### INTRODUCTION

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Whoever has been caught up in the tight tangles of academic-freedom cases must be aware that his practical problems often result from theoretical problems. Not only is it sometimes hard to distinguish the heroes from the villains on the academic stage, but also it often is not easy to be sure how to go about making the distinction: to know what should count for or against the claim that someone is violating the academic freedom of someone else. There is, one soon discovers, no clear and widely accepted definition or justification of academic freedom and no settled account of the way in which claims of violation may be assessed.

The papers in this book were originally drafted for presentation at a conference called to discuss these fundamental conceptual and justificational matters.¹ Some revisions have been made in the papers there delivered, and writers of the principal papers have been given an opportunity to reply to their respondents. The discussion at the conference was a searching one and tended to return repeatedly to the four topics around which I will organize this introduction: (1) the nature of the social and political reality presupposed by claims to academic freedom; (2) consequentialist vs. nonconsequentialist grounds for the justification of academic-freedom claims; (3) special theories deriving academic freedom from a

<sup>1</sup> The Conference on the Concept of Academic Freedom, at The University of Texas at Austin, April 13–16, 1972, held under the gratefully acknowledged auspices of the American Council of Learned Societies and The University of Texas Graduate School. I should like to thank Hardy Jones and Milton Fisk for helpful criticisms of an earlier draft of this Introduction.

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conception of the function of the university vs. general theories in which academic freedom is a branch of civil liberty; and (4) competing conceptions of the academic community.

Descartes maintained that it is useful from time to turn out all our beliefs, like apples from a basket, so that we can pick out and reject the unsound ones, retaining only those that bear close examination. The papers in this volume constitute an exercise in apple sorting. They are concerned not only with whether the apple in question is a sound one, but also with just what kind of apple it is: not only, that is, with the justifiability of claims to academic freedom, but also with the nature and the presuppositions of such claims.

### Social Reality and Academic Freedom

When a professor or a student claims that he is entitled to academic freedom he is generally understood to be claiming the right to pursue the truth unhindered. This understanding is nearly as vague and full of difficulties as the general understanding that the summum bonum is happiness. Radical critics of academic pretensions are especially alert to the ways in which rhetoric and special pleading can pass for impartial analysis and reasoned defense.

It is the general position of the radical skeptic that academicfreedom claims must be understood in the context of a power struggle between classes with conflicting interests and that the various definitions offered of "pursuit," "truth," and "hindrance" will be persuasive ones that simply reflect the interests of the defining parties. Professors themselves are an interest group, but more importantly they are the "functionaries" of interest groups. In a capitalist society they are hired and supported by a class whose interest is in the exploitation of labor. While professors claim to be politically neutral, in the pursuit of their academic interests, they are, it is held, not really so. Assessment by professors of their peers, for retention or promotion, masks political judgments under the cover of professional ones. They are simply maintaining the public orthodoxy. The sponsoring of research by funding agencies, especially the government, is said to be inherently political, yet since research requires funds, the decision not to grant funds is a hindrance that counts as a limitation on academic freedom. Again, professors are professionals who must develop and sell their competences with Introduction ix

an eye to the market for them. Feeling the insecurity of all who are subject to the swings of the market, they demand the right to be judged only on professional grounds by their peers, as opposed to being judged as plentiful or scarce commodities on the labor market. Academic-freedom claims become too easily just ways of defending job security.

As the radical theory works out, the professor is and should be loyal to his own class interests, which are in turn identified with the interests of the class which supports him economically. The aim of reform or revolution should not be to change this fact of life, but to alter or abolish the class relationships that presently obtain; to make the professor the functionary of a governing laboring class, or of a classless social order, rather than of a class of capitalists; to remove him from the role of entrepreneur in his own interest; and to persuade him to identify his interests with those of laboring men. It is felt that this change of identification will be necessary since, among other things, the professor cannot at once pursue the truth and serve as a functionary of capitalism. He cannot do so, because capitalism is inherently exploitative, and the pursuit of the truth will inevitably reveal its exploitative nature.

When academics appeal to their right to be free of hindrance in the pursuit of truth, what we are to understand, on the radical analysis, is that "right" is a partisan term, as opposed to a universal one. The notion of rights that apply to all academics is itself simply a product of class history. To claim rights is ideally to exhibit class awareness, awareness of class interests that are in conflict with the class interests of others.

The radical analysis implies that professors can be functionaries of a class even though they do not know that they are. They can be hired and fired by the capitalist class, which simply makes use of "professional peer" procedures. The analysis also implies that the tasks academic functionaries perform need not be directly related to the interests of the class by which they are hired. They may also engage in "diversionary" tasks that indirectly promote those interests. For example, they may engage the young in philosophical speculation that will serve to keep them diverted from the pursuit of their own true interests, which may be in conflict with the interests of the capitalistic classes.

These latter implications of the radical analysis are seized upon

by critics. The suspicion is mooted that the radical argument is a "built-in" one, in that it is so stated that nothing can count as evidence against it, that it cannot be falsified. For if it is shown that many academics are in fact not in sympathy with the interests of the capitalistic classes, then the reply can be that they are functionaries even if they do not know that that is what they are. If it can be shown that many academics do pursue the truth wherever it may lead, it can be argued from the radical position that the pursuit is covertly guided so that it does not endanger the interest of the capitalist classes. If it be argued that there are a great many pursuits in research and teaching that do not even remotely advance the interest of the capitalist class, of which the academic is supposedly the functionary, it can be answered by the radical that in fact these pursuits do advance the capitalist-class interest by diverting the potentially active and revolutionary young from the roles that, had they not been diverted, they might otherwise play in bringing about social change. They are reading Roman law instead of picketing the courts, conjugating Swahili rather than burning ghettos.

Let us return to the common conception of academic freedom as the right to pursue the truth unhindered. When, to begin with, may the scholar be said to be pursuing the truth? "To pursue" is generally taken to mean to do research, to engage in scholarship, to teach, or to learn. When, then, is the academic properly said to be engaged in research or scholarship? When, on the other hand, is the academic engaging, even though unconsciously, in the rationalization of conclusions already accepted, or in apologetics for ideologies taken as given? Consider the economist who spends his life investigating questions that can only be taken seriously by a capitalist (or by a Marxist), never questioning the ideological presuppositions of his undertakings. Can this economist rightly be said to be engaged in the pursuit of truth? It is easy to answer too hastily. Perhaps the vast majority of academics, including many of those who win international prizes for their contributions, seldom question the fundamental assumptions of the ideology that informs their work.

The matter is relative. It makes no sense to suppose that a person could simultaneously investigate the truth of a proposition and of all the indefinitely many propositions that are presupposed by it. *Introduction* xi

Yet it does make sense to require some degree of critical awareness if his activity is to be accepted as "pursuing truth." There are unavoidable questions of intention, practice, and good faith. If orthodoxy throws a fence around the mind, the fence is not always easy to detect. Appeals to the requirements of sound methodology, for example, can mask ideological motives, conscious or unconscious.

There are infinitely many true propositions and another infinity of false ones. What, then, does it mean to pursue the truth? Some selection between truths that are and are not worth pursuing is inevitable. But what is the basis of this selection to be? How are we to distinguish between acceptable and unacceptable criteria? Is such a distinction possible on impartial, universal grounds? Or must it be merely a reflection of the interests, especially the economic interests, of the class to which the academic belongs or with which he identifies his interests?

The nearly inevitable move is to appeal to procedural "criteria": the professional judgment of one's peers. One's academic peers will consider it worth one's while to investigate the autobiographical allusions in Shakespeare's sonnets but not to count the number of apostrophes in *King Lear*, worthy of a scientist to probe the secrets of the behavior of matter at high temperatures but unworthy to determine whether this behavior was predicted by the prophets. Yet there remain the questions of how one determines who one's academic peers are and whether *this* judgment can be independent of ideology and class interests. Purely formal "criteria" will not do. Membership in professional associations and possession of certain degrees provide no guarantee of nonbiased judgment.

Truth is a notoriously difficult term. What kinds of truth may properly be pursued with an academic community? Does the inner "revelation" that results from the use of LSD count as truth? Those who, in the context of art criticism or religious teaching, speak of truth as experience would find it difficult to explain why druginduced experience cannot be truth as well. Is there a truth perceived only by the Loyal American, to which the participant in Un-American Activities is blind? Can a political scientist who is an anarchist teach "the truth" about political life? Or suppose that a sociologist holds that students can only grasp the truth about American communal life by involvement in protest movements and as-

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signs participation in organizing, in picketing, and in sit-down strikes.

At this point we approach one of the central contemporary difficulties in understanding the justification and limits of academic freedom. Practical problems arise for academics not as much over the abstract question of the nature and varieties of truth as over the permissible activities in which they may engage, or require or encourage their pupils to engage, in the pursuit of truth. A professor of history may, for example, because of his pedagogical beliefs about the necessity for an atmosphere conducive to communal learning, require his students to engage in "sensitivity sessions" as a preliminary to the semester's work. "Sensitivity session" is a broad concept and can include exercises in warm swimming pools that may well raise questions about the limits of academic freedom. A professor of sociology may insist that his discipline requires the experimental inducement of social change, for example of patterns of land ownership. While such an experiment may raise no questions if confined to a hacienda in Peru, it will surely do so if conducted in a neighboring region of large landholdings. Our sociologist may hold not merely that there should be experiments in land ownership but also that the experiments should be conducted in such a way, with respect to participation and publicity, as to encourage beneficial change in society and that the measure of his success as a sociologist is precisely the degree to which his efforts result in such change. Truth easily becomes indistinguishable from ideology, and the pursuit of truth from political activism. It is worth bearing in mind that, although academic freedom has been oppressed in our time, it has also been pressed—toward limits about which we are not so clear as we should like to be.

What kind of *hindrance* should we regard as a violation of academic freedom? Bad weather or faulty equipment can hinder a research project; a broken-down elevator in the stacks can hinder scholarship. The sort of hindrance relevant for our purposes must be attributable to the activities of persons, as opposed to the occurrence of natural events. The Bermuda high that is slowing the progress of this introduction is not, for our purposes, a relevant hindrance. But to say that the hindrance must be attributable to the activities of persons does not carry us very far. There are inno-

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cent and not-so-innocent person-attributable hindrances. The problem is how to distinguish between the two.

Consider the funding of research. When is failure to provide continuing funds for research in progress a violation of academic freedom? It will be useful to bear in mind here that there are two different ways in which we may apply the principle that academic freedom should not be violated. We can say of a given case: (a) that the withdrawal of funds is a violation of academic freedom and is therefore unjustified, or (b) that it is a violation of academic freedom and is nevertheless justified. If we think of the preservation of academic freedom as a necessary condition of correct administrative action as in (a), we are likely to be more cautious about identifying a case as a violation of academic freedom.

The withdrawal of funds for a research project may be a violation of academic freedom if the purpose of the withdrawal is to hinder the (professionally desirable) project. In circumstances in which funds must be cut somewhere to ensure the survival of the institution, the purpose of withdrawing funds from a project is not to hinder it but to save money. When academic freedom is violated, the funds are withdrawn so that the project will not continue, it being understood that the project is desirable as judged by "professional peers."

# Consequentialist vs. Nonconsequentialist Grounds for Academic Freedom

Academic freedom is a practice within an institution, the institution of the university. In discussing the justification for protecting the academic freedom of the faculty, one must begin with the aims of the university. If there is little agreement at less general levels, nevertheless there is general agreement that universities aim at the discovery, publication, and teaching of the truth. It is usually argued that this is necessary for well-being, or at the least for the avoidance of misery. It is commonly then assumed that this general justification of universities somehow also justifies academic freedom for the academic. The steps of the argument are like this: (1) the aim of the university is to advance well-being, or at least to minimize misery; (2) a necessary condition of the advancement of either of these ends is the discovery, publication, and teaching of

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the truth; (3) the discovery, publication, and teaching of the truth can only take place in the presence of academic freedom; and (4) therefore academic freedom should be allowed to each academic.

This argument has a number of defects, the most glaring of which is the hiatus between steps 3 and 4. It does not follow that because in general academic freedom should be allowed, it should therefore be allowed to everyone. The right a given academic had to academic freedom might on these premises be a differentially qualified one, depending on the extent to which he was in a position to discover or promulgate truth that was for the happiness of everyone. If he should discover or promulgate truths that caused misery, then he would presumably be under an obligation to hide them. If, because of his ineptitude, laziness, bad luck, or assignment within the academy, he was unlikely to find any truths at all that would affect well-being very much, then his entitlement to academic freedom would be tenuous at best.

One "nonconsequentialist" suggestion that is offered in this volume is that the academic has a moral right to academic freedom, which is based not on the instrumental value of the activities in which he engages, but on the consideration that it is simply unfair to set him the socially useful task of discovering the truth and then not to allow him to accomplish, or to hinder him in the accomplishment of, what he has been set to do. It is further argued that this "setting" is what in fact occurs in universities. Faculties are in fact recruited on the understanding that they will actively seek, publish, and teach the truth, and that advancement and honor will turn on their success in these endeavors. So far, this argument is only partially nonconsequential. It justifies the general practice of seeking the truth on consequential grounds and ensuring academic freedom for the individual on nonconsequential ones. A further nonconsequentialist move is to argue that the very practice of seeking the truth can be justified on moral grounds: that the discovery of the conditions of life and of the consequences of different policies is itself a necessary condition of, and hence required by, the attempt successfully to do that which is right for everyone.

The central issue in these maneuvers is whether academic freedom can truly be said to be a moral right, or whether it is a "right" that can at best be justified prudentially. The dispute presupposes that prudentially justifiable rights are distinguishable from, and are Introduction xv

not, moral ones. The issue may seem moot to the uninitiated, since it may seem that at the most general level prudential concerns cannot be distinguished from moral ones: that if a policy is likely to result in general misery it is a policy that ought not to be pursued, and that the question whether the "ought" is a prudential or a moral one insists upon a nonexistent distinction. The reluctance to identify moral and prudential concerns often stems from the feeling that there is a quality of moral judgments that cannot be reconciled with what is held to be the irremediably instrumental quality of prudential ones. The objection to instrumental judgments, from the moral point of view, is that they are never firm, never categorical. They can always be overridden by the judgment that the prudential desideratum, the antecedent of the hypothetical imperative, is dispensable or not essential, as once it was thought to be. But whether the avoidance of general misery or the attainment of general well-being are, as overall ends, dispensable in this way is, to say the least, questionable. If these ends are indispensable, the distinction between moral and prudential judgments, at the highest level of policy, may break down.

The consequentialist vs. nonconsequentialist argument can take a different turn. Another nonconsequentialist tack is to hold that to set academics to pursue the truth and then to hinder them in its pursuit is simply inconsistent and as such, regardless of morality, indefensible. Thus, supposing that he is truly committed to the pursuit and discovery of the truth, the president who threatens an assistant professor with nonrenewal if he continues to probe the locally touchy question of the legal validity of claims to offshore minerals is acting inconsistently and hence irrationally. We move closer to the rationale for the staunch defense of academic freedom when we consider the moves open in such a situation. Suppose the president answers that the university is committed only to the pursuit of those truths that, in the pursuit, do not weaken the support of the university. It requires no imaginative feat to see that this policy may well result in the tailoring of the activities of academics to the likes and dislikes of the legislators and contributors who provide their salaries. Since these likes and dislikes will probably turn on questions of special interest and advantage, the guidance they offer will have little relation to the uncovering and publication of truth.

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Of course, there may be institutions that are not committed to the pursuit of truth and that are consequently involved in no inconsistency in throwing roadblocks against employees who pursue it. But it would be difficult to maintain that an institution is at once entitled to the honorific name of "University" and not concerned with finding and publishing the truth.

There is, even in the moral and logical versions of nonconsequentialism mentioned above, more than a small residue of consequentialism. For the pursuit of truth is on neither side claimed to be an activity that may have value in itself. Yet if we are to take our cue from Aristotle<sup>2</sup> or to learn from our own experience or that of others who engage in scholarly or scientific work, there is much to be said for the pleasures of pursuit. We might well ponder the question whether life would be richer or poorer if it were possible to find the answers to all our scientific and scholarly problems by pressing buttons on a Universal Encycloputer. One line of justification for academic freedom might be that there is a burden of proof upon him who would interfere with activities that are intrinsically valuable and, in consequence, on him who would interfere with the development of and instruction in intrinsically valuable activities.

A consequence of this conception of academic freedom, as freedom to engage in one of many kinds of intrinsically valuable activity without interference, is that academic freedom so conceived is simply a part of civil liberty. Freedom of speech and assembly and freedom to engage in activities that harm no one include the freedom of academics to engage in research and publication and to teach the truth as they discover it. But academic freedom can also be conceived as a special right and not as part of a general one, a right that belongs exclusively to members of an academic community in virtue of that membership.

## Special vs. Nonspecial Theories of Academic Freedom

Is the academic entitled to freedom in virtue of his membership in the academic community, or in virtue of his rights as a citizen? The "or" need not be an exclusive one, but if he is entitled to freedom both as an academic and as a citizen, how are these two roles related in the justification of his claims to freedom?

<sup>&</sup>lt;sup>2</sup> Aristotle, Nicomachean Ethics, Book X.

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The "special theory" of academic freedom holds that the rights to teach, do research, or publish without lay interference "are not general human rights like the right to free speech. They are special rights that derive from particular institutional structures, which are created by quite specific sets of constitutive rules."3 It is a theory that, given that knowledge is highly valued and that the freedoms mentioned are necessary means to it, would and does obtain even in polities in which there is no general freedom of speech and publication. It apparently obtains to a considerable degree in the Soviet Union and did obtain in Imperial Germany. The theory is adequate to cover many of the cases in which we would all be concerned that academic freedom is being violated. But, so it is held, the theory is not by itself enough to cover all the cases that most of us would want to call violations of academic freedom. For example, it does not cover cases of reprisals against professors for engaging in political activity, or interference with "private clubs" on campus by political fanatics, or cases in which professors are prevented from speaking on campus on political matters that are outside their professional competence.

The "general theory" is the theory that "professors and students have the same rights of freedom and inquiry, freedom of association, and freedom of publication in their roles as professors and students that they have as citizens in a free society, except insofar as the mode of exercise of these freedoms needs to be restricted to preserve the academic and subsidiary functions of the university."4 This theory does not, of course, find support in an unfree society, not in Imperial Germany, not in the Soviet Union. The same theory would justify claims to freedom of speech, research, and publication in nonacademic institutions within a free society, for example, oil companies, social clubs, neighborhood organizations, and fraternities. But in each case, as with universities, the special function of the institution in question will impose limits on academic freedom. Thus, the employee of an oil company is not allowed the freedom to publish the secret formulae, the log data, or the future exploration plans of his company; and the member of a swimming club is not allowed to hold political assemblies in the pool. Anal-

<sup>&</sup>lt;sup>3</sup> John Searle, *The Campus War* (New York: World Publishing Co., 1971), pp. 184–191.

<sup>&</sup>lt;sup>4</sup> Ibid., pp. 191-197.

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ogously, so it is argued, students do not have "equal time" with professors in the classroom; and professors may not use the classroom as a political forum. The function determines the limitation. This "general theory" can, as by itself the "special theory" cannot, account for the claim that the professor who engages in politics outside his competence and is punished for it has had his academic freedom violated. What has been violated is his freedom as a citizen to engage in politics, supposing that there is no special reason related to the function of a university that would place restrictions on his political activity. Similarly, interference with private clubs on campus is a violation of academic freedom, just because it is a violation of civil liberties that cannot be warranted by appeal to the function of a university, and professors, whatever their field of competence, cannot be prohibited from speaking to members of the campus community, because, like other citizens, they have a right to that freedom, and there is no adequate ground for overriding that right.

The chief objection to an analysis that emphasizes the "general theory" is that one risks confusing academic freedom with general civil liberties. The "general theory" is not a theory of academic freedom but of freedom of speech and assembly, of civil liberties available to all. When a university exercises its power to restrict a professor's right to take part in political activity, it infringes his civil liberties. To identify such infringement as of academic freedom is to invite the response that, if academic freedom is to be given a special prominence and role in civil life, then academics should be required to restrict their public utterances and performances according to academic standards and should be punished if they do not do so. The 1940 Statement of Principles on Academic Freedom and Tenure falls into just this difficulty. By failing to recognize that academics are citizens entitled to the freedom they claim, the authors of the Statement think they must stipulate that "he should remember that the public may judge his profession and his institution by his utterances. Hence he should at all times be accurate, should exercise appropriate restraint." The "should" may originally have been intended as cautionary and friendly; but it has become a hard quasi-legal restriction on the freedom of academics in their extramural lives.

The response to this objection is that, unless one grants that

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there is a general theory according to which academic-freedom claims can be justified, unwanted consequences follow. For example, the nonrenewal of a professor because of his political utterances will *not* be a violation of academic freedom. Academic freedom, understood so narrowly as not to include the violation of civil liberties of academics, will, so it is argued, not be much under threat. The chief threats to academic freedom, properly understood, come as threats to the civil liberties of professors, as threats of reprisals for their taking an active part in political affairs, in particular.

Should we say that Angela Davis, nonrenewed by the Board of Regents of the University of California because she was a Communist, had suffered at their hands a violation of her academic freedom? On one view it was a violation. On another, it was wrong, and a violation of Miss Davis's civil liberties, but nevertheless it is not good policy to claim that the sin against Miss Davis consists in a violation of her academic freedom. She did not, on the latter view, need to claim any special status as an academic to show that she had been treated in an indefensible way; and for her to claim special status as the grounds of her complaint is to risk being held to the standards in her public utterances that that status supposedly requires.

It may be useful to put the problem of the relation between the special and general theories in a different way. Let us contrast the freedom of the academy, the freedom that is found within the academy, with the freedom of academics, the freedom that members of the academy have in their individual lives whether outside or inside the academy. Let us say that the freedom of the academy is violated when, and only when, within the academy, a professor or student is hindered in that he is threatened by or subject to reprisal, coercion, or restriction on nonacademic grounds. Thus, the freedom of the academy will have been violated if an academic is dismissed, not because his teaching or research is unsatisfactory as judged by his peers, but because he has assigned a text of which the Board disapproves or because he is investigating a question (of the intellectual ranking of races, for instance) of which students and faculty disapprove. The freedom of an academic, on the other hand, is the freedom he has, without fear of reprisal, to engage in politics, give speeches, write letters to the newspaper, take part in demonstrations, and in general live his private life as he pleases under the protection of the Bill of Rights. The freedom of the academy is a guarantee that within the university an academic's performance will be judged and rewarded only by his peers on the canons appropriate to his profession. The freedom of academics is the freedom that academics have in their lives as citizens in a given polity. It is clear that the freedom of academics can in some polities be severely limited at the same time as freedom within the academy flourishes. This will be so when it seems evident to all that knowledge and the development of its applications are of great value, that universities are places where knowledge is found and passed on, and that these functions cannot be performed in the absence of freedom of the academy, at the same time as, for reasons of their own, the government or the majority makes no bones about restricting speech, assembly, and publications.

Given this distinction, the question can now be phrased: Is the freedom of academics best described and defended as "academic freedom"? The arguments for doing so appear to turn around the point that academics can be singled out as a class for discriminatory treatment under the Bill of Rights and that the term, academic freedom, serves to call attention to this discrimination. For to discriminate against members of the academic profession may well be to chill their active pursuit of the truth within the academy, to soften and quiet the debates that are held within the walls. Because of the open way in which the intramural debates are conducted, academics are likely to be contentious and open in public and extramural debates. In a repressive political atmosphere, then, academics are likely to be especially troublesome to the regime. It is well to recognize that selective or discriminatory application of the laws to academics is just that and to mark this discrimination by the accusation that it is not merely freedom that is being violated, but the freedom of academics.

On the other hand, it is insisted that if the reprisals taken against an academic who exercises his political freedom are marked off as violations of academic freedom, rather than of freedoms that should be the possession of all, then dangerous inferences will be made. It will be, and is, reasoned that if the academic claims special status for himself, in that the violation of his political freedom is somehow a special case, then others will have the right to Introduction xxi

insist that academics live up to a special, academic standard of performance within the political arena, a standard to which other members of the public are not held. It may also be contended, wrongly, that it is only in virtue of adherence to this higher standard that the academic is entitled to the protections to which every citizen is entitled. Conversely, the insistence that there is something especially harmful about violations of the political freedom of academics is likely to be taken to imply that the violation of the political freedom of nonacademics is somehow less important because not marked off by a special term.

The distinction between the freedom of the academy and the freedom of academics is not parallel with that between intramural and extramural freedom. The freedom of the academic obtains both inside and outside the academy. Yet to protect the freedom he enjoys as a member of the academy it is often necessary to make the difficult distinction between the academic's intramural and extramural performances. It will often be unclear whether a speech that triggered a dismissal was addressed to the academic community or to the general public. The legitimate question at issue is whether the utterances in question are or are not to serve as evidence of the professional competence of the academic. A speech by a political scientist addressed to political scientists or other members of the academic community is generally evidence of competence, or the lack of it; a speech by the same political scientist on the steps of the Capitol to a demonstrating crowd should, arguably, never, and in any case seldom, be used as evidence of competence. But it is unfortunately often unclear whether the speech or publication that triggered a dismissal was addressed to the academic community. The academic community is not easy to delineate. It cannot be so tightly circumscribed as to include only the faculty of a given university. Professors are members of the faculties not just of universities but of university systems. They are practitioners of internationally practiced disciplines. They carry on their debates, in all sorts of journals and magazines, with persons who share their intellectual interests.

The distinction between the freedom of academics and of the academy is useful in clearing up a recurrent problem in the discussion of academic freedom: the question whether academic freedom is a collective or a distributive right. Is it a right that pertains

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to each academic in virtue of his active pursuit of the truth? Is it a right that he possesses merely in virtue of his membership in the academic community? How can a law professor, who has not published for twenty years and does not keep up with the development of law in his area of specialization, claim the right to academic freedom, if that right exists to protect the pursuit of truth? Why should a part-time instructor of optometry hired to teach students how to fit glasses, or an associate professor of education whose chief duty is to supervise the physical conditioning of the football team, be accorded academic freedom?

The answer to such questions should not be quick and doctrinaire. The notion that a man may demand the protection of a right that is contingent on a function that he does not perform may seem repugnant. Yet if universities do exist for the pursuit and dissemination of the truth, and if freedom of the academy is a necessary condition of successful pursuit, then it is so far worthy of protection. If the test of contribution to knowledge as a precondition of academic freedom is imposed, abuse by freedom's enemies is invited. The burden would then be upon the individual academic to show that he is immune to hindrance because of the accomplishment or promise of his research. But it is not usually easy to prove that one is contributing, or is likely to contribute, to the advancement of knowledge. The freedom of the academy indeed presupposes not only that such determinations be made, difficult as they may be, but also that the burden of proof will be imposed by academics on academic grounds. It presupposes as well that the questions at issue are retention and advancement, not entitlement to academic freedom.

## Competing Conceptions of the Academic Community

It is nearly certain that discussions of the nature and justification of academic freedom will end in discussion of the nature and justification of those academic communities we call universities. The present papers, and the discussion of them in conference, provide no exception. The question what *kind* of academic community we are talking about becomes particularly pressing in discussing tenure and disruption on campus.

It is suggested in one of the following papers, and denied in others, that tenure as traditionally understood in the United States Introduction xxiii

could be considerably modified in the interest of greater academic accomplishment without impairing academic freedom.

Suggestions of this kind immediately raise the question what, ideally, university communities should be like, and how they should be required to justify themselves before the community at large. On one view, the academic community is best thought of as analogous to a religious community to which members commit themselves for a lifetime of scholarships and research. If premises be added that assert the value of these occupations and the likelihood of attempts to hinder them by removing the academic from his post, some form of tenure is suggested.

It may be useful in this connection to compare the "tenure" enjoyed by a priest with that of the typical academic. There are two main points of comparison to be mentioned. One is that priests are ordained, that is to say, officially designated as priests. This designation—priest—now follows them into whatever monastery, church, school, or other organization they enter. Thus, there is, so far as this "tenure" is concerned, no question of a right to continue in one's position in a given ecclesiastical institution. The second point is that it is, by and large, up to the individual whether he leaves the priesthood. The weight of motivation is in our time nearly all against expulsion counter to his will. But ordination, or something analogous to it, would not likely serve the purpose of tenure. It would provide little protection against the person who would remove the academic from his institutional position for non-academic reasons.

More to the point is the tenure of a judge. Here the purpose of tenure is relatively plain. The judge is not as subject to the inevitable pressure to decide cases the "right" way if no one can take his position away from him; and it is in the common interest that he should not be subject to such pressure.

If the university were a community of men who had dedicated themselves to the priesthood of truth seekers, tenure might still be necessary. But unlike the monastery, there are strong and recurrent motivations for depriving the academic of his position within the university community. Judges are quite clearly in need of the protection tenure affords; unlike academics, or most of them, the judge is entirely dependent on his office for the exercise of his function. Judges cannot be judges outside their offices.

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Other suggestions have been made in these pages and elsewhere concerning the nature of a community of persons who are dedicated to the pursuit and publication of the truth. These suggestions turn partly on the foremost conception of the nature of the academic's truth-seeking activity. Is it a sort of meditation, a kind of building project, a joint venture for exploration, a critical dialogue? Given different conceptions of the activity, different conceptions follow of what it is tenure is supposed to protect.

These contrasting models of the pursuit of truth will also determine the attitude adopted toward the disruption of the activities that take place within a university, and of the relation between disruption and academic freedom. Depending on the model one has in view of academic activity, disruption can seem an unwarranted annoyance, an impediment to labor, a false scent, or an interference in the exchange of ideas. Yet there are those academics who hold, on principle, that there are some activities taking place within a university that should not merely be discouraged by budgetary and other administrative means but should also be disrupted, even by force. There are, they believe, speakers who should not be allowed to speak, researchers who should not be allowed to research. The pursuit of truth must be qualified by humane principles. Not just any methods or objectives will do, but only those that pass moral muster.

If the papers in this volume do not provide answers to all the questions they raise, that is to be expected. If they reveal a certain disarray in the ranks of those who would defend academic freedom, that is to be expected too. As times change, conceptions change—of the economic and cultural position of the professor, of the nature of the ideal political community within which the academic community finds its place, and of the academic community itself, of its structure and functions. Academic freedom is an ideal of very wide application, but only at the price of a certain flexibility.