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Your money, others' speech

By Ananda Gupta

Last week our very own SGA quickly passed a resolution supporting the state of South Carolina's right to fly the Confederate flag over its capitol building.

Apparently, nobody bothered to object that state institutions shouldn't subsidize speech that grievously offends many taxpaying citizens. Nor did anyone suggest that it's simply unjust for the state to do so, regardless of the inconvenience that respecting citizens' rights might cause.

Indeed, the Student Government Association passed this bill "with no objections," according to The Diamondback's Feb. 24 news page.

Now, before I get a lot of e-mails from angry SGA members (not to mention my editor), the above paragraph is factually false. The SGA did not support the South Carolina government's obstinacy — some would say bigotry — in its refusal to take down the flag of a nation that, unlike practically the entire western hemisphere, refused to peacefully give up slavery.

But, in principle, they might as well have. How? They resolved to support the University of Wisconsin in its current dispute, awaiting a decision from the U.S. Supreme Court.

That dispute, Southworth v. Grebe, isn't very complicated. Scott Southworth, a conservative Christian, didn't want UW's left-leaning student senate to give his student activities fee to groups who espouse views he finds odious.

He didn't mind paying the fee, and the case doesn't question the legitimacy of mandatory student fees themselves. He just wanted to have some control over the groups his fee went to — especially ideological and political groups.

The obvious response is that Southworth did have some control over the way that money gets distributed — he did, after all, get to vote in student elections, and he could have even run for student office himself. But that's a cop-out, just as it's a cop-out to say that if some South Carolinians disapprove of the Confederate flag, they should elect candidates who promise to get rid of it. Majority rule has its limits, and in this country one of the clearest of those limits is protection for freedom of conscience.

Freedom of speech, in particular, can't just mean that people are free to say what they want. It must also include the freedom not to say things they don't want to say. As Harvey Silverglate, co-founder of the Foundation for Individual Rights in Education (FIRE), points out: "Conscience means not having to say, or make obeisance to, any thought you find abhorrent. Is not the paying of money to fund abhorrent speech a violation of this principle?"



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Southworth's case does have some substantial legal precedents to rely on. In a Virginia case with similar issues, U.S. Supreme Court Justice Sandra Day O'Connor wrote that "although the question is not presented here, I note the possibility that the student fee is susceptible to a Free Speech Clause challenge by an objecting student that she should not be compelled to pay for speech with which she disagrees."

Another lawsuit, brought against the University of California system, led to a state Supreme Court decision requiring some way for students to opt out of financially supporting ideologies they disagree with.

Strangely, though, most objections to Southworth's argument have nothing to do with freedom of speech (which is manifestly the central issue). Instead, critics argue that allowing students individual control over their activities fees will be inconvenient to student governments.

This should surprise no one. Few governments throughout history have had the courage (or fear) to simply give up the bulk of their powers and budgets. Why should we expect such a high standard from the UW student legislature, or for that matter, our own?

Of course, some universities do allow limited student control of activities fees. For example, Stanford allows students to receive a refund of their fees. The Stanford student government then provides a list of those students to all of the groups who may then deny membership or services to people whose names are on the list.




That's not quite the same as the measures Southworth wants UW to take, but, at least in theory, the Stanford policy answers any possible free speech concerns. There is some evidence that similar policies would be popular elsewhere. According to FIRE, a survey of the student body at the University of North Carolina suggested that two-thirds of the students there wanted their legislature to give up its control over their fees.

The other major objection comes mostly from racial identity groups. They fear that if white students are allowed to withhold their activities money from ideological groups, then they'll do so in force since white students are at best indifferent to "racial issues" and at worst outright racists. Thus, the objection goes, these groups' educational mission will fail before it has a chance to succeed.

Of course, this prophecy can turn out to fulfill itself, as many white students probably aren't too interested in financially supporting groups that would hold them responsible for all the world's evils simply because they're white.

And it might be a good thing to make groups who maintain a hard line on racial identity politics face the true costs of alienating white students, one of which is the risk of making themselves irrelevant. Right now, groups who hold it as an article of faith that all white students are racists can do so more or less with impunity.

On its face, saying that all (or even most) white students are racists is a pretty unlikely proposition — surely concrete proof ought to be offered before we give up on free speech. And it could lead to trivializing the charge of racism.



After all, there's little to stop a white student from wondering: "Well, all these sociology majors say I'm a racist. And they can't all be wrong, so I must really be one. However, I am basically a nice and thoughtful person; I have friends and I try to get along with all sorts of people. Therefore racism must not be so bad."

As I have said before, the issues in *Southworth v. Grebe* are not especially complicated. People should not have to give their money to support speech favoring causes with which they disagree. The fact that acknowledging this simple principle will weaken student governments doesn't even matter.

Freedom of expression is expressly a limit on government power at all levels. And even if it also weakens unpopular groups (and it's not at all clear that racial and sexual identity groups — the ones most worried about that possibility — are unpopular), it only follows that those groups will have to work harder at persuading people toward their own views.

And isn't that what groups that are supposed to be about ideas should be doing anyway?

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