

# Shared Governance and Academic Freedom

By Peter Kirstein

I have had the opportunity to speak on a variety of campuses since my suspension for an anti-military e-mail on Veterans Day in 2002. This past Spring I had the opportunity to speak at McKendree College, a venerable institution with a bucolic, lovely campus in Lebanon, Illinois and at East-West University, a wonderfully progressive, dynamic institution of diversity in the Loop in downtown Chicago. The event at McKendree was sponsored by their AAUP chapter, whose president is Brian Frederking (who was recently elected to the IL-AAUP state council). I spoke on the topic: “Shared Governance and Academic Freedom: Resisting Marginalization and the Persecution of the Left.” Most of my remarks dealt with AAUP documentation on Shared Governance. This was a somewhat different topic for me and I perused the “Redbook” and other sources to familiarize myself with the nuances of this vital concept. I also read thoroughly the McKendree College Handbook, and summarized AAUP guidelines concerning Shared Governance that could apply to the decision of McKendree to embark upon graduate-level programs.

Indeed, one of the issues at the college was a concern that the faculty would be allowed to participate fully in the implementation, staffing and assessment—my favorite word—of graduate-level programming. It was emphasized that faculty, administration and governing boards must participate in strategic-decision making. Institutions of higher learning, despite the current fetish of emulating the latest Fortune 500 business model, are not corporations with a board of directors that alone determines and implements strategic planning. A university may “sell” education but it cannot do so effectively unless the faculty plays a seminal role in its formulation. It is simply poor management and inefficient use of university resources for an administration not to recognize or solicit the expertise that faculty have in curriculum development, utilization of finite resources, mission statements and as overseers of the intellectual life of an institution.

Examples of faculty being marginalized and underrepresented in determining strategic-decision making within an institution of higher learning clearly exceed those rare moments when the professoriate attempts to usurp control that unfairly intrudes upon the rights of an administration or governing board. AAUP does not construe governance as a Hobbesian, or if I may add, a neoconservative “war of all against all,” but as a collaborative enterprise. Yes there are competing interests. Yes there will be conflicts. Yes there are politics. Yet shared governance, if done correctly, leads to collaboration not confrontation; cooperation not competition; collegiality and not conflict that emanates from a mutual respect of differing roles but common objectives to pursue academic excellence.

Of course without academic freedom and tenure, shared governance would be impossible as faculty rights would be eviscerated under a fear of dismissal and loss of livelihood. Shared Governance can only flourish when the faculty, who are described as “officers” of an institution in the “1940 Statement on Academic Freedom and Tenure,” has the capacity to assert that role without arbitrary sanctions through the granting of continuous tenure. AAUP is explicit on the importance of academic freedom as a means for preserving and exercising shared governance. Although I am an academic freedom specialist, I sought to empower the mostly faculty-member audience that academic freedom for faculty members encompasses the unfettered right to express their views “on matters having to do with their institution and its policies.” (“On the Relationship of Faculty Governance to Academic Freedom,” 1994) This *Redbook* document states “in the case of institutional matters, grounds for thinking an institutional policy desirable or undesirable must be *heard and assessed* if the community is to have confidence that its policies are appropriate.” (Emphasis added)

It reaffirms the professoriate’s primary role in curricular matters which obviously would include establishing graduate programs among the assorted disciplines of the faculty. “Moreover, scholars in a discipline are acquainted with the discipline from within; their views on what students should learn in it, and on which faculty members should be appointed and promoted, are therefore more likely to produce better teaching and research in the discipline than are the views of trustees or administrators.”

In reading the McKendree Manual, I was astonished to see a mandatory retirement age of seventy. Yet this appears in the McKendree Manual: 2.9.2 “Retirement.” “At McKendree College, normally retirement

occurs at the end of the academic year in which the faculty member attains the age of 70. Continuous tenure expires simultaneously with retirement....” Even if not enforced, it is illegal and should be excised because McKendree could be vulnerable to litigation and AAUP censure if it were implemented. This is an example of how an AAUP chapter can assist a college or university in developing policies and practices that, if nothing else, are compliant with federal law. I was told the AAUP chapter had referred this matter to the McKendree Faculty Affairs Council.

In the AAUP document, “Faculty Tenure and the End of Mandatory Retirement” there is a necessary revision of the “1940 Statement” that had declared that tenure shall continue, absent financial exigency, dismissal for cause, or retirement for age. Since January 1, 1994, however mandatory retirement for age is prohibited under the federal Age Discrimination in Employment Act. Thus the “1940 Statement” must be read to mean that retirement terminates tenure, but retirement cannot be “for age.” Despite the near iconic stature of the 1940 statement, it is not the Holy Grail and needed significant modification and updating with the 1970 Interpretive Comments. I think the entire document could benefit from a robust revision that updates the AAUP’s commitment to academic freedom and tenure.

At East-West University last May, an institution celebrating its twenty-fifth anniversary with a year-long “Perspectives Lecture Series,” I spoke on the topic: “Resisting Conformity: The Threat to Academic Freedom.” Naturally, I cast this presentation in the context of war. Randolph Bourne was a pacifist intellectual who wrote for *Seven Arts* magazine before it was suppressed for antiwar advocacy during World War I. He wrote in “War is the Health of the State,” a major uncompleted antiwar essay before he died at age 32 from Spanish influenza, a pandemic during the Great War: “The pursuit of enemies within outweighs in psychic attractiveness the assault on the enemy without. The whole terrific force of the State is brought to bear against the heretics ...A... terrorism is carried on by the Government against pacifists, socialists, enemy aliens, and a milder unofficial persecution against all persons or movements that can be imagined as connected with the enemy.”

Socialist, antiwar historian Howard Zinn, who was my adviser and frequent professor at Boston University, wrote: “One certain effect of war is to diminish freedom of expression. Patriotism becomes the order of the day, and those who question the war are seen as traitors to be silenced and imprisoned.” I then summarized many of the McCarthy Era witch-hunts that were directed against university professors that led to the direct dismissal of about 100 and hundreds more being eased out through FBI pressure.

I then compared the 1950s with several contemporary cases that raised questions as to the vitality of academic freedom since September 11. Professors Ward Churchill, Nicholas De Genova, Richard Berthold, Sami Al-Arian and my own experiences were presented in comparative perspective. Considerable time was also spent in the question and answer session on the parameters of academic freedom in the classroom. The “AAUP 1940 Statement of Principles on Academic Freedom and Tenure” affirms that professors may express their opinions in the classroom: “Teachers are entitled to freedom in the classroom in discussing their subject.” Professors can be radical, left-wing, Trotskyite, anarchist, conservative, pacifist, right wing and even controversial! The audience, which included the university’s chancellor who had kindly introduced me, laughed at the word “controversial.” AAUP guidelines expressly indicate that, “Controversy is at the heart of the free academic inquiry which the [1940 statement] is designed to foster.” Professors can use books, lectures, and exams that advance the instructor’s commitment to critical thinking and pursuing pedagogy as a moral act. Professors are, however, proscribed from “persistently intruding material which has no relation to their subject.” A course on astronomy, for example, cannot be used by an instructor to condemn gay marriage or abortion with a frequency that intrudes on the stated objectives of the course. Professors may stray from their course topic as long as they are not “persistently intruding” unrelated material. As a professor said to me once at an out-of-state university, “Yes, we are allowed here to say, “Good morning.” or “Have a nice weekend!”

I think the enemies of academic freedom, some of whom are quite liberal by the way, would do well to consider President Kennedy’s extraordinary humility in his American University address in 1963: “If we cannot end now our differences, at least we can help make the world safe for diversity.” While the president was attempting to bridge the Manichaeic divide between the Soviet Union and the United States, it certainly has contemporaneous applicability to academia.

Diversity for ideological differences, diversity in courageously rejecting the silencing of those with whom we disagree under the guise of public manners or goofball calls for self-deprecatory disclaimers, diversity in challenging the canon of educational rigidity and bureaucracy and recognizing without intellectual or ethnic diversity in academe, the capacity of higher education to elevate and liberate the consciousness and folkways of a society is suppressed and attenuated.

*Peter N. Kirstein is professor of history at St Xavier University in Chicago. He is a member of the Illinois-AAUP council and a member of its Speakers Bureau. He has served on the AAUP national Committee on Membership and as president of his chapter.*