

Muzzling the Speech Cops

By Ralph R. Reiland

REVERSING THE SPEECH-CODE CRAZE ON campus, the University of Wisconsin earlier this year called off its speech police by becoming the first major university in the nation at which a faculty vote abolished all campus harassment codes.

Then-chancellor Donna Shalala established Wisconsin's stringent speech regulations a decade ago, setting limits on expression and punishments for any who dared stray too far from the orthodoxies of the Left. "American society is racist and sexist," she proclaimed at the time. "In the 1960s, we were frustrated about all this. But now, we are in a position to do something about it"—and in a position to bludgeon anyone right-of-center into silence.

Wisconsin's students succeeded in getting Shalala's speech code declared unconstitutional in 1991. Federal District Judge Robert Warren ruled that the school's "content-based restrictions on speech [have] the effect of limiting the diversity of ideas among students, thereby preventing the 'robust exchange of ideas' which intellectually diverse campuses provide." Judge Warren concluded: "Suppression of speech, even where the speech's content appears to have little value and great costs, amounts to governmental thought control."

A separate faculty speech code—since voided—imposed punishments on professors who created an "intimidating or demeaning" environment in any "expression, teaching materials, student assignments, lectures and instructional techniques" that anyone of a particular "gender, race, cultural background, ethnicity, sexual orientation or handicap" might find "objectionable."

As a footnote, the same Donna Shalala—now Bill Clinton's secretary of health and human services—was hauled into court by United Seniors Association over the interpretation of a 1997 statute that apparently prohibited a doctor from treating any Medicare patients for two years if the doctor contracted privately for any medical services with a *single* Medicare patient. United Seniors claimed that such a prohibition would impose substantial harm on the elderly by denying them control over their own health care and private spending. (And, of course, it would deny free-

dom of enterprise and freedom of contract to America's physicians.) The U.S. District Court for the District of Columbia granted summary judgment for the secretary of health and human services. United Seniors appealed that decision, and the secretary hastened to clarify her department's interpretation of the statute. The D.C. Circuit Court of Appeals held that the statute—as clarified by the secretary—applies only to private contracts for services that would be reimbursable under Medicare. As at Wisconsin, Shalala's I-know-what's-good-for-you central planning paradigm was judged to be off base and in direct violation of fundamental American rights and principles.

Shalala, unfortunately, was hardly the only true-believer in academia who sought to create benign environments and ensure common decency through thought control, coerced sensitivity, mandatory sensitivity training sessions that smacked of political re-education camps, and the suppression of free speech. Across the nation, said Jeane Kirkpatrick, American universities were turning into "islands of repression in a sea of freedom." Rejecting counterspeech and free thought for censorship and shunning, the "neo-McCarthyites of the righteous Left," in Nat Hentoff's phrase, had become wholly fearful of lively debate and fully allergic to contentious places.

"The most serious problems of freedom of expression in our society today exist on our campuses," said Yale University president Benno Schmidt. "On many campuses around the country, perhaps most, there is little resistance to growing pressure to suppress and to punish, rather than to answer, speech that offends notions of civility and community. Offensive speech cannot be suppressed under open-ended standards without letting loose an engine of censorship that cannot be controlled. To stifle expression is, apart from an invasion of the rights of others, a disastrous reflection on the idea of a university. A university is a place where people have to have the right to speak the unspeakable and think the unthinkable and challenge the unchallengeable."

At Stanford, a rigid speech code prohibited all expression that "constitutes harassment," that is, words "intended to insult or stigmatize"—words that might by their "very utterance inflict injury or tend to incite an immediate breach of the peace." Stanford law professor Charles Lawrence argued that the First Amendment "presupposes a world characterized by equal opportunity and the absence of societally created and culturally ingrained and internal-

ized racism, sexism and homophobia.” Gag rules apply, in short, on all those whose views might fall outside the range of acceptable Left orthodoxy until we all set foot in utopia. In Houston, a faculty committee on human relations voted to banish Mark Twain’s *Huckleberry Finn* from the library of the Mark Twain Intermediate School. With penalties ranging from official reprimand to expulsion, the University of Connecticut outlawed acts of “conspicuous exclusion from conversation” and “misdirected laughter.”

On the politically correct sliding scale of free expression, of course, some were permitted more free speech than others. “Freedom of speech should belong mainly to the powerless rather than those in power,” explained a Stanford law professor. While most students and faculty dared not publicly question the fairness or consequences of affirmative-action quotas—candor not being worth a trip to the Gulag—the Left felt free to launch politically correct, ad hominem offensives at the entire “bourgeois superstructure” (Western values, imperialism, Eurocentric “Anglos,” militarism, democratic traditions, materialism, academic stan-

dards, capitalism, etc., etc.); to expel Aristotle, Shakespeare and other “dead white males” from required reading lists; and to purge “patriarchal hegemony” and “male-centered science” from the curriculum.

In *Illiberal Education*, Dinesh D’Souza wrote of being confronted by a self-described “sensitivity coalition”—some of whose members were outfitted in the rattling chains of slavery—during a speech at Tufts University. Before D’Souza took the podium in an auditorium protected by armed police, Professor Donald Klein, acting on university instructions, warned student activists to abstain from throwing things at the speaker or shouting him down. After his speech, D’Souza was approached by an outraged professor of Afro-American studies, who accused D’Souza of “logocentrism” (the “white man’s obsession with big words”) and of having a “white perspective” (a preference for “rationality” and “sexual restraint”).

D’Souza’s account of his encounter with ethnic tribalism and mindless groupthink underscores the significance of the Wisconsin faculty’s long overdue vote. ■

The Federal Communications Commission and the Undersea Cable Market: Detering Competition and Exacerbating a Trade War

By Lawrence J. Spiwak

POLITICIANS AND PUNDITS ALIKE LOVE TO proclaim that the world is in the midst of a “global telecoms revolution.” That may be true, but the Federal Communications Commission (FCC) is once again threatening to turn the revolution into a trade war.

FCC fired the first salvo last year, just one year after the conclusion of the World Trade Organization (WTO) agreement on basic telecommunications services. Under that

agreement, 69 nations—including the United States—made commitments about the opening and regulation of their telecoms markets. Despite that landmark agreement, FCC—after admitting publicly that it did not trust the market-opening efforts and commitments of other countries—unilaterally issued stringent regulations (including naked price controls), to the dismay of the international telecoms community. FCC’s aggressive, unilateral actions engendered much ill will among America’s trading partners, who saw those actions as mercantilist and found them hypocritical, given the slow advance of competition in U.S. telecoms markets.

FCC now is taking aim at the market for undersea cable service, the primary medium for international telecoms traffic.

TARGET: THE UNDERSEA CABLE MARKET

UNDERSEA CABLE TRAFFIC IS IMPORTANT TO THE UNITED

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