

FSM

NEWSLETTER

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WHAT

The FSM has resumed its 'legal-illegal' demonstrations. On Monday of last week 8 to 10 tables were set up in front of Sproul Hall in open and peaceful defiance of the still extant Administration rule that off-campus political and social group could not solicit money nor take names of potential members nor organize for off campus political action on campus.

The demonstration lasted about two hours during which various speakers, standing on what was once a dresser, addressed a crowd of some 500. Among the speakers were three professors, all decidedly in favor of FSM's means and ends.

A short time after the tables were set up, about a half dozen deans came down to take the names of the table-manners. The conversation at the several tables went like this:

Dean: Are you manning this table?

Student: Yes.

Dean: Are you collecting money?

Student: I'm accepting contributions.

Dean: Do you have a permit?

Student: No.

Dean: Do you know that you are violating a school rule?

Student: I know that the school rule is unconstitutional.

Dean: Will you cease this action?

Student: No.

Dean: Will you identify yourself?

The student either gave his name or produced a registration card. As soon as his name was taken, someone else took his place and the dialogue was repeated. Some 75 names were taken -- the school is expected to take action against them. Though lines formed to replace the cited students at their tables, the deans retired refusing to take more names.

Cont. page 4 Col. 1

WHY

Constitutional rights cannot know the word "compromise." The freedoms that the FSM are demanding are constitutionally guaranteed freedoms. They cannot be negotiated, limited, abolished or controlled other than in exceptional instances and then only by the courts. What, then, was the purpose of submitting the free speech question to a campus committee?

The FSM voluntarily refrained from using their constitutional rights in hopes that an agreeable decision could be effected by committee discussion. Not only are the pressures and threats of demonstration distasteful to the Administration. They are also so to us and when what appeared to be an easier method manifested itself, we were more than willing to try.

Cont. page 4 Col. 1



TABLE TALK -- Debbie Bartlet will not yield to the young and handsome Dean Van Houton who endeavors to violate her constitutional rights.

WHAT IS THIS THING FREE SPEECH?

Free speech is not absolute; there are limitations. The limitations come from the courts, which for certain reasons feel that in some instances the effect of free speech would be more potentially disastrous than limiting the freedom itself. Of course, the classic example is that of yelling 'Fire' in a crowded theater.

But there are more subtle limitations and for the most part the courts have been slow about imposing them. It has been necessary that the result of the imposition be graver than the imposition itself.

Amendment one says "Congress shall make no law . . . abridging the freedom of speech." This amendment refers to Congress but it has since been interpreted by the Supreme Court to be applicable to the several states as well. The transferring vehicle was the 14th amendment which says "No state . . . (shall) deprive any person of life, liberty or property without due process of law."

Thus, now, within certain limits imposed by the courts, the states, too, must guarantee the First Amendment Freedoms. Since the constitution restricts the States from abridging these freedoms, it follows that subdivisions of the states (cities, towns, bureaus and university systems for example) are likewise restricted. If the state doesn't have the power to do something then it can hardly pass this power on to its various branches. The question then is: What are the limitations that the court has placed on free speech?

We need only take one case, *Terminiello v. Chicago* 337 US 1 (1949), to show the court's conception of free speech. Briefly, Terminiello gave a speech in a Chicago Hall which caused some thousand persons outside the hall to grow turbulent. Terminiello was arrested and convicted on a charge of breach of the peace. The Supreme Court reversed the decision. Following is a part of Mr. Justice Douglas's majority opinion; read not with regard to the Terminiello case but as applicable to all such cases, including the situation now at UC -- for it is still very good law. (All underlining is mine, to show the similarities between that Douglas is saying and the FSM-Administration problem).

The vitality of Civil and political institutions in our society depends on free discussion. As Chief Justice Hughes wrote in *De Jonge v Oregon*, 299 US 353 . . . 'it is only through free debate and free exchange of ideas that government remains responsible to the will of the people and peaceful change is effected. The right to speak freely and to promote diversity of ideas and programs is therefore one of the chief distinctions that sets us apart from totalitarian regimes.'

Accordingly a function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it pressed for acceptance of an idea. That is why freedom of speech, though not absolute, . . . is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that arise far above public convenience, annoyance, or unrest There is no room under our constitution for a more restrictive view. For the alternative would lead to standardization of ideas either by legislatures, courts, or dominant political or community groups.

This section deserves to be read and reread: It seems Mr. Douglas realizes the danger of the "standardization of ideas" -- something applicable to our multi-university. BUT MOST IMPORTANT consider Douglas's rule under which speech can be limited by Congress, a state, and therefore any of a state's subdivisions; (Speech is protected against censorship) unless shown likely to produce a clear and present danger of a serious substantive evil.

Such is definitely NOT the case here. By restricting speech beyond the above rule, the administration is acting outside the bounds of the constitution.



OPEN SEASON ON
PRAIRIE DOGS

RIGHT SPEAK ; WRONG SPEAK

According to the unanimous opinion of organized authority, the Berkeley students engage in the Wrong Kind of free speech.

We have just had a classic example of the Right Kind of free speech, the presidential campaign of 1964.

Goldwater said he really wasn't against Social Security; that he believed in strength; and that his honorable opponent was a crook.

Johnson said his opponent was a radical outside the mainstream and that he (Johnson) stood for the Great Society.

It might have been helpful to raise some objections from the floor after these two men finished. (If Lenny Glazer had been on the platform, one could have). But the only part we could take in this great debate was to rant at the blank television screen after the speaker had flown off to another city to deliver the same speech for the hundredth time.

When engaged in the Right Kind of free speech, real issues are avoided by agreement. This year the candidates even announced publicly that they had agreed not to discuss the race question (Johnson kept his part of this bargain better than Goldwater). The war in Vietnam was also ruled out; we have all known for months that a decision would be made after the

election, when we would either withdraw or jump in with both feet.

No one should expect anything different or better in 1968. A Presidential campaign is the Right Kind of free speech. Therefore, its purpose is not to engage in real discussion; it is to simulate discussion in order to legitimize the power which the winner will hold. In a few months Lyndon Johnson will decide what to do in Vietnam, and most of us will say, "Well, he's the President; we elected him; we have to support him." If we do support him, the campaign will have served its purpose.

The Johnson and Goldwater campaign headquarters are closed down now; their work is done.

But the sidewalk speakers, table-manners, publishers of mimeographed newsletters, picketers, and collectors of nickels and dimes would like to operate all year. They want to convince and persuade; for them public discussion is valuable in itself for the actions it leads to, not as a means to a powerful office. They raise money so that they can publish their ideas; not -- like Hearst and Knowland -- the other way around.

So in 1964 the Right Kind of free speech is a perversion and the Wrong Kind is the genuine article. And this 20 years ahead of its time.

FREEDOM IS A BIG DEAL

by Barbara Garson

It seems very likely now that the University will liberalize its regulations on free speech and political activity. No doubt, hidden restrictions will be wrapped in the new rules.

The administration, of course, will deny that it yielded to direct pressure but we can take great pride in having for once, reversed the world wide drift from freedom. We did not teach Clark Kerr the moral error of his ways; we simply showed him that in this case, blatantly repressing us was more trouble than it was worth.

But must we always make this massive effort in order to effect a minor change? The answer is yes. Yes because power still lies with the administration. Our lives at school are still ruled and regulated by officials who are not responsible to us. Our recent rebellion did not attempt to change this. Indeed this change can not be made on one campus.

Yet I dream of someday living in a democracy. On campus, committees of students and faculty will make the minimum regulations needed to administer (not rule) our academic community. I hope to see democracy extended to the offices and factories, so that everyone may have the satisfaction of making the decisions about the use of his productive energies.

I look past government by the grunted consent of the governed. Someday we will participate actively in running our own lives in all spheres of work and leisure.

Our American ideals are not fragile objects of historical interest to be sheltered from the reality of today's world. They are strong and resilient and as serviceable today as in 1776. They need no special care except daily exercise, and no shield but truth.

Clark Kerr, speaking after accepting the Alexander Meiklejohn Award for academic freedom, 1964.

What a coincidence! Daily exercise was our diagnosis also.



GROVES OF ACADEME -- True students listen to a real lecture at Cal (large classes as usual).

WHAT Cont.

On Tuesday of last week almost 200 TA's and Graduate Students representing virtually all the departments in the school manned various tables. No deans appeared. However, a list of their names and another list of some 500 names given by onlookers the day before were sent to the administration. The signers, in effect, requested equal responsibility for manning the tables.

On Wednesday and through the week the tables remained and the illegitimate tables will remain until they have become legal, through the repeal of the restrictive rulings.

There were several distinguished guests at the Monday demonstration. In addition to the myriad of pressmen and photographers, Berkeley's mayor Johnson, gentlemen from the DA's office, the Berkeley Red Squad, FBI agents were also among the crowd.

WHY Cont.

But there was only one kind of conclusion, however stated, that could have been acceptable. That conclusion would have had to give us (as we've said before) the same rights as students that we have as citizens -- i.e. the full force and protection of amendments one and fourteen.

When it became apparent that the administration was not prepared to allow for these rights, when we realized that continued negotiations would make for little gains but for much time, when days turned into weeks and disagreements into deadlocks, then it became necessary to return to the power of numbers, of voices, of action.

The Administration wanted the right, among others, to punish a group if they (the administration) discovered that any on-campus advocacy leads to any unlawful off-campus action. Just as the Administration cannot assume the role of a court in defining the Bill of Rights, for its students so can they not be policeman or judge -- they can neither decide illegality nor punish it. These responsibilities, thank heaven, lie elsewhere.

Furthermore, although the Administration continuously amended faculty proposals (toward greater restrictions), they consistently refused to vote on the whole package even with these, their own proposals. Thus, not only couldn't the study committee produce something favorable to FSM, there could not even be something unfavorable produced.

So we move our fight from the committee room to the ASUC Plaza; our means have changed but our end remains constant. As one participant has so aptly put it: You'll never hear us ask for more than the First Amendment freedoms and you'll never see us settle for less.

Meanwhile, the Administration has announced that it will carry its negotiations to the ASUC Senate. We wish them the best of luck. We hope a solution is reached, we'll be waiting outside. And when (and if) a solution is found, we will know that it is because we have been pressuring for a settlement. And the administration will know it too.

FREE SPEECH AND THE FACULTY

We are told and told that in order to get and keep faculty support, we must be ready to approach the administration on our knees, to wheedle and whine, to beg and bargain.

But what is faculty support worth? Undoubtedly, the faculty is a potentially powerful force. University professors are not easily replaced; a faculty strike would be almost impossible to crush.

However, academicians do not have the tradition of solidarity. Unlike less skilled workers, they have never stuck together and struck together. They allow their colleagues to be victimized one at a time. They are loath to use their power to fight for their own freedoms or anyone else's. When a professor is hounded out of the university, the faculty forms a committee. They want us to use their tactics. They think they are on our side; but they have an innate instinct for submission. They may think like men; but they act like rabbits.

Theoreticians at Berkeley give this rabbitry an intellectual justification. Sociologists and political scientists fear "conflict" and "mass action." Their theory calls for a government of competing elites, quietly and privately vying for the right to control our lives. This theory leads to safe and quiet government. Democracy is dangerous in their eyes; they think it leads to totalitarianism.

In some cases it may be possible for elites to compete. Industrial elites armed with money may be able to negotiate on an equal basis with government elites who have armies. Students, however, are like Negroes and workers; they have little force except for their numbers and the strength of their commitment. To ask these groups to give up mass action is to ask them to submit to the rule of the elites who have power that does not come from numbers.

Faculty members ask us to give up our only weapon and to rely on their intervention. They ask us to stop using the tactics that frighten them. They want to be the elite that competes for free speech. But if they are really interested in free speech, why don't they act in their own way while we act in our way? Must we beg and bargain with them as well as with the administration to get their backing?

Will the rabbits save us from the wolves? Will they even try?

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