduate schools, where bureaucratization was most complete, were more democratic in their usages than was the total group.<sup>151</sup>

The emphasis on bureaucratization changed the direction of the struggle for academic freedom in this country. The fight for academic freedom became as a result a fight for precautionary rules, for academic legislation, not merely one in which the battles were *ex post facto* attempts to rectify injustices. For good and for ill, academic freedom and academic tenure have become inseparably joined. The good results are many. Too often, the attempt to achieve vindication after a professor has been dismissed is little more than a posthumous inquest: it is the better part of wisdom to look for and devise preventives. Too often, the issues of an academic-freedom case are obscured by the idle question of motives: tenurial rules provide a standard whose infraction is more easily demon-

<sup>149</sup> "Report of Committee T," *Bulletin*, AAUP, VI (January, 1920), 23-30.

<sup>150</sup> Logan Wilson, *The Academic Man*, p. 76.

<sup>151</sup> "Report of Committee T," *Bulletin*, AAUP, XXVI (April, 1940), 171-86.

strable. The danger, however, is that in fighting on the line of intramural law, professors may tend to abandon the line of social principle. With the emphasis on "firing" rather than on "hiring," the temptation is to make academic freedom coterminous with the security of professors in the gild, rather than with the social necessity of assembling independent men whatever their range of dissent.<sup>152</sup>

At no point did Veblen's irony go more deeply than when it penetrated the promotional zeal of the American university president. His depiction of the university president as a merchandiser of good will, as a "Captain of Erudition," was one of those clever caricatures that succeed by apt exaggeration. The Eliots, Harpers, Whites, and Butlers were indeed a new variety of their species, far more like the Rockefellers of their time than like the clergymen-presidents of the generation that preceded them. White's consolidation of capital to build a large university finds its illuminating parallel in the business activities of Morgan and United States Steel. Harper's piratical raid on the faculty of Clark University was indeed, as David Riesman remarks, an academic "Chapter of Erie."<sup>153</sup> Like their business contemporaries, they were superlative drummers in their trade; by dignified effrontery and persuasive skill they acquired patronage and support, and increased the power of their "firms." They were even more adept than their business contemporaries in drawing favorable publicity—to their universities by periodic celebrations and by conspicuous buildings and grounds, and to themselves by a relentless round of speech-making and ceremonializing. Veblen thought the influence of these presidents on the freedom of the university was harmful in the extreme. Along with their advertiser's skill went, he thought, all of the advertiser's timidities. The aphorism of expedience, that the customer is always right, became, he thought, the cardinal motto of the university. A conformity to current prepossessions, a sedulous attention to amenities, an acceptance of things as they are—these were inescapable by-products when businessmen ran universities and universities were run as businesses.

Yet, though here the shaft of irony in Veblen's work went deep, it also went astray. That the presidents in this era sometimes equivocated and often played it safe, that they seldom inspired their faculties to high courage and bold ventures, may be taken without question as true. But

<sup>152</sup> See, for the relationship of academic tenure to academic freedom, Henry M. Wriston, "Academic Freedom," *The American Scholar*, IX (Summer, 1940), 339 ff.; "Tenure: A Symposium," *ibid.*, IX (Autumn, 1940), 419 ff.

<sup>153</sup> David Riesman, *Thorstein Veblen* (New York, 1953), p. 102.

to blame this on their adoption of business attitudes is to make the dubious assumption that timidity and acquiescence were new in the presidential character. If, however, the liegemen of the Lord were more intrepid than the captains of erudition, if they were more finely attuned to the idea of academic freedom, history has not recorded it. Indeed, it was a romantic and erroneous assumption that gallantry could not accord with a business interest and competence. The peaks of presidential valor reached in the business age exceeded any of the preceding era. Among those in the presidential chair who have sacrificed assets for ideals, none can compare with Lowell, who reputedly turned down a \$10,000,000 bequest offered to Harvard in 1914 on condition that a professor be dismissed.<sup>154</sup> In the way of united action, there is nothing to compare with the Andrews case, when Eliot, Gilman, and Seth Low united to defend a colleague who was assailed by his board of trustees.<sup>155</sup> Moreover, it is important to bear in mind that if these modern presidents were "salesmen," by the same token they were also energetic missionaries. In mediating between the two worlds, the leading figures of this group—the Eliots, Harpers, and their like—brought university ideals to business, as well as business ideals to the university. They were, as we have seen, leaders in the fight for evolution and in the promulgation of German ideals; no victory in the record of the educational revolution neglects to record their names. They promoted not merely the externals, but the spirit of the university: not merely its spurious side-shows, but its intrinsic love of knowledge, its interest in research, its concepts of academic freedom. These ideals might well have languished had these academic men of the world not carried the gospel to the Gentiles. Let it be conceded that there were presidents of lesser rank whose minds were more completely Rotarian. Yet even they were an educative force, if only by reiterating simple platitudes in the course of academic rituals. The thesis of cultural incompatibility saw the businessman corrupting academia, never academia enlightening the businessman. But the fact was that these two contrasted cultures, through the mediation of the presidents, passed in a two-way flow.

Veblen's third charge against the business culture—that it reduced professors to the rank of hired hands—is one that bears more extensive examination. The truth at the core of this indictment is that lay academic government is a kind of ink-blot test in the interpretation of which men

<sup>154</sup> Henry Aaron Yeomans, *Abbott Lawrence Lowell, 1856-1943* (Cambridge, Mass., 1948), pp. 314-17.

<sup>155</sup> Elizabeth Donnan, "A Nineteenth-Century Academic Cause Célèbre," p. 41.

may project preconceptions. A board of trustees could be likened by churchmen to a vestry, by politicians to a governmental agency, by businessmen to a corporation directorate. It took a certain sophistication not to make these identifications, not to suppose, for example, that a president was but a general manager in charge of operational details, or that a professor, because he was hired and paid by the board of trustees, was therefore its private employee. This sophistication was lacking among many business trustees and many business spokesmen. When President Andrews of Brown University voiced sentiments that affronted the trustees and potential donors, one newspaper was of the opinion that "he was only a servant; and a servant must do as his employers wish, or quit their service."<sup>156</sup> One trustee of Northwestern University, a patent lawyer and an officer of the Western Railroad Association,<sup>157</sup> presented this dictum:

As to what should be taught in political science and social science, they [the professors] should promptly and gracefully submit to the determination of the trustees when the latter find it necessary to act. . . . If the trustees err it is for the patrons and proprietors, not for the employees, to change either the policy or the personnel of the board.<sup>158</sup>

This was not an adventitious or atypical comment: when George H. Shibley in 1900 polled the trustees at Chicago, Columbia, Princeton, Yale, Johns Hopkins, Pennsylvania, and American University, he found that the opinion of the trustees whom he interviewed agreed almost unanimously with that of the Northwestern trustee.<sup>159</sup> Perhaps in the intervening years, trustees have grown so sophisticated that they do not now often express such views; but it will not be maintained that they have also become so wise that they do not, on occasion, act upon them.

Again, however, it is important to point out that the businessmen on boards of trustees did not depart from academic tradition. From earliest times, the assumption of American trustees was that professors were employees, and the only way in which the post-Civil War period differs from what went before was that in the later period the professors were more disposed to question the theory, to use professional pressures to mitigate it, and to seek redress in the courts. To be sure, when professors

<sup>156</sup> *St. Louis Globe-Democrat* (July 30, 1897), quoted in Will, "A Menace to Freedom," p. 251.

<sup>157</sup> Northwestern University, *Alumni Record of the College of Liberal Arts* (Evanston, Ill., 1903), pp. 75, 82, 89-90.

<sup>158</sup> Quoted in George H. Shibley, "University and Social Questions," *Arena*, XXIII (March, 1900), 293.

<sup>159</sup> *Ibid.*, p. 295.

took questions of tenure to court, the decisions were mostly unfavorable. This helped to create the impression that the business ideology had taken control of the bench even as it had captured the university. But that impression was mistaken to this extent—the mood of the courts had not changed on the fundamental issues. Before the Civil War, the argument that professors were officers of the corporation with a permanent right to their positions was twice rebuffed in the courts. On the other hand, in the post-Civil War period, professors themselves pressed the view in the courts that they were mere employees of the trustees. Once more, it is a specious reading of the record to say that American professors fell from a pristine high estate.<sup>160</sup>

A brief review of the cases bearing on the legal status of professors in America may supply the historical depth that was missing from Veblen's analysis. The fate of the argument for the "freehold" provides our most suggestive clue. In 1790, in the case of *The Reverend John Bracken vs. The Visitors of William and Mary College*, John Taylor of Caroline argued in the Virginia Court of Appeals that professors had a freehold in their office, in which they had tenure for life, and of which they could not be deprived without a hearing and a show of cause. In English common law, the freehold originally designated a holding in land by a freeman in return for homage and services to the lord; later, it designated a tenure in a saleable office to which there were attached rights to collect fees from the public—e.g., a clerkship of a court.<sup>161</sup> Taylor applied this artifact of the common law to the office of the teacher in several ways. He argued that professors had an interest in the landed estates of the corporation. He pointed to the fact that the masters of William and Mary College voted for the college's representative in the Assembly, and thus had, as it were, a political equity in their jobs. He also spoke ambiguously of the "judicial" complexion of the master's office. If Taylor's reasoning was not altogether clear, the gist of his argument was plain. "The Visitors seem wholly to have mistaken their office. They seem to have considered themselves as the incorporated society; and the president and masters as an appendage upon them"—that is, they believed themselves to be employers and the president and professors mere employees. "But the president and masters

<sup>160</sup> We take issue on this point with J. E. Kirkpatrick, who has argued that the contractual, employee status of professors was a phenomenon of the post-Civil War period. See *Academic Organization and Control*, pp. 189-201.

<sup>161</sup> Richard B. Morris, "Freehold," *Encyclopedia of the Social Sciences*, VI, 461-65; W. S. Holdsworth, *A History of English Law* (Boston, 1922), I, 247-49.

were a lay corporation, having rights, privileges and emoluments, of which they could not be deprived; at least, without some form of trial."<sup>162</sup>

John Marshall was the attorney for the Visitors in this case, and his arguments against the freehold doctrine have a very modern ring. Marshall denied, first of all, that professors had any share in the property of the corporation. "This is a private corporation. The persons who compose it have no original property of their own, but it belongs to the corporation. There would seem to be no principle on which this College should be placed in a different class of corporations from all other colleges." The estates of the college

are the gift of the founder. They are his voluntary gift. To this gift he may annex such conditions as his own will or the caprice may dictate. Every individual, to whom it is offered, may accept or reject it; but, if he accepts, he accepts it subject to the conditions annexed by the donor. The condition annexed in private corporations is, that the will of the Visitors is decisive.

Marshall denied, secondly, that professors were appointed for life, pointing out that this was not provided for in the charter or statutes. Thirdly, he denied that the courts had the general right to review the acts of a governing body. "If . . . the Visitors have only legislated on a subject upon which they have the right to legislate, it is not for this court to enquire, whether they had legislated wisely or not." Finally, he denied that the professor who brought suit was entitled to a hearing, though he argued this on the narrow ground that Mr. Bracken had not been arraigned for misconduct (that is, he was not deprived of his office by a judicial act), but had been dismissed because the office was declared nonexistent (that is, he was deprived of his office by a legislative act).<sup>163</sup> The Court, without rendering an opinion, voted in the Visitors' favor on the merits of the case.

The second example of the use of the freehold argument was Webster's plea in the Dartmouth College case (1819). By an interesting historical coincidence, Marshall, then Chief Justice of the United States Supreme Court, was the presiding judge. Here the argument took a somewhat different form than it had taken in the Bracken case, for Webster was not defending the interests of professors against the trustees, but the interest of the trustees against a legislature which had repealed the Dartmouth charter and had changed the composition and powers of the college's board without the latter's consent. Hence, Webster admitted that professors were accountable to the trustees, who could hire and fire them for

<sup>162</sup> 3 Call 587.

<sup>163</sup> 3 Call 592, 595, 598.



good cause. But, he contended, the legislature, by appointing persons other than trustees to exercise this power over professors, had deprived the professors of their "freeholds." "All the authorities," said Webster, "speak of the fellowships in colleges as freeholds, notwithstanding the fellows may be liable to be suspended or removed, for misbehavior, by their constituted visitors." This was rhetoric: if all the authorities said so, Taylor would have won the Bracken case; indeed, if any authority said so, Webster would probably have cited it, something he conspicuously did not do. Instead of legal backing, Webster gave his position strong sentimental support:

No description of private property has been regarded as more sacred than college livings. They are the estates and freeholds of a most deserving class of men; of scholars who have consented to forego the advantage of professional and public employments, and to devote themselves to science and literature, and the instruction of youth, in the quiet retreats of academic life. Whether, to dispossess and oust them; to deprive them of their office, and turn them out of their livings; to do this, not by the power of their legal visitors, or governors, but by acts of the legislature; and to do it without forfeiture and without fault; whether all this be not in the highest degree an indefensible and arbitrary proceeding, is a question of which there would seem to be but one side fit for a lawyer or a scholar to espouse.<sup>164</sup>

Marshall ignored the argument altogether and based his decision in favor of the college on the obligation of contract clause.<sup>165</sup> The freehold argument was rarely heard from again.<sup>166</sup> The argument had never been accepted in an American court of law, and all that can be said for its standing in pre-Civil War legal thought is that it possessed enough plausibility to encourage attorneys to make use of it.

One historic pre-Civil War case set the precedent for judicial restraint in reviewing the actions of trustees that was to prevail in the later period. In 1827, after a trial, the Visitors of Phillips Academy in Andover removed James Murdock from his professorial chair. Murdock claimed that the articles of charge were not sufficiently definite and particular, and he challenged the statutory right of the Visitors to dismiss a professor when-

<sup>164</sup> 17 *United States Reports* 584.

<sup>165</sup> As for the relevance of the freehold argument in Webster's brief, compare Albert Beveridge's statement that Webster was "laying the foundation for his . . . reasoning on the main question" with David Loth's opinion that Webster took "the most blatant excursion into subjects not involved." *Life of John Marshall* (New York, 1919), IV, 240; *Chief Justice John Marshall* (New York, 1949), p. 293.

<sup>166</sup> It cropped up again in the minority decision of Judge Dent in *Hartigan vs. Board of Regents of West Virginia University*, 49 *West Virginia* 14 (1901).

ever in their judgment there was "sufficient cause." The Supreme Court of Massachusetts, to which appeal was brought as provided for in the statutes, declared that it was for the officers of the institution to decide whether the "gross neglect of duty," which it said had been adequately demonstrated, warranted dismissal. The Court would only review the case to see that the accused had his common-law right to a fair hearing. The Court did imply, on the other hand, that a professor was a good deal more than an employee: "We hold that . . . no man can be deprived of his office, which is valuable property, without having the offense with which he is charged, 'fully and plainly, substantially and formally described to him.'" <sup>167</sup> But this notion did not last out the Civil War period. In the case of *Union County vs. James* (1853), the Pennsylvania courts declared that a professor was an employee and not an officer of the corporation, and was subject to taxation as such.<sup>168</sup>

In certain post-Civil War cases, the professors themselves were the ones to claim the status of employees, seeking contractual protections against the abolition or vacation of their offices by legislatures or trustees. When a Missouri law of 1859 declared certain professorial offices vacant in the state university, a professor unsuccessfully challenged its constitutionality on the ground that it impaired the obligation of contract. In support of his case, the professor, B. S. Head, offered the argument that

although the university may be a public corporation, the professors therein are not public officers; that they are mere servants for hire, with whom contracts for service may be made, and which are binding upon the corporation; that they have a vested right and legal property in their salaries and offices, of which they can be divested only by legal proceedings; that a contract for such service, at a fixed salary, and for a stipulated period, is as much within the purview of the constitutional provision which prohibits the violation of contracts by the passage of a law.<sup>169</sup>

Again, in *Butler vs. Regents of the University* (1873), a professor sought to establish himself as an employee in order to sue for the recovery of salary which the Regents of the University of Wisconsin had resolved no longer to pay. The judge upheld the professor, if not the larger interests of professorhood, by declaring:

<sup>167</sup> *James Murdock, Appellant from a Decree of the Visitors of the Theological Institutions of Phillips Academy, in Andover*, 24 *Mass. Reports* (7 Pick) 303 (1828).

<sup>168</sup> *Union County vs. James*, 21 *Penn State Reports* 525 (1853).

<sup>169</sup> *B. S. Head vs. The Curators of the University of the State of Missouri*, 47 *Missouri Reports* 220 (1871).

We do not think that a professor in the university is a public officer in any sense that excludes the existence of a contract between himself and the board of regents that employed him. . . . It seems to us that he stands in the same relation to the board that a teacher in a public school stands with respect to the school district by which such teacher is employed; and that is purely in a contract relation.<sup>170</sup>

In another case, the court, holding that the professors *were* public officers, declared that the legislature could pass a law abolishing a professorial office without violating the Constitution.<sup>171</sup> On the other hand, when professors sought *quo warranto* and *mandamus* actions, which are available only to public or private officers, then they were willing to argue that they were *not* employees.<sup>172</sup>

The notion that professors had declined in the law from the status of officers to that of hired hands was fictitious. Where the professors sustained heavy losses was not in the definition of their status, but in the impairment of the protections of contract which came about through judicial

<sup>170</sup> *Butler vs. The Regents of the University*, 32 *Wisconsin Reports* 124 (1873).

<sup>171</sup> *Vincenheller vs. Reagan*, 69 *Arkansas Reports* 460 (1901).

<sup>172</sup> *Quo warranto* is a proceeding to determine the right to the use or exercise of a franchise or office and to oust the holder from his enjoyment, if his claim is not well founded. Thus, in *C. S. James vs. Phillips* (1 *Delaware County Reports* 41 [1880]), a professor of the University of Lewisberg, who had been dismissed by the trustees without a trial, obtained a writ of *quo warranto* against his successor. The Supreme Court of the State of Pennsylvania overruled the issuance of the writ, saying: "No authority is given to issue the writ against a mere servant, employee or agent of the corporation. It was therefore incumbent on the relator [James] to show that the professorship . . . is a corporate office, and that he was unjustly and illegally removed therefrom. . . . The mere creation of a professorship does not endow it with a fixed term of existence or give its incumbent a term either for life or good behavior. Corporate offices are such only as are expressly required by the charter. The professorship in question is manifestly not one of that character." *Phillips vs. Commonwealth ex rel. James*, 98 *Penn. State Reports* 394 (1881).

A writ of *mandamus* may be issued to compel proper authorities to enact or enforce the laws or to perform a specific duty imposed on them by the law. In the absence of other adequate remedies, *mandamus* is a proper remedy to restore a person to the possession of a public office from which he had been illegally removed. Thus, when Professor Kelsey of the New York Post Graduate Medical School sought to compel the trustees to reinstate him through *mandamus*, the Appellate Division of the New York State Court denied the writ: "His application, so far as the *mandamus* is concerned seems to be based upon the notion that the position of a professor in the defendant's college is in the nature of an office, and that it is the province of *mandamus* to reinduct him into that office and keep him there. This is an erroneous view, both of the relator's true position and of the office of the writ. The college is a private corporation, and its professors and instructors are simply professional men appointed to serve the institution in a particular manner." *The People of the State of New York ex rel. Charles B. Kelsey vs. New York Post Graduate Medical School and Hospital*, 29 *Appellate Division* 244 (1898).

interpretation of state statutes and through "escape clauses" in by-laws and contracts. After the Civil War, the courts were called upon to decide whether state statutes vesting discretionary power to dismiss professors in the regents nullified the tenurial protections of contracts.<sup>173</sup> In 1878, in the case of *Kansas State Agricultural College vs. Mudge*, the court refused to make the governing board so supreme and irresponsible that it could violate any agreement it entered into with professors. The court then declared:

While the legislature intended to confer upon the board of regents extensive powers, yet it did not intend to confer upon them the irresponsible power of trifling with other men's rights with impunity. And making the regents responsible for their acts does not in the least abridge their powers. It only tends to make them more cautious and circumspect in the exercise of their powers.<sup>174</sup>

In time, however, a different interpretation came to prevail, and the trustees and regents, unless the statutes provided to the contrary, were empowered to dismiss professors at will. In *Gillan vs. Board of Regents of Normal Schools* (1894) the court held that a board of regents could remove a professor without a trial of charges.<sup>175</sup> In *Devol vs. Board of Regents of the University of Arizona* (1899), the court held that "when the legislative Assembly gave the board of Regents power to hire and dismiss employees . . . they did not grant to the board the power to bind themselves, or to bind others . . . by a contract different from that which was prescribed by statute."<sup>176</sup> In *Hartigan vs. Board of Regents of West Virginia University* (1901), the court denied that it had the right to exercise judicial review of the judgment of a board. "Is the Board of Regents to do as it pleases, without control, erroneous as its actions may be? Yes, so far as the courts are concerned."<sup>177</sup> In *Ward vs. The Regents of Kansas State Agricultural College* (1905), the court decided that the statute authorizing the regents to remove any professor "whenever the interests of the college required" became a condition for the employment of a professor, overruling all contractual provisions to the contrary.<sup>178</sup> With few exceptions,<sup>179</sup> the sanctioning of arbitrary and unilateral dis-

<sup>173</sup> See Edward C. Elliott and M. M. Chambers, *The Colleges and the Courts* (New York, 1936), p. 81.

<sup>174</sup> 21 *Kansas Reports* 223.

<sup>175</sup> 88 *Wisconsin* 7.

<sup>176</sup> 6 *Arizona Reports* 259.

<sup>177</sup> 49 *West Virginia Reports* 14.

<sup>178</sup> 138 *Federal Reporter* 372.

<sup>179</sup> *State Board of Agriculture vs. Meyers*, 20 *Colorado App.* 139 (1904). Also, *Matter of Kay vs. Board of Higher Education* (The "Bertrand Russell Case"), 173 *Misc. Reports* 943, 18 *N.Y.S.* (2d) *Sup. Ct.* (1940).

missal came to represent the law. Private institutions were also affected by this animus of the courts. At Drury College, where the by-laws contained an explicit provision against sectarian tests for the faculty, a professor was dismissed for donating a book on theosophy to the library. In *Darrow vs. Briggs* (1914), the court held that the action of the trustees was permissible under the contractual clause that allowed it to dismiss professors "when the interest of the college shall require it."<sup>180</sup> It was not to a new status, but to a more helpless state, that the law reduced American professors.

And yet the ineffaceable fact remains that professors did feel that they had been socially and institutionally demoted. If this feeling was not altogether warranted, it was not for that reason less poignant; if it was based on a poor historical judgment, it was still a significant historical fact. It is all very well to point out that, as far as income is a social denominator, professors in 1893 had an average income 75 percent higher than that of clerical workers, 75 percent higher than that of Methodist and Congregationalist ministers, 300 percent higher than that of industrial laborers.<sup>181</sup> Though the inflation that set in after 1900 cost them dearly, even so, in the decade of the 1920s, the income of professors was higher than that of social workers, ministers, journalists, and librarians.<sup>182</sup> It is all very well to point out that at no time in the past had professors been consulted by government so frequently, or for so wide a range of projects, as in the era before the First World War and during the war itself.<sup>183</sup> One can also point to the fact that, of the Ph.D.'s graduated from seventeen major institutions between 1884 and 1904, one out of three was mentioned in *Who's Who* and in *American Men of Science*;<sup>184</sup> that as late as 1910 academic scientists were still mostly recruited from the homes of clergymen, farmers, and well-to-do businessmen of native American or northern European stock—that is, from highly regarded social and ethnic

<sup>180</sup> 261 *Missouri Reports* 244.

<sup>181</sup> John J. Tigert, "Professional Salaries," Address before the Association of American Colleges, in *School and Society*, XV (February, 25, 1922), 208; Paul H. Douglas, *Real Wages in the United States, 1890-1926* (New York, 1930), pp. 382, 386, 392.

<sup>182</sup> Harold F. Clark, *Life Earnings in Selected Occupations in the United States* (New York, 1937), p. 6. Cf. also, Viva Boothe, *Salaries and the Cost of Living in Twenty-seven State Universities and Colleges, 1913-1932* (Columbus, Ohio, 1932).

<sup>183</sup> See Charles McCarthy, *The Wisconsin Idea* (New York, 1912).

<sup>184</sup> Gregory D. Walcott, "Study of Ph.D.'s from American Universities," *School and Society*, I (January 9, 1915), 105.

elements.<sup>185</sup> Yet still there was profound dissatisfaction and the deep-seated feeling among professors that their profession had lost caste. To this, no doubt, the presence of the big businessmen contributed, but not in the manner indicated by the thesis of cultural incompatibility. The addition of a new wealthy extreme to the range of classes in America seemed to depress and demote all the others. Compared with the enormous returns that accrued to business, the professor's emoluments seemed small. Compared with the high adventure of finance and the epics of industrial derring-do, his existence seemed drab. Compared with the honors heaped on the practical men, the distinctions accorded the thinking men seemed grudging and picayune. The illusion of a paradise lost was viewed against a perceptual field of sharp contemporary social contrasts.

<sup>185</sup> J. McKeen Cattell, "Families of American Men of Science," *Popular Science Monthly*, LXXXVI (May, 1915), 504-15.

## X: ORGANIZATION, LOYALTY, AND WAR

THE ESTABLISHMENT of the American Association of University Professors in 1915 is significant both as a culmination and as a beginning. It was the culmination of tendencies toward professorial self-consciousness that had been operating for many decades. It was the beginning of an era in which the principles of academic freedom were codified, and in which violations of academic freedom were systematically investigated and penalized. To analyze the movement that brought about the establishment of the AAUP is to capture the flavor of American academic life in the period between the turn of the century and the First World War. To examine the activities and achievements of the AAUP since its establishment is to view the main outlines of the problems of academic freedom in the twentieth century. Finally, to explore the difficulties that the AAUP encountered during the First World War is to introduce some of the complications and predicaments that academic freedom encounters today.

### THE ESTABLISHMENT OF THE AAUP

Why did the AAUP appear so late in the story? Looking back, one can discover several occasions which might have brought it into being but which somehow did not do so. One might suppose that the Darwinian crisis, in challenging the academic patriotism that espouses "my institution, right or wrong," would have given rise to a professorial union. Nevertheless, the 1860s and 1870s passed without a serious attempt at organization. One might suppose that the alarms and excursions of the Populist period would have led to a defensive alliance of professors. But, though several professors suggested united action and the economists set up an investigating committee in the Ross case, no permanent organization was established.<sup>1</sup> The fifteen-year hiatus between the setting up of the econ-

<sup>1</sup> Thomas E. Will had written to Ely that there was a need "to form some kind of association for mutual defense and protection," and Sidney Sherwood of Johns

omists' investigating committee and the constitution of Committee A of the AAUP cannot entirely be explained by a scarcity of academic-freedom cases.<sup>2</sup> While there was a falling off in the number of cases in that period, there were enough of them to whet the anxiety of professors—take, for instance, the several well-publicized cases in the South, particularly the Bassett case; the Peck and Spingarn cases at Columbia University; the rumors of pressure against liberals and radicals at the University of Pennsylvania; and, of the thirty-one cases handled by Committee A in the first two years of its existence, those which had been incubating for a rather long time.<sup>3</sup> The inertia of the professors seems all the more curious when one remembers that other professionals in America, notably the lawyers and the doctors, were banding together in this period to protect their special interests.

One must seek the reason for delay in the factors that divided the professorial community and militated against the development of united opinion and action. One of these factors was the conditions of scholarly work. Factories, offices, and mines are places of socialization; but libraries, laboratories, and classrooms seclude the academic worker and turn him to his own resources. Nevertheless, the doctors and the lawyers were able to overcome the disadvantages of their self-sufficiency. Perhaps more unique and important in delaying professional organization were the institutional and disciplinary barriers that cut across the professorial community. In America, academic matters tended either to be handled parochially by each individual institution (in the absence of a ministry of education or a unifying educational tradition, each institution was a law unto itself), or else nationally by one or another of the learned societies (which often embraced specialists who were not professors). The different

Hopkins had suggested to Ely that a professional organization to investigate academic freedom cases was needed. The idea was in the air, but nothing was done to effect it. Letter of Will to Ely, October 15, 1895; letter of Sherwood to Ely, December 22, 1900, in Ely Papers.

<sup>2</sup> Stanley Rohnick makes this assumption in "The Development of the Idea of Academic Freedom and Tenure in the United States, 1870-1920," unpublished Ph.D. dissertation (Wisconsin, 1952), pp. 237, 284.

<sup>3</sup> For cases arising in the South, see Leon Whipple, *The Story of Civil Liberty in the United States* (New York, 1927), p. 320; Carrol Quenzel, "Academic Freedom in Southern Colleges and Universities," unpublished Master's thesis (University of West Virginia, 1933). For the situation at Pennsylvania, see Edward P. Cheyney, *History of the University of Pennsylvania, 1740-1940* (Philadelphia, 1940), pp. 367-69. For the conflicts of Peck and Spingarn with President Butler, see Horace Coon, *Columbia: Colossus on the Hudson* (New York, 1947), pp. 122-25; *Columbia Alumni News*, II (May 18, 1911), 548.

standards and merits of "colleges" and "universities," the medley of abilities and personalities blanketed by the title of "professor," the gradations of experience and repute signified by different academic ranks, all induced caste divisions.<sup>4</sup> Most important, there was a deep aversion among academic men to entering into an organization whose purposes smacked of trade unionism. The idealism of the profession, built on the rhetoric of service and sustained by psychic compensations, eschewed any activity that had material gain as its main object. The ideology of the profession, claiming to transcend all ideology, did not countenance permanent commitments even to an organization for self-help. The dignity of the profession, fashioned on a genteel code of manners, was opposed to the tactics of the pressure group.<sup>5</sup> And over and above all this, there was the fear of administrative reprisal, and a certain inertness and timidity which the academic mind had acquired through years of ivied isolation.

In the decade prior to the establishment of the AAUP, many of these barriers were broken down. Part of the work of demolition was accomplished by a force that had long been active—the appeal to collective effort inspired by the ideals of science. In discussing the aims of the AAUP in his 1922 presidential address, E. R. A. Seligman paid his re-

<sup>4</sup> See Henry Pritchett, "Reasonable Restrictions upon the Scholar's Freedom," *Publications of the American Sociological Society*, IX (April, 1915), 152.

<sup>5</sup> The further problem of whether professors should join labor unions has agitated the profession from that day to this. Against such affiliation, it was maintained that teachers serve the public; that, unlike labor, pecuniary gain is not their main object; that the strike and other labor tactics of intimidation are indefensible for teachers; that traditions must be interpreted and passed on without bias; that the competitive situation which defines the essential function of a trade union does not exist in the academic calling, where teachers and trustees are both custodians of the public interest. Cf. W. C. Ruediger, "Unionism among Teachers," *School and Society*, VIII (November 16, 1918), 589-91. C. E. Myers, "Should Teachers Affiliate with the AFL," *School and Society*, X (November 22, 1919), 594-97; A. O. Lovejoy, "Teachers and Trade Unions," *Educational Review*, LX (September, 1920), 108-19; and more recent comments, Arthur O. Lovejoy, "Professional Association or Trade Union," *Bulletin*, AAUP, XXIV (May, 1938), 410-15; Samuel P. Capen, "The Teaching Profession and Labor Unions," *The Management of Universities* (Buffalo, 1953), pp. 56-63. On the other side, it has been argued that there can be no protection of professional ideals without improvement in the teacher's economic security; that boards of trustees are allied with business; that the conditions of teaching are indeed like those of labor; that the AFL does not have a class ideology; that the unwillingness to join with labor is evidence of academic snobbery; that unions are a democratic force. Cf. Bird Stair, "The Unionizing of Teachers," *School and Society*, X (December 13, 1919), 699-703; Harry A. Overstreet, "Should Teachers' Organizations Affiliate with Organized Labor," *Survey*, XLIII (March 13, 1920), 736-37; John Dewey, "Why I Am a Member of the Teacher's Union," *American Teacher*, XII (January, 1928), 3-6.

spects to those persisting ideals. "Loyalty to our institution is admirable," he declared,

but if our institution for some unfortunate reason stands athwart the progress of science, or even haltingly follows that path, we must use our best efforts to convince our colleagues and the authorities of the error of their ways. . . . In prosecuting this end we need both individual and collective effort. The leisure of the laboratory and of the study count for much; but almost equally important is the stimulus derived from contact with our colleagues.<sup>6</sup>

"The progress of science"—there was a vibrant tocsin to arouse the most sluggish professors.

Another slow-working factor was the constant tension between administrators and faculties. Of particular importance in building camaraderie among professors was the conflict over the question of who should speak for higher education. Trustees, presidents, and deans assumed that they had the right to act as its spokesmen, and the editors of professional journals did nothing to challenge that assumption. It began to gail professors that the public identified the voice of the presidents of the universities with the voice of the profession itself, that the league of university presidents should call itself the "Association of American Universities." Prior to the establishment of *School and Society* in 1915, which coincided with the publication of the first *Bulletin* of the AAUP, only one of the educational journals—Cattell's *Science*—registered professorial opinion that was critical of the operations of the university. At a time when professors were attacking businessmen in the popular press,<sup>7</sup> *Education* (founded 1881) had published before 1914 only three articles (and those laudatory) on the academic role of businessmen, and *Educational Review* (founded 1891 and under the editorship of Nicholas Murray Butler) did not print a clear-cut attack on the businessman until 1906.<sup>8</sup> Nor was the university a place where professors felt free to criticize their superiors. Evidence of this feeling of constraint can be found in the debate held in

<sup>6</sup> E. R. A. Seligman, "Our Association—Its Aims and Accomplishments," *Bulletin*, AAUP, VIII (February, 1922), 106.

<sup>7</sup> Claude C. Bowman, *The College Professor in America* (Philadelphia, 1938), pp. 173-74.

<sup>8</sup> In *Education*, these articles were by Howard A. Bridgman, "Clark University," X (December, 1889), 239; an editorial on the Ross case unfriendly to Ross, XXI (January, 1901), 307; an editorial on the "Peabody Fund," I (March, 1881), 329. William Cranston Lawton's "The Decay of Academic Courage" was the first highly critical article on the businessman to appear in the *Educational Review* (XXXII [November, 1906], 395-404), and it was quickly answered by J. H. Canfield's article of the same title (XXXIII [January, 1907], 1-10).

the early stages of the founding of the AAUP on the question of whether college and university presidents were to be admitted into the organization. In opposing their admittance, Professor Bloomfield of Johns Hopkins University made the suggestive remark that "this is the first opportunity we have had of being ourselves."<sup>9</sup> When it was proposed that presidents be allowed to speak but not to vote, Cattell moved to amend the proposal by asking that the presidents have the right to vote, but not the right to speak.<sup>10</sup> Another professor expressed the fear that professors would be outvoted by administrators because the former could not afford the expense of attending the meetings, whereas administrators would have their expenses paid by the institution.<sup>11</sup> In the end, it was decided that "no administrative officer who does not give a substantial amount of instruction shall be eligible for membership."<sup>12</sup> This was not to be a company union. The professors sought a platform for their own opinions, a journal for their own ideas, an organization that they would control.

The movement toward an association of professors was pushed forward by more immediate factors as well. One of these was the spirit and ideology of Progressivism. Professors, no less than politicians, caught the epidemic fever for reform. Opposition to boss rule in the cities had its counterpart in opposition to trustee rule in universities; certain instruments advocated by political reformers—the initiative, the primary, the referendum—were advocated as well by professors to make academic government more responsible. Cattell used Progressive ideas when he wrote that "no one believes that a city should be owned by a small self-perpetuating board of trustees who would appoint a dictator to run it, to decide what people could live there, what work they must do and what incomes they should receive. Why should a university be conducted in that way?"<sup>13</sup> Several universities took action in response to this kind of criticism. In 1916, on the basis

<sup>9</sup> H. Carrington Lancaster, "Memories and Suggestions," *Bulletin*, AAUP, XXVI (April, 1940), 220.

<sup>10</sup> Letter of Arthur O. Lovejoy to Gaynor Pearson, March 3, 1947, in Gaynor Pearson, "The Decisions of Committee A," unpublished Ed.D. dissertation (Teacher's College, Columbia University, 1948), p. 28.

<sup>11</sup> Lancaster, "Memories and Suggestions," p. 220.

<sup>12</sup> *Bulletin*, AAUP, II (March, 1916), 20. The eligibility rules of the Association did not bar all administrators. If at least half of the work of administrators was in teaching or research, they could be elected to membership. When an active member of the Association accepted an administrative position, he could continue as an associate member. Ralph E. Himstead, "The Association: Its Place in Higher Education," *Bulletin*, AAUP, XXX (Summer, 1944), 464.

<sup>13</sup> J. McKean Cattell, *University Control* (New York and Garrison, N.Y., 1913), p. 35.

of answers to a questionnaire sent to college administrators, Stephen Duggan concluded that in filling vacancies on boards of private institutions there had been a trend away from co-option toward granting alumni representation (notably at Ohio Wesleyan and Pennsylvania), for presidents to consult heads of departments in matters of appointment, promotion, and tenure (Illinois, Reed, Kansas), for permanent heads of departments to be replaced by temporary chairmen (Harvard, Yale, Chicago, Illinois).<sup>14</sup>

But it was widely believed in this period that reform was too slow and scanty. This is apparent from the reaction to Cattell's plan for university government which he first proposed in 1906. Cattell did not see much point in tinkering with the old machinery; he preferred a new design. He would have had the university corporation include all the professors of the university, all its officers and alumni, and all the members of the community who wished to pay dues to belong. The corporation would elect the trustees, whose primary duty would be to care for the institution's property. The professors would elect the president, whose salary would not be larger, or position more dignified, than their own. The professors would be selected by the department and the university senate, subject to the veto of the trustees.<sup>15</sup> Having invited comment on his plan from American scientists, Cattell received 299 replies. The reaction to his proposal was not unanimous. Some did not agree with the spirit of the changes he advocated; others suggested alterations in details. A few cautioned against the parties and political intrigues that might result from such democratic innovations; a few emphasized the sterility of faculty deliberations and the personal animus and contentiousness that they assumed characterized faculty self-government. But the great majority of Cattell's respondents did agree that the powers of the trustees should be limited and faculty control much increased. Roughly 85 percent were on the side of change: an indication that on this issue a real consensus of opinion had been formed.<sup>16</sup> The logical next step in this Progressive age was a league for better government to realize such schemes for reform.

<sup>14</sup> Stephen P. Duggan, "Present Tendencies in College Administration," *School and Society*, IV (August 12, 1916), 233-34.

<sup>15</sup> Cattell, "University Control," *Science*, XXIII (March 23, 1906), 475-77.

<sup>16</sup> Cattell, *University Control*, pp. 23-24. The questionnaire was sent to Cattell's friends and acquaintances, and the figures may be biased on that account. On the other hand, they were sent to men in the natural sciences who, being generally favored by university governors, were probably not as opposed to the existing system as, say, their colleagues in the social sciences.

Progressivism also abetted the movement to standardize the theory and practice of academic freedom and tenure. Just as economists began to see the social costs of unregulated business enterprise, so professors began to see the liabilities of an uncoordinated academic system. As far as academic freedom was concerned, there was a wide diversity of opinion with respect to its principles and scope, and a wide diversity of practices with respect to its protection and aid. For other ambiguous freedoms, like those of speech and the press, the courts provided clarification. But there were practically no legal dicta on academic freedom as such.<sup>17</sup> In other institutions, custom fostered fixed standards; but the transformation of our universities had been too recent to allow tradition to regulate policy. Hence, in the hope of introducing some semblance of order, three learned societies collaborated in 1913 to formulate general rules of academic freedom and tenure. A joint committee, composed of members of the American Economic Association, the American Sociological Society, and the American Political Science Association, labored for a year to solve the thorny problem of principles.<sup>18</sup> At the end of its deliberations, it was compelled to conclude that the "subject bristled with complexities of such a character that [the committee] feels itself in a position at present to make only a preliminary report." On the issue of academic freedom, the committee was in doubt as to whether universal rules should apply to colleges as well as universities, to the teachers of immature as well as of advanced students, to men who pronounce on matters outside their subjects as well as to those who stay within their competence, to extramural as well as intramural utterances. It also could not decide where the line of propriety should be drawn: "Can freedom of speech be permitted to cover self-exploitation or mere desire for notoriety?" On the subject of tenure, it posed but could not answer such questions as whether a professor should be virtually irremovable, as in the Continental universities; whether distinctions should be drawn "between a college and a university teacher, between an officer of higher grade and one of low grade, between

<sup>17</sup> To this day, the phrase "Academic Freedom" is not listed separately in the *Legal Digests* or in *Words and Phrases*. A recent survey of academic-freedom cases concludes that "the courts do not appear to have passed upon causes of dismissal raising direct questions of academic freedom at the university level." Thomas I. Emerson and David Haber, eds., *Political and Civil Rights in the United States* (Buffalo, 1952), p. 890.

<sup>18</sup> The members were eight professors and one journalist who were generally recognized as authorities in the field: Seligman, Ely, Fetter, Weatherly, Lichtenberger, Pound, Judson, Dealey, and Herbert Croly.

an officer of long standing and one of recent tenure"; whether there ought to be a trial before every dismissal; whether the reasons for dismissal should ever be suppressed, even in the supposed interest of the individual involved.<sup>19</sup> Plainly, one conference was not sufficient. What was needed was a continuous inter-disciplinary effort to clarify basic principles, and to build, out of case materials, a set of academic rules that would give to future thought some clear direction.

Finally, one striking incident drove home the need to perfect a machinery of investigation in academic-freedom cases.<sup>20</sup> In 1913, the high-handed orthodox Presbyterian president of Lafayette College forced the resignation of John M. Mecklin, an outspoken liberal philosopher.<sup>21</sup> Following the precedent established in the Ross case, Mecklin told his story (which he picturesquely entitled the victory of Calvin over Servetus<sup>22</sup>) to the two professional societies in which he was enrolled—the American Philosophical Association and the American Psychological Association. These associations appointed an investigating committee. Unfortunately, the precedent of the Ross case was followed all too closely: the attempt to elicit information from President Warfield met with the same evasive arrogance that President Jordan had displayed fourteen years before. The mild-mannered question, "May I express the hope that you will be good enough to let the committee have, from yourself personally, some more specific statement in regard to certain facts in the case," was answered by "I trust you will pardon me if I say that your committee has no relation to me personally which would justify my making a personal statement to you with regard to these matters." The committee roundly scored this official overbearance, which was all too common in the ruling echelons of academia:

<sup>19</sup> *Preliminary Report of the Committee on Academic Freedom and Academic Tenure* (December, 1914), pp. 1-6, 7.

<sup>20</sup> Cf. H. W. Tyler, "Comments on the Address by Dr. Capen," *Bulletin*, AAUP, XXIII (March, 1937), 204.

<sup>21</sup> Lafayette College in the period of Mecklin's tenure (1905-13) was facing in two directions: toward its early nonsectarian idealism and toward the orthodox high Calvinism of Princeton Seminary and its autocratic president. The desire to have the best of both worlds created great confusion as to what could be taught at the college. Mecklin's philosophical relativism, his interest in the philosophy of pragmatism, and his teaching of evolution led the president to demand his resignation. After his dismissal, Mecklin went to the University of Pittsburgh, where another kind of battle over economic philosophy was making academic freedom tenuous. In 1920, Mecklin took a chair at Dartmouth College. John M. Mecklin, *My Quest for Freedom* (New York, 1945), pp. 129 ff.

<sup>22</sup> *Ibid.*, p. 164.

The attitude thus assumed does not seem to this committee one which can with propriety be maintained by the officers of any college or university towards the inquiries of a representative national organization of college and university teachers and other scholars. We believe it to be the right of the general body of professors of philosophy and psychology to know definitely the conditions of the tenure of any professorship in their subject; and also their right, and that of the public to which colleges look for support, to understand unequivocally what measure of freedom of teaching is guaranteed in any college, and to be informed as to the essential details of any case in which credal restrictions, other than those to which the college officially stands committed, are publicly declared by responsible persons to have been imposed. No college does well to live unto itself to such a degree that it fails to recognize that in all such issues the university teaching profession at large has a legitimate concern.<sup>23</sup>

This was a lusty rebuke and well deserved, but it also underscored the inability of the learned society to muster enough power and prestige to persuade administrators to cooperate with it.

These, then, were some of the forces that worked toward professorial solidarity in the first decade and a half of the twentieth century. Yet, powerful as they were, it is doubtful that they would have produced a viable organization had the initiative not been taken by a few movers and shakers, by a few professors who, academically, had "arrived." The first call for a conference looking toward the formation of a national association was issued by eighteen full professors of Johns Hopkins University. It was addressed to the faculties of the nine leading institutions of the country, and seven of them—Clark, Columbia, Cornell, Harvard, Princeton, Wisconsin, and Yale—responded by sending delegates. The first meeting, at the Johns Hopkins Club, was an assemblage of academic notables. John Dewey and J. McKeen Cattell represented Columbia; Charles E. Bennett and E. L. Nichols, Cornell; Maurice Bloomfield and A. O. Lovejoy, Johns Hopkins; Edward Capps, E. M. Kammerer, and H. C. Warren, Princeton; C. S. Minot, Harvard.<sup>24</sup> These delegates, in turn, established a committee on organization, consisting of a select group of thirty-four, which included new stars, among them Roscoe Pound and W. B. Munro of Harvard, William E. Dodd of Chicago, Frank Thilly and

<sup>23</sup> Report of the Committee of Inquiry, "The Case of Professor Mecklin," *Journal of Philosophy, Psychology and Scientific Method*, XI (January, 1914), 70-81. Warfield was dismissed by the Lafayette trustees two weeks after the adoption of the Committee's report.

<sup>24</sup> *Science*, New Series, Vol. XXXIX (March 27, 1914), p. 459.

Alvin S. Johnson of Cornell.<sup>25</sup> Finally, when the organization had been mapped out, invitations were extended to "persons of full professorial rank whose names appeared on the lists of distinguished specialists prepared for the committee in each of the principal subjects."<sup>26</sup> This invitation was accepted by 867 professors in 60 institutions, who thus became charter members of the AAUP. The elitist inspiration and composition of the organization were reflected in the membership clause of the first constitution adopted, which provided that "any university or college teacher of recognized scholarship or scientific productivity who holds and for ten years has held a position of teaching or research" was eligible.<sup>27</sup> The membership base was only gradually broadened: in 1920, the required period of service in teaching or research was reduced to three years; in 1929, junior membership for graduate students was provided, with the right to attend the annual meetings but not to vote. The AAUP was not, as at first envisioned, "one big union for all," but a union of the aristocrats of academic labor.

It may be taken as a commentary on the prudence, the idealism, and the crochets of the American professoriate that, despite the eminence of the founders, quite a few prominent men had reservations about joining. J. E. Creighton of Cornell wrote to Lovejoy that

one or two of our most prominent men whose names we should especially like to get were anxious to know of what is involved in the proposal. They were impressed by the names of the J. H. U. signers; but wanted some assurance that the idea behind the movement was not that of attacking the existing condition of affairs in any destructive or antagonistic spirit.<sup>28</sup>

At the second meeting of the Association, Charles A. Beard, without his knowledge, was nominated for membership.<sup>29</sup> Two years later, when he was asked to remit his dues, Beard wrote to the secretary: "I beg to say that, to the best of my knowledge and belief, I have never joined the Association. I regarded it as a futile enterprise when it was begun, and the results have confirmed my suspicions."<sup>30</sup> Men of the caliber of

<sup>25</sup> Pearson, "Decisions of Committee A," p. 22.

<sup>26</sup> A. O. Lovejoy, "Organization of the American Association of University Professors," *Science*, New Series, Vol. XLI (January 29, 1915), p. 154.

<sup>27</sup> *Bulletin*, AAUP, I (March, 1916), 20.

<sup>28</sup> Letter of J. E. Creighton to A. O. Lovejoy, May 23, 1913, in Pearson, "Decisions of Committee A," p. 21.

<sup>29</sup> Letter of H. W. Tyler to Beard, June 21, 1917, in Seligman Papers.

<sup>30</sup> Letter of Charles A. Beard to H. W. Tyler, June 16, 1917, in Seligman Papers.



Barrett Wendell and Albert Bushnell Hart did not immediately join,<sup>31</sup> and W. T. Councilman of the Harvard Medical School justified his refractoriness with this comment:

The matter does not interest me. I am opposed to anything that savours of organization or the formation of societies of any sort. The modern habit of organization I regard as a pernicious form of activity. The present unfavorable conditions of university life will finally be remedied not by organization but by the refusal of capable men to enter into it.<sup>32</sup>

The academic bohemian, the conservative, and the radical all were wary. Still, the membership rolls showed continuous growth. Within six months, the Association had 1,362 members representing 75 institutions; by January, 1922, it had 4,046 members from 183 institutions.<sup>33</sup>

Because of the suspicion that the Association aroused in the profession it sought to serve and the hostility it incurred from the general public, the major effort of the leaders of the AAUP in the early years was to win respectability. A bellicose attitude toward trustees, a militant stand on academic freedom, any of the usual postures of the trade union, would have alarmed and repelled the great majority of American professors. Accordingly, the original conference call issued by the Johns Hopkins professors contained only a few references to academic freedom or to what might be called "unfair labor practices." The main goals of the association appealed to professors as professional men, not as employees.<sup>34</sup> Dewey, in his address to the committee on organization, scotched the idea that the investigation and punishment of infractions of academic freedom would preoccupy the attention of the Association:

I do not know of any college teacher who does not hold that such infringement, when it occurs, is an attack on the integrity of our calling. But such cases are too rare to even suggest the formation of an association like this. . . . In any case, I am confident that the topic cannot be more than an incident of the activities of the association in developing professional standards.<sup>35</sup>

But on this score the philosopher did not possess the gift of prophecy. The Association was astounded and disheartened by the calls that came from all over the country to lend its assistance to professors in their unequal

<sup>31</sup> Pearson, "Decisions of Committee A," p. 24. Hart was listed on the AAUP rolls in 1921.

<sup>32</sup> Letter of Councilman to Lovejoy, December 4, 1914, in Pearson, "Decisions of Committee A," p. 24. Councilman was listed on the AAUP rolls in 1921.

<sup>33</sup> *Bulletin*, AAUP, II (April, 1916), 3-4; *ibid.*, VIII (January, 1922), 51.

<sup>34</sup> *Ibid.*, II (March, 1916), 12.

<sup>35</sup> Thilly, "American Association of University Professors," p. 200.

struggles with administrators. Distress signals came from the University of Utah, where seventeen professors resigned in protest when one of their colleagues was unceremoniously dismissed; from the University of Colorado, where a law professor believed he had been fired for testimony given before a government commission; from Wesleyan University, where a professor believed he had been removed because of anti-Sabbatarian remarks delivered at a nearby club; from the University of Pennsylvania, where Scott Nearing, in a case that achieved great notoriety, was removed from the Wharton School; from the University of Washington, where three professors had been discharged.<sup>36</sup> However much the founders wished to devote themselves to long-run constructive tasks befitting a professional society, they could not evade the fact that professors in trouble looked to them as to a grievance committee, as their long-sought avenging arm. "To have failed to meet the demands," Dewey commented later, "would have been cowardly; it would have tended to destroy all confidence in the Association as anything more than a talking body. . . . The investigations of particular cases were literally thrust upon us."<sup>37</sup>

The pressure on the Association resulted in a bifurcation of its interests and activities. Even as Committee A on Academic Freedom and Academic Tenure was set to work to fashion general principles for the guidance of the profession, special investigative subcommittees were sent scurrying over the country, hearing professorial complaints, investigating actual conditions, writing up reports. Thus, on the one hand, the AAUP tried to function as an agency of codification, fixing its sights on the larger aspects of academic freedom and other professional problems. On the other hand, it had to function as an agency of group pressure, investigating cases and imposing penalties in response to immediate demands. To the historian of the AAUP and the profession, the long-term efforts of the Association may stand out as its greater contribution. But there

<sup>36</sup> "Report of the Committee of Inquiry on Conditions at the University of Utah," *Bulletin*, AAUP, I (July, 1915); "Reports of Committees concerning Charges of Violation of Academic Freedom at the University of Colorado and at Wesleyan University," *ibid.*, II (April, 1916); "Report of the Committee of Inquiry on the Case of Professor Scott Nearing of the University of Pennsylvania," *ibid.*, II (May, 1916); "Report of the Sub-Committee on the Case of Professor Joseph K. Hart of the University of Washington," *ibid.*, III (April, 1917).

<sup>37</sup> John Dewey, "Presidential Address," *Bulletin*, AAUP, I (December, 1915), 11-12. Such was the pressure on Committee A that three cases had to be referred to the learned societies: one, arising at Dartmouth College, to the American Philosophical Association; one, at Tulane University, to the American Physiological Society; one, at the University of Oklahoma, to the American Chemical Society. *Ibid.*, p. 18.

can be no doubt that, because of its immediate involvement in institutional conflicts, the Association became stamped, in lay and professional circles alike, as an organization of professorial defense. In the ensuing years, whatever else it accomplished, the reputation of the AAUP was to hinge on its successes and failures in recognizing and rectifying abuses.

#### ACHIEVEMENTS: THE AAUP AS AN AGENCY OF CODIFICATION

The first attempt of the AAUP to work out the scope and limits of academic freedom was Committee A's Report on Academic Freedom and Academic Tenure of 1915, the general philosophy of which we examined in a previous chapter. Briefly, its fundamental premises were that academic freedom was a necessary condition for a university's existence; that trustees occupied the position of public officials discharging a public trust; that the only exception to this was when they served private propagandistic purposes, in which case those purposes ought to be made explicit; that in the classroom professors were limited by the norms of neutrality and competence; that outside the university professors had the same right as any other citizens to freedom of utterance and action, limited only by the obligation to observe professional decorum. These ideas were not militant or extreme. The Report emphasized the unsailably respectable if somewhat bromidic point that there were no rights without corresponding obligations, that academic freedom was not academic license. It strained for balance in its judgments. In chiding those trustees who regarded professors as their employees and the university as their own private property, it also took account of the tradition that sanctioned this point of view, and of the restrictions imposed by the charters. Noting the malfeasance of certain wealthy donors and trustees, it also called attention to the danger of political pressure from popular movements of reform.

But the report contained more than generalities; it offered practical proposals as well. And it was over its specific demands, rather than its philosophical principles, that the major battles with academic trustees and administrators were to be fought. Its practical proposals had two main objectives. The first was to place some limitation on the trustees' prerogative to fire teachers. Quite tentatively, the Committee suggested that aberrant opinion should never be grounds for dismissal. It recognized,

however, that differences in traditions and local conditions made it difficult to apply uniform substantive limitations. But it held that the procedural limitations could and should be uniform. At this point, the Committee made one of its most controversial proposals: it suggested trials under faculty auspices.

Every university or college teacher (at the rank of associate professor or above) should be entitled, before dismissal or demotion, to have the charges against him stated in writing in specific terms and to have a fair trial on those charges before a special or permanent judicial committee chosen by the faculty senate or council, or by the faculty at large.

At such trial the teacher accused should have full opportunity to present evidence, and if the charge is one of professional incompetency, a formal report upon his work should be first made in writing by the teachers of his own department and of cognate departments in the university, and if the teacher concerned so desire, by a committee of his fellow specialists from other institutions appointed by some competent authority.<sup>38</sup>

The second objective of these practical proposals was to provide security and dignity in the academic job through definite rules of tenure:

In every institution there should be an unequivocal understanding as to the term of each appointment. . . .

In those state universities which are legally incapable of making contracts for more than a limited period, the governing boards should announce their policy with respect to the presumption of reappointment in the several classes of position, and such announcements, though not legally enforceable, should be regarded as morally binding.<sup>39</sup>

Academic freedom was the end: due process, tenure, and establishment of professional competence were regarded as necessary means.

These practical proposals were indicative not only of how much professors had come to rely on bureaucratic safeguards, but also of how much the views of these particular professors reflected their elite position. On every count, the proposals embodied a double standard to distinguish between academic men of high and low estate. Whereas teachers above the level of instructors were to be entitled to one year's notice of dismissal, instructors were only to be entitled to warning three months before the close of the academic year. Whereas those of the rank of associate and full professors were to be entitled to a judicial hearing, it was to be sufficient that the faculty approve the dismissal of anyone below that

<sup>38</sup> "Report," Committee on Academic Freedom and Academic Tenure, *Bulletin*, AAUP, I (December, 1915), 41-42.

<sup>39</sup> *Ibid.*, p. 41.