

The Free Speech Controversy

The Free Speech Controversy is over. Basically all that remains of it are the hundreds of arrested students facing trial. These last two weeks (to 15 February) have seen UC students organize mass picketings of Oakland restaurants with discriminatory hiring policies, and a demonstration at the federal building in San Francisco protesting the U.S. attacks on North Vietnam. Student organizations have set up tables on campus, and from these tables have distributed and sold literature, and have solicited funds and members for a variety of causes and groups including voter registration in Mississippi, the nomination of Ronald Reagan for governor, the repeal of the statute of limitations for Nazi war criminals, the legalization of marijuana, and the urging of draft-eligible men to refuse to serve in Vietnam. Speakers on the steps of the administration building have called President Johnson a murderer for his Vietnam policy, advocated disobedience of the Selective Service Act, and called for more raids against North Vietnam. Herbert Aptheker, a leading American Communist, without police or a faculty moderator present, addressed a student gathering in the Student Union building on Negro history, and also spoke from Sproul Hall steps on the Vietnam situation. In view of this and other activity which has gone on lately on the Berkeley campus of the University of California, one can hardly say that freedom of expression is very limited and that free speech does not exist at UC.

On September 14, 1964, every single instance of expression mentioned above would have been in violation of the newly established regulations governing student activity. Whether every single instance is precisely a matter of free speech is something the reader can decide for himself or herself—nevertheless, each does involve some form of expression. Presently the Free Speech Movement has unofficially ended and it no longer fights the administration because the substance of its demands have been met: all of the above forms of expression are permitted, and alleged violators of the few regulations presently existing can expect a fair trial by a faculty committee and a presumption of innocence.

The precipitant of all of the trouble was the new set of regulations unilaterally established by the administration the week before Fall semester classes began. The new regulations violated almost every aspect of the first amendment and took away rights students traditionally had enjoyed on the Cal campus. In effect the new rules forbade advocating or organizing any form of social or political action, and endorsing any political candidate or ballot proposition, on campus. It also forbade the setting up of tables at Sather Gate, the main campus entrance for pedestrians, because these tables allegedly impeded the flow of traffic. The former rule was justified on the basis of a California law forbidding the University from taking any political, social, or religious position. Consequently the only activity allowed student groups was informing or describing—i.e. they were free to give out information detailing a candidate's voting record and platform but they could not recommend voting for him, or distributing literature urging readers to vote for him.

The students were up in arms immediately over the new rules. Their protests brought some minor changes. The traffic rule prohibiting tables was dropped; the rule was ridiculous because tables have been at Sather Gate for years, without ever having impeded the flow of traffic. On Sept. 28th, the rule governing the content of expression was changed slightly. The administration announced that student organizations henceforth could endorse ballot propositions

and candidates. Coincidentally, the day after this new interpretation was made, the administration announced its endorsement of a ballot proposition which would provide additional capital improvement funds for the University.

Between this late September date and November 20th, a number of significant events occurred but there were no further changes in the regulations. Some of these events were startling. Approximately 3,000 students, through civil disobedience, prevented the removal of an arrested ex-student, Jack Weinberg. Prior to his arrest, Weinberg had been seated at a table which displayed civil rights literature (some free and some of it for sale), a sign-up sheet for prospective members of CORE, and a container for financial contributions. At the time of Weinberg's arrest, literature of a social and political nature was on sale in the campus bookstore, the U.S. Marines were recruiting in the Student Union building, and the United Crusade displayed containers in the dining commons for donations. Apparently the administration did not see any inconsistency in its view of Weinberg's activity as illegal and its allowing the sale of literature, recruitment, and solicitation by non-student groups elsewhere on the campus for other causes.

On the day of, but prior to, Weinberg's arrest on October 1st, eight students had been cited for similar activities on the preceding day—they were indefinitely suspended, a sanction which appears nowhere in University regulations. On October 2nd, the administration negotiated a truce with the students which ended the 32-hour siege of the entrapped police car, brought the release of Weinberg after formal booking, and established a faculty committee to hear the cases of the eight students. This committee, chaired by a law professor, began its hearings by recommending that the students be reinstated in accordance with the American juridical concept, presumption of innocence. The administration ignored the recommendation. The feeling among many students was that the administration was out to get the student leaders. This feeling was strengthened further by the administration's going beyond the punitive recommendations of the committee at the termination of the hearings.

On November 20th, the Regents of the University of California met while 6,000 to 8,000 FSM supporters sat in a park area adjoining their meeting place, awaiting the results of the meeting. The Regents issued a clarification of the existing rules which failed to meet most of FSM's demands and ignored many of the disputed issues, but did allow for the organization of off-campus political and social action with the proviso that it not lead to arrests. It was understood by most people that the administration would take no retroactive action with respect to participants in the events preceding the Regents meeting.

However, on November 28th, the Chancellor's office sent letters to four of the student leaders charging them with violations which allegedly occurred October 1st and 2nd. FSM had lost most of its supporters during the intervening period (the 20th thru 28th), as the dwindling numbers of students attending FSM rallies indicated. This latest action brought back all of FSM's student support. FSM demanded that these charges be dropped and flatly stated that it would enter Sproul Hall and remain there until they were dropped. The administration ignored this demand and 1200 students entered. Six hundred to 800 police participated in the arrest of the 800 students who awaited the change in the administration position.

The faculty as a body up until this time had played no formal role in the controversy. The majority of the faculty had little awareness of the issues, and by and large were even less informed of the student position. However the shock of a small army of police on campus and 800 students being arrested brought about the faculty's utmost concern and deliberation. At the Academic Senate meeting on December 8th, the faculty voted 824 to 115 for a resolution that

there be no regulation of the content of speech and that only the form (time, place, and manner) of speech could be regulated. It was through this expression of the faculty that the administration reconsidered its position, and made the necessary changes which once more allowed UC students their constitutional guarantees. This faculty action substantially ended the Free Speech Controversy, even though minor details are still being worked out at the time of this writing.—
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