

THE UNIVERSITY OF CHICAGO | The College
AIMS OF EDUCATION ADDRESS 1995
SEPTEMBER 24

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Welcome to what you will come to know as *The University* and to the beginning of what I hope and trust will be one of the great adventures of your life. Whenever I think of students arriving here for the first time, I can't help but recall an incident involving Justice Oliver Wendell Holmes. At the time of this incident, Holmes was a very old man, nearing ninety years of age, in the autumn of his very long and very distinguished career as a justice of the United States Supreme Court. On this particular occasion, Holmes was on a train headed north from Washington. He was deeply engrossed in reading a legal brief when the conductor knocked on the door to his compartment. Recognizing Holmes, the conductor respectfully asked for his ticket. Holmes looked in his coat pocket—no ticket. He looked in his vest pocket—no ticket. He reached into his trouser pocket—no ticket. Growing ever more frantic, Holmes began rummaging desperately through his briefcase—still no ticket. At this point, the conductor, trying to calm Holmes, said “Never mind, Mr. Justice. It's really not a problem. When you find the ticket, just mail it in to the company.” To which Holmes exploded: “You dolt! I don't give a damn about your ticket, I just want to know where the hell I'm supposed to be going!”

In your first days on this campus, you must feel a bit like Justice Holmes—you want to know where the hell you're supposed to be going. My task this afternoon is to provide at least a small piece of the answer.

I should like to begin by telling you a bit about my world. It is the world of the law. More specifically, it is the world of Constitutional law. Law is about stories. It is about real people involved in real disputes with real consequences. So, I shall tell you a story.

This story begins during World War I. As you may or may not know, World War I was not a particularly popular war with the American people. Many individuals were hostile to the draft and seriously questioned the wisdom and even the morality of the war. Needless to say, such opposition did not sit well with the government. In 1917, Attorney General Thomas Gregory, attacking the loyalty of war opponents, declared: “May God have mercy on them, for they can expect none from . . . an avenging government.”

Gregory wasn't kidding about the “avenging” government. In 1918, Congress enacted the Sedition Act, which made it a crime for any person to utter “any disloyal, profane, scurrilous, or abusive language intended to cause contempt . . . for the . . . government of the United

States, the Constitution, or the flag.” True to the Attorney General’s threat, federal authorities launched more than 2,000 prosecutions against individuals who wrote or spoke against the war effort.

One such prosecution involved five young, Russian-Jewish emigrants—Jacob Abrams, Mollie Steimer, Hyman Lachowsky, Samuel Lipman, and Jacob Schwartz. In the summer of 1918, the United States sent a contingent of marines to Vladivostok. Concerned that this was the first step of an Allied effort to crush the Russian Revolution, these five self-proclaimed socialists and anarchists threw several thousand copies of each of two leaflets— one in English, the other in Yiddish— from several rooftops on the Lower East Side of New York.

The leaflets, which were boldly signed “The Rebels,” were addressed to other Russian emigrants. After stating that they hated “German militarism” even more than the “hypocritical tyrants” in Washington, the Rebels warned those who worked in ammunition factories that they were “producing bullets, bayonets, and cannon to murder not only the Germans, but also your dearest, your best, who are in Russia and are fighting for their freedom.” The leaflets concluded by calling for a “general strike” in response to the “expedition to Russia.”

The Rebels immediately were fingered by a government spy and arrested by the military police. After a controversial trial, at which it became clear that they were despised for their antiwar and socialist views, they were convicted of violating the Sedition Act of 1918. Noting that the “only thing [the defendants] know how to raise is hell, and to direct it against the government of the United States,” the trial judge sentenced the Rebels to terms ranging up to *twenty* years in prison.

The defendants appealed their convictions to the Supreme Court of the United States, claiming that they had been punished for exercising their Constitutional rights. Specifically, they argued that their convictions violated the First Amendment to the United States Constitution, which guarantees that “Congress shall make no law . . . abridging the freedom of speech.”

In *Abrams v. United States*, the Supreme Court, in a seven-to-two decision, rejected this claim and upheld the convictions. For the majority of the Court, this was an easy case. Because the natural tendency of the defendants’ speech was to interfere with the war effort, it simply was not within “the freedom of speech” that is protected by the Constitution.

Justice Oliver Wendell Holmes, the same Justice Holmes who some years later was to lose his railway ticket, dissented. Holmes’s dissenting opinion in *Abrams* is worth reading, for it remains one of the most eloquent statements ever written by a Justice of the Supreme Court about the First Amendment.

Holmes wrote: “Persecution for the expression of opinion seems to me perfectly logical. If you have no doubt of your premises . . . and want a certain result with all your heart, you naturally express your wishes in law and sweep away all opposition. . . . But when men have realized that time has upset many fighting faiths, they may come to believe . . . that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That at any rate is the theory of our Constitution. It is an experiment,” Holmes continued, “as all life is an experiment. . . . [But] while that experiment is part of our system I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country. . . . I regret,” Holmes concluded, “that I cannot put into more impressive words my belief that in their convictions upon this indictment the defendants were deprived of their rights under the Constitution of the United States.”

I first read this passage, written seventy-five years ago, when I was a student at this University twenty-five years ago. It has engaged my energy and curiosity ever since. Indeed, I think it is fair to say that it was my puzzling over this passage under the probing tutelage of Professor Harry Kalven that, for better or worse, put me on the path to my career and, indeed, to where I stand this afternoon. I learned a great many things from Professor Kalven. I learned from him, not that dissenters ought to be tolerated, but that they ought to be heard. Kalven believed that even radical dissenters deserve First Amendment protection, not because they are harmless, but because they have something to say and ought to be heard in a democratic society. Kalven also taught me to appreciate eloquence in judicial writing, but also to view it with a wary eye.

Holmes’s argument surely is eloquent. But is it persuasive? Keep in mind that Holmes failed to persuade seven of his eight brethren on the Court. Were they so obviously wrong?

Consider the following difficulties with Holmes’s argument: First, the Rebels did not state their opposition to the government’s intervention in Russia in an effort to persuade the government to reverse its policy. Rather, they attempted to subvert the policy of a democratically elected government by advocating conduct that would obstruct that government’s ability to achieve its goals. Surely Holmes is right that the First Amendment should protect even those ideas that “we loathe and believe to be fraught with death” insofar as they are addressed to the political process, but should the First Amendment protect speech that seeks to bring about change, not by political persuasion, but by obstruction, or force or violence?

Second, Holmes argues that a speaker should not be punished unless his speech “so imminently threatens immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country.” But can this be right? Suppose there are

many groups of “Rebels,” each of which independently advocates general strikes among munitions workers. Can it really be that the government is powerless to protect itself against the cumulative impact of such groups merely because no one of them independently satisfies Holmes’s test? And although free speech surely is important, is it obviously so important that it necessarily outweighs society’s interest in protecting the lives of soldiers, even in wartime?

And third, suppose the Rebels had been prosecuted, not for violating the Sedition Act of 1918, but for violating an ordinance against littering. Can it really be that the First Amendment gives the individual a constitutional right to throw thousands of leaflets from a rooftop unless “an immediate check is required to save the country”?

What are the limits of Holmes’s logic? On another occasion, Holmes observed that my right to swing my arm ends where your nose begins. When we’re thinking about free speech, where, exactly, does your nose begin?

But now I must change direction, for this is not to be a discourse on the First Amendment. It is, rather, to be a talk about education. Happily, these are not unrelated subjects. To the contrary, the longer I have puzzled over the meaning of free expression, and the longer I have thought about education, the more the two seem to me to converge. Indeed, neither really is worth all that much without the other. And, with that in mind, I would like to turn to what I see as the intersection of free expression and education, to the subject of academic freedom, for it is at this intersection that we will find the most fundamental values of the world that you are about to enter.

I hope to accomplish three things in this part of my talk. First, I will trace briefly for you the history of academic freedom, for it is only by understanding where we have been that we can appreciate—in both senses of the word—where we are today. Second, I will talk a bit about this university and about the special role it has played in the struggle to establish and to preserve academic freedom. And third, I will offer some thoughts about what all this means for you and about the responsibilities that we bear in common.

Let me begin, then, with some history. Although the struggle for academic freedom can be traced at least as far back as Socrates’ eloquent defense of himself against the charge that he corrupted the youth of Athens, the modern history of this struggle begins with the advent of universities, as we know them today, in the twelfth century.

In the social structure of the Middle Ages, universities were centers of power and prestige. They were protected, courted, and even deferred to by emperors and popes. There were, however, sharp limits on the scope of intellectual inquiry, for there existed a hard core of authoritatively established doctrine which was made obligatory on all teachers and students. It was expected that each new accretion of knowledge would be consistent with a single system of

truth, anchored in God, and this expectation was often rigidly enforced by the Church, particularly when the authority of the Church itself was questioned.

As scholars and teachers gradually became more interested in science, and began to question some of the fundamental precepts of religious doctrine, the conflict between scientific inquiry and religious authority grew intense. When Copernicus published his astronomical theories in 1543, he did so very carefully, cleverly dedicating his work to the Pope himself and presenting his theories entirely in the guise of hypotheticals. Partly because of these precautions, his heretical publications did not immediately arouse much of a furor.

But by the time Galileo published his telescopic observations some seventy years later, the situation had changed. Galileo immediately was listed as a suspect in the secret books of the Inquisition and was warned that further discussion of the condemned opinion would have its dangers. Despite this warning, Galileo persisted in his work and, as a consequence, he was summoned to Rome, threatened with torture, compelled publicly to disavow his views, and imprisoned for the remainder of his life. This was, by the way, an early and rather perverse twist on the concept of tenure.

For the next several centuries, university life remained largely bounded by the medieval curriculum. Real freedom of thought was neither practiced nor professed. As one statement of the then-prevailing ideal put the point, the teacher was “not to . . . teach or suffer to be taught anything contrary to prevalent opinions.”

This was the general attitude in America, as well as in Europe, and freedom of inquiry and teaching in America was severely limited by the constraints of religious doctrine. In 1654, for example, Harvard’s president was forced to resign because he denied the scriptural validity of infant baptism. Harvard explained that it would not keep as teachers persons who had “manifested themselves unsound in the fayth.”

This was the prevailing attitude until the latter part of the eighteenth century, which saw a brief period of relative secularization as part of the Enlightenment. By opening up new fields of study, and by introducing a note of skepticism and inquiry, the trend toward secular learning began gradually to liberate college work. The teacher of science introduced for the first time the discovery, rather than the mere transmission, of knowledge into the classroom.

This shift was short-lived, however, for the rise of fundamentalism in the early years of the nineteenth century, and a growing counterattack against the skepticism of the Enlightenment, produced a concerted and successful effort on the part of the Protestant churches to expand their influence and to tighten their control over intellectual and spiritual life. Thus, the American college in the first half of the nineteenth century was deeply centered in tradition. It looked to antiquity for the tools of thought and to Christianity for the laws of living. It was

highly paternalistic and authoritarian. Its emphasis on traditional subjects, mechanical drill, and rigid discipline stymied free discussion and stifled creativity.

Three factors in particular contributed to this environment. First, the college professor of this era was regarded exclusively as a teacher. Because academic honors hinged entirely on teaching, there was no incentive or time for research or original thought. Indeed, it was generally agreed that research was positively harmful to teaching. In 1857, for example, a committee of trustees of Columbia College attributed the low state of the college to the fact that some of its professors “wrote books.”

Second, educators of this era generally regarded the college student as intellectually naive and morally deficient. “Stamping in,” with all that phrase implies, was the predominant pedagogical method, and learning was understood to mean little more than memorization and repetitive, mechanical drill. Moreover, colleges of this era subjected their students to a dizzying array of rules and regulations that constrained and depressed student life. One university, by no means unique, prohibited any student from leaving campus without permission, from singing or talking during the time dedicated to study, from playing billiards or cards at any time, from associating with idle or “dissolute” persons, or—this is my favorite— from fiddling on Sunday. Needless to say, a college that regards its students as both gullible and depraved is unlikely to engender an atmosphere that even remotely resembles a marketplace of ideas.

Third, freedom of inquiry was smothered by the prevailing theory of “doctrinal moralism,” which assumed that the worth of an idea must be judged by its moral value, an attitude that is, quite simply, anathema to intellectual inquiry.

The most important moral problem in America in the first half of the nineteenth century was, of course, slavery. By the 1830s, the mind of the South had closed on this issue. When it became known, for example, that a professor at the University of North Carolina was sympathetic to the anti-slavery 1856 Republican presidential candidate, the faculty repudiated his views, the students burned him in effigy, and the press demanded his resignation. Refusing to resign, he was dismissed by the trustees. There simply was no open discussion of the issue.

The situation in the North was only slightly better. Most Northerners distinguished sharply between those who condemned slavery in the abstract and those who supported immediate abolition. The latter often were silenced. A few northern institutions, however, were open centers of abolitionism, but they were no more tolerant than the South of opposing views. At Franklin College, for example, the President lost his post because he was not an abolitionist, and Judge Edward Loring was dismissed from a lectureship at the Harvard Law School because, in his capacity as a federal judge, he had enforced the fugitive slave law.

Between 1870 and 1900, there was a revolution in American higher education. Dramatic reforms, such as the elective system, graduate instruction and scientific courses, were implemented, and great new universities were established at Cornell, Johns Hopkins, Stanford, and Chicago. New academic goals were embraced. To criticize and augment, as well as to preserve the tradition, became an accepted function of higher education. This was an extraordinary departure for a system that previously had aimed primarily at cultural conservation. Two forces in particular hastened this shift. The first was the impact of Darwinism. The second was the influence of the German university.

By the early 1870s, Darwin's theory of evolution was no longer a disputed hypothesis within the American scientific community. But as scientific doubts subsided, religious opposition rose. Determined efforts were made to hold the line by excluding proponents of Darwinism whenever possible. The disputes were bitter and often very public.

This conflict brought together likeminded teachers, scientists, scholars, and philosophers who believed in evolution and who developed new standards of academic inquiry. In their view, to dissent was not to obstruct, but to enlighten. The great debate over Darwinism went far beyond the substantive problem of whether evolution was true. It represented a profound clash between conflicting cultures, intellectual styles, and academic values. In this conflict, science and education joined forces to attack both the principle of doctrinal moralism and the authority of the clergy.

A new approach to education and to intellectual discourse grew out of the Darwinian debate. To the evolutionists, all beliefs were tentative and verifiable only through a continuous process of inquiry. The evolutionists held that every claim to truth must submit to open verification, that the process of verification must follow certain rules, and that this process is best understood by those who qualify as experts.

The triumph of Darwinism shifted the educator's expectations of the student. To train students to comprehend and to explore the mysteries of nature was the new meaning of education. Education now was conceived as the leading out of the mind. It required the teacher to foster individual responsibility and the student to assume the risk of uncertainty. The pedagogical practice of rote recitation was replaced by the exploration of the laboratory and the advent of discussion and even debate as new forms of pedagogical discourse.

The other factor that played a critical role in the transformation of American higher education in the late nineteenth century was the influence of the German university. More than 9,000 Americans studied at German universities in the nineteenth century, and these students enthusiastically transported the methods and ideals of the German university into the United States.

The modern conception of a university as a research institution was in large part a German contribution. The object of the German university was the determined, methodical, and independent search for truth, without regard to practical application. Such a vision of the research university attracted individuals of outstanding abilities, rather than mere pedagogues and disciplinarians, and this had an important impact on the nature and quality of teaching, for professors who “wrote books” brought a freshness, a curiosity, and a creativity to the classroom. The German professor and student enjoyed an unparalleled freedom of inquiry, and the German system held that this freedom was the essential condition of a university.

Although American canons of education were not receptive to this vision of a university in the first half of the nineteenth century, by the end of the century the old assumptions had been cast aside. The single greatest contribution of the German university to the American conception of academic freedom was the assumption that academic freedom defined the true university. As William Rainey Harper, the first President of the University of Chicago, observed at the turn of the century: “When for any reason . . . the administration of [a university] or the instruction in any . . . of its departments is changed by an influence from without, [or any] effort is made to dislodge an officer or a professor because the political sentiment or the religious sentiment of the majority has undergone a change, at that moment the institution has ceased to be a university. . . . Individuals or the state or the church may found schools for propagating certain special kinds of instruction, but such schools,” Harper concluded, “are not universities.”

Although American universities borrowed heavily from the German in this era, there evolved two critical differences between the American and German conceptions of academic freedom. First, whereas the German conception permitted the professor to convince his students of the wisdom of his own views, the American conception held that the proper stance for professors in the classroom was one of neutrality on controversial issues. As President Eliot of Harvard declared at the time: “Philosophical subjects should never be taught with authority. They are not established sciences; they are full of disputed matters, open questions, and bottomless speculations. It is not the function of the teacher to settle philosophical and political controversies for the pupil. . . . The notion that education consists in the authoritative inculcation of what the teacher deems true . . . is intolerable in a university.”

Second, the German conception of academic freedom distinguished sharply between freedom within and freedom outside the university. Within the walls of the academy, the German conception allowed a wide latitude of utterance. But outside the university, the same degree of freedom was not condoned. Rather, the German view assumed that, as civil servants, professors were obliged to be circumspect and nonpolitical, and that participation in partisan issues spoiled the habits of scholarship.

American professors rejected this limitation. Drawing upon the more general American conception of freedom of speech, they insisted on participating actively in the arena of social and political action. American professors demanded the right to express their opinions even outside the walls of academia, even on controversial subjects and even on matters outside their scholarly competence.

This conception of academic freedom has generated considerable friction, for by claiming that professors should be immune, not only for what they say in the classroom and in their research, but also for what they say in public debate, this expanded conception essentially empowers professors to engage in outside political activities that can and sometimes do inflict serious harm on their universities in the form of disgruntled trustees, alienated alumni, and disaffected donors. Not surprisingly, the demand for such immunity often has strained both the tolerance of trustees and the patience of university administrators.

These issues were brought to a head in the closing years of the nineteenth century, when businessmen who had accumulated vast industrial wealth began to support universities on an unprecedented scale. For at the same time that trusteeship in a prestigious university was increasingly becoming an important symbol of business prominence, a growing concern among scholars about the excesses of commerce and industry generated new forms of research, particularly in the social sciences, that often were sharply critical of the means by which the trustee-philanthropists had amassed their wealth.

The moguls and the scholars thus came into direct and serious conflict in the final years of the nineteenth century. A professor was dismissed from Cornell for a pro-labor speech that annoyed a powerful benefactor, and a prominent scholar at Stanford was fired for expressing his views on the silver question, to cite just two of many possible examples. This tension continued until the beginning of World War I, when it was eclipsed by an even larger conflict.

As we already have seen, during the First World War patriotic zealots persecuted and even prosecuted those who challenged the war or the draft. Universities faced the almost total collapse of the institutional safeguards that had evolved up to that point to protect academic freedom, for nothing in their prior experience had prepared them to deal with the issue of loyalty at a time of national emergency.

At the University of Nebraska, for example, three professors were discharged because they had “assumed an attitude calculated to encourage . . . a spirit of [indifference] towards [the] war.” At the University of Virginia, a professor was discharged for disloyalty because he had made a speech predicting that the war would not make the world safe for democracy. And at Columbia, the board of trustees launched a general campaign of investigation to determine whether doctrines that tended to encourage a spirit of disloyalty were taught at the university.

This is not, of course, the end of the story, for I have not even touched upon more recent controversies, such as McCarthyism, the tensions of the Vietnam era, or the current debate over political correctness. But by 1920 the basic contours of academic freedom already were well defined, and several important themes had emerged. First, and perhaps most important, academic freedom is not a law of nature. It is a practical, highly vulnerable, hard-bought acquisition in the struggle for intellectual freedom. Second, the real threat to academic freedom comes, not from the isolated incident that arises out of a highly particularized dispute, but from efforts to impose a pall of orthodoxy that would broadly silence all opposition. Third, every form of orthodoxy that has been imposed on the academy—whether religious, political, patriotic, scientific, moral, philosophical, or economic—has been imposed by groups who were fully convinced of the rightness of their position. And finally, with the benefit of hindsight and perhaps some objectivity, one can confidently conclude that every one of these groups has later come to be viewed by most thoughtful people as inappropriately intolerant, at best, and as inappropriately intolerant and wrong, at worst.

So, what does all this have to do with you and with the University of Chicago. Well, from its very founding, the University of Chicago has been at the forefront of the struggle to define and to preserve academic freedom. At the turn of the century, when universities across the nation faced bitter conflicts between their trustees and their professors over faculty views about social and economic conditions, the University of Chicago declared in no uncertain terms that “the principle of complete freedom of speech has from the beginning been regarded as fundamental in The University of Chicago” and “this principle can neither now nor at any future time be called into question.” Indeed, at the very height of these controversies, President Harper emphasized that: “Whatever may or may not have happened in other universities, in the University of Chicago neither the Trustees, nor the President, nor anyone in official position [may call] an instructor to account for any public utterances. . . . A donor,” Harper added, “has the privilege of ceasing to make his gift . . . but . . . he has no right to interfere with . . . the instruction of the university.” Half a century later the University confronted a direct threat to its academic integrity and independence. It was the age of McCarthy. In the spring of 1949, the infamous “Broyles Bills” were introduced in the Illinois legislature. These bills prohibited any person who was “directly or indirectly affiliated with any communist [or] communist front organization” to hold any governmental position, from dog catcher to school teacher, in the State of Illinois. A group of 106 students traveled to Springfield on buses chartered by the University of Chicago chapter of the Young Progressives of America to oppose this legislation. The students paraded through the streets of Springfield, chanted their opposition and, along the way, sat in at a segregated lunch counter. The Illinois legislators were furious. One proclaimed that he would not send his “pet dog to the University of Chicago” and another asserted that “the students looked so dirty and greasy on the outside that they couldn’t possibly be clean American on the inside.”

From where we sit today, these words seem rather quaint, perhaps even ridiculous. They were not. These were dark and dangerous days. It was a perilous time to speak. Only a few days after the student demonstrations, Senator Broyles launched a formal investigation of the University of Chicago to determine the extent to which the University was infected by communism and harbored professors who indoctrinated students with subversive and “un-American” beliefs.

President Robert Maynard Hutchins was the first witness to testify before the Broyles Committee. Listen to what Hutchins had to say: “These students . . . were entirely right to disapprove of [the] pending legislation. The Broyles Bills are, in my opinion, . . . unconstitutional. . . . It is now fashionable to call anybody with whom we disagree a Communist or a fellow-traveler. . . . One who criticizes the foreign policy of the United States, or the draft, . . . or who believes that our military establishment is too expensive, can be called a fellow-traveler, for the Russians are of the same opinion. One who thinks that there are too many slums and too much lynching in America can be called a fellow-traveler, for the Russians say the same. One who opposes racial discrimination or the Ku Klux Klan can be called a fellow-traveler, for the Russians claim that they ought to be opposed.”

“The faculty of the University,” Hutchins continued, “is . . . one of the most distinguished in the world. [The] principal reason why the University has such a distinguished faculty is that the University guarantees its professors absolute and complete academic freedom. [It] has . . . been said that some of the faculty belong to so-called ‘communistfront’ organizations. [But the] University of Chicago does not believe in the un-American doctrine of guilt by association. . . .

“[As] is well known,” Hutchins added, “there is a Communist Club among the students of the University. [Its] members . . . are interested in studying Communism, and some of them, perhaps all of them, may be sympathetic towards Communism. . . . [The] policy of the University is to permit students to band together for any lawful purpose in terms of their common interests. This is conformable to the spirit of the Constitution of the United States. . . . The University [asserts] that the policy of education is better than the policy of repression. . . .”

At the conclusion of the hearings, a petition bearing the names of 3,000 courageous University of Chicago students was submitted to the investigative committee. The petition read: “As students of the University of Chicago, we believe that the position of our University, which encourages and maintains the free examination of all ideas, is the strongest possible safeguard against indoctrination. Because we believe that this policy of academic freedom for both students and teachers is the best preparation for effective citizenship in the American tradition, we are confident that the people in the State and nation will join with us to encourage the freedom of the University of Chicago and to support it against attack.”

I say these students were “courageous” because, in the perilous days in which they lived, they were taking a serious risk in putting their names to so “subversive” a statement. Indeed, the immediate reaction of Senator Broyles upon receiving the petition was to demand “to know . . . something about the signers, of the type of students” they are. “We shouldn’t,” he said, “accept just anything.”

In the 1960s, the University of Chicago, like other universities, found itself buffeted by the storms of the Vietnam War. The University appointed a committee, chaired appropriately by Professor Harry Kalven, to advise the community on the University’s role in political and social action. The Kalven Report declared: “A university faithful to its mission will provide enduring challenges to social values, policies, practices, and institutions. . . . To perform [this] mission, a university must sustain an extraordinary environment of freedom of inquiry, . . . embrace, be hospitable to, and encourage the widest diversity of views, [and ensure] the fullest freedom for its faculty and students . . . to participate in political action and social protest.”

In a radio address to America in 1931, George Bernard Shaw startled his audience with the following proposition: “Every person who owes his life to civilized society and who has enjoyed . . . its very costly protections and advantages should appear at reasonable intervals before a properly qualified jury to justify his existence, which should be summarily and painlessly terminated if he fails to justify it.” I do not advocate such a program. But I do suggest that every one of us who enjoys the protections and advantages of our hard-won system of academic freedom has a responsibility to justify his existence under it.

There are several ways in which we can meet this responsibility. First, like the students of 1949, we can defend academic freedom when it comes under attack. Like every liberty that is precious to us, the preservation of academic freedom demands vigilance, independence, and, sometimes, courage.

Second, we must struggle to define the meaning of academic freedom in our time. As we saw in *Abrams*, the Constitution’s guarantee of freedom of speech is not self-defining. Neither is academic freedom. Each generation must give life to this concept in the special circumstances of its own conflicts. This is not as easy as you might think, for the arguments advanced for limiting academic freedom always are seductive. As Justice Holmes observed in *Abrams*, “persecution for the expression of opinion seems . . . perfectly logical.”

At the turn of the century, for example, it would have been easy for universities to conclude, in the face of threats from philanthropists and trustees, that academic freedom covers only what professors and students say in their classrooms, not what they say beyond the four walls of the academy, and some did. And in the 1940s and ’50s, it would have been easy for universities to conclude, in the face of threats from the McCarthys and the Broyles, that universities should not harbor teachers or students who associate with groups that the government has determined

may be involved in an international conspiracy to tear down our constitutional system, and some did.

Today, the principal challenge to academic freedom turns on issues of so-called political correctness. As in the past, these can be difficult issues. Does academic freedom protect the professor who teaches his students that homosexuality is a disease, that gays are depraved, and that they do not belong in a “civilized” university? Does it protect the student who runs for student council on a “Free Speech” platform and displays campaign posters on campus that incorporate Playboy or Hustler centerfolds to make his point? Does it protect the feminist student who defaces these posters as a form of “counter-speech”? Does it protect students who establish an organization on campus that aggressively espouses the view, both in and out of class, that blacks are genetically inferior?

How will you address these issues? What are the lessons of history? Are no restrictions on free expression in a university consistent with academic freedom? Are these, or some of these, or some variants of these restrictions permissible because, unlike past restrictions on heretics, abolitionists, anti-war activists, and Communists, these restrictions are reasonable? Or are we merely victims of our own generation’s version of blindness, prejudice, and intolerance? How would Justice Holmes resolve these issues? How will you resolve them?

Third, and most important, we have a responsibility to live up to the principle of academic freedom. Often, it is easier to defend a principle than to live up to it. Half a century ago, President Hutchins asked what it is “that makes the University of Chicago a great educational institution.” The answer he gave then remains true today: “It is,” he said, “the intense, strenuous and constant intellectual activity of the place. . . . Presented with many points of view, [students are] compelled to think for [themselves]. We like to think that the air is electric, and that from it the students derive an intellectual stimulation that lasts the rest of [their] lives. This,” Hutchins concluded, “is education.”

This is the tradition that you inherit. Unlike college students of the past, your task is not to submit to mechanical drill or rote memorization, not to accept without question conventional values and staid opinions as they are presented by your teachers. It is, rather, to exercise the responsibility of freedom—to test what you are taught at every turn, to challenge your teachers, your classmates, and yourselves, to choose your own values and your own beliefs.

To meet this responsibility, you will have to be independent, you will have to be daring, you will have to take risks. It is not easy to tell your professor, who has devoted years, perhaps decades, to mastering his subject, that you disagree with his latest pronouncement. But we urge you to see the discourse of this university as an incitement to high risk. As Professor Richard Shweder said on this occasion two years ago, “At the University of Chicago, . . . provocation is a fundamental virtue.” It is also a duty. If you find yourself hesitating, if you feel timid, if you

wonder if it's worth it, think of the Rebels in Abrams. At an age not much older than you, they dared to take on the government of the United States. You certainly can take on a mere professor.

The faculty of this university ask nothing of you that they do not also ask of themselves. Professor Gary Becker, Nobel laureate in economics, recently observed that “good research often fails.” Remember that. Even the most gifted teacher and scholar suffers frustration and failure. It is only by taking risks, by daring to ask questions no one else ever has asked, that real contributions are achieved. As John Gunther once observed, the University of Chicago “is a school that stands for . . . freedom of spacious inquiry, freedom to be a gadfly if necessary and freedom not only to be right but to take a chance on being wrong.” If your professors ask you to take risks, know that they take risks as well.

But fulfilling the responsibility of academic freedom means more than challenging your classmates and your teachers; it also means challenging yourself. It means being willing to reconsider what you yourself have come to accept as true. In 1921, after two years in prison, Mollie Steimer, one of the Abrams Rebels, was deported to the Soviet Union. It was not what she expected. Disappointed in the political and economic system she found there, Steimer again agitated against the government. Again, she was arrested, prosecuted, and convicted of sedition. In 1923, she was deported from the Soviet Union. I don't know for sure, but I rather suspect that this was an unparalleled achievement—to be convicted of sedition and deported within five years from both the United States and the Soviet Union. Whatever else one might think of her, Mollie Steimer was not afraid to reconsider her positions.

In 1919, a majority of the Supreme Court in Abrams rejected the bold approach of Justice Holmes and opted for a “safe” view of the First Amendment. Fifty years later, the Supreme Court unanimously overruled the majority opinion in Abrams and, embracing Justice Holmes's dissenting opinion, held that the government may not punish even speech that we “loathe and believe to be fraught with death” unless that speech is both intended and likely to incite imminent lawless action. To reach this result, the Court had to challenge the first principles of its predecessors and to overturn half a century of precedent.

A great university, like a successful court, must dedicate itself to the rigorous, openminded, unyielding search for truth. You will learn here to ask the hard questions. But it is not enough to examine the premises, beliefs, and assumptions of an earlier time and find them wanting. It is too easy to dismiss those who thought that the earth was the center of the universe, that its resources were boundless, or that separate could ever be equal. You must remember that you, too, hold beliefs that your children or your children's children will rightly regard as naive, foolish, perhaps even obscene. You must be prepared to challenge your beliefs, to reform your world, just as the Rebels in Abrams struggled to reform theirs. You, too, must challenge the nature of things.

So, to return to the question with which I began, “Where the hell are you supposed to be going?” As you’ve no doubt surmised, your adventure has no predetermined path, no assigned destination. Let the journey engage you, for as Will Rogers once observed, “Even if you are on the right track, you’ll get run over if you just sit there.”

That track, I should note, offers more than the classroom, the textbook, and the 3 a.m. debate over Nietzsche. These are, of course, essential to your education, but your education is about more than the four corners of the curriculum. It is also about your growth as a person, as a person with a range of interests and passions, as a person of culture and sensibility. You are at a great university which has the extraordinary advantage of being located in one of the world’s great cities. Make this campus and this city your playground. Explore Chicago’s jazz clubs and ethnic restaurants, its theater, its museums, its galleries. Remember, too, that you have at your fingertips a vast array of athletic, community service, and student organizations. Let them energize your curiosity, stimulate your interest, and soothe your soul. The opportunities for creativity are boundless. This is a time not only for academics, but for adventure.

President Edward Levi once noted that our faculty warmly welcome our students “because students are where the future lies.” It is in this spirit this we welcome you. We hope you will find in these halls the air that Hutchins said is “electric” and that you will take away from this place a stimulation that will last the rest of your days. As Justice Holmes mused in *Abrams*, “All life is an experiment.” May your life’s experiment be filled with curiosity, boldness and courage.