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> This Week's Issue

Science & Society 2/16/04

By John Leo

## Campus censors in retreat

An actual debate on the merits of racial preferences has taken place on an American campus, Utah State University. Whether the *Guinness World Records* book is interested in this news is not certain. I know I am.

Astonishingly, the university administration did not step in to halt the proceedings on the grounds that feelings might be hurt. The debate was civil, with some booing and cheering on both sides. Some students seemed a bit testy or angry. But as one student sponsor of the debate said, "That's part of politics and discussing divisive issues." This breakthrough raises a startling question: Is it possible that other universities will begin experimenting with free speech?

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Could be. The fog of censorship on campus is beginning to lift, thanks to the pressure of litigation, bad publicity, and ridicule from a new and more pugnacious generation of collegians. The litigation is being handled by groups such as the Center for Individual Rights, the Alliance Defense Fund, and--most spectacularly--by the Philadelphia-based Foundation for Individual Rights in Education (FIRE), which is now a major player in the campus wars. These groups have been winning free-speech cases one after another, creating momentum that is forcing many censorship-minded administrators into a defensive crouch.

**Guilty.** For most of the 1990s, speech restrictions met little resistance. After the courts struck down campus speech codes, universities simply (and dishonestly) recast the speech codes as behavior and antiharassment policies, using extremely broad language to forbid expression that annoys, embarrasses, or ridicules. The language made almost every accused student guilty as charged. The mainstream press ignored the issue, and students generally held their tongues, fearing retaliation. Now the students know how to call FIRE, and FIRE knows how to call Fox News. "The difference is that students now know they can win," said Thor Halvorssen, who recently stepped down as the chief executive officer of FIRE. Sometimes the victories are astonishingly easy. When FIRE sued Citrus College in California, the college quickly yielded, lifting its policy banning all "offensive . . . expression or language" and eliminating its policy of confining student protest to three small areas on campus.

The Center for Individual Rights is working out a settlement in the case of a white student punished for "disruption" after quietly posting a flier at the multicultural center of California Polytechnic State University. There was no disruption. The black students who complained simply didn't like the flier, which promoted a speech by a black conservative author. Cal Poly's action seemed clearly unconstitutional but typical of what many colleges got away with when nobody was watching. Terry Pell of CIR says his friends, left and right, are appalled when they hear about the Cal Poly case. CIR's attorney in the case, Carol Sobel, frequently works for the American Civil Liberties Union. And Pell says that judges of all political persuasions are appalled when CIR brings them cases like this, too.

Another factor in the new atmosphere is that conservative students are now a bigger presence on campus. A Harvard poll in the fall found that 61 percent of U.S. college students supported President Bush, at a time when only 53 percent of all Americans supported him. Last fall, in the annual UCLA survey of college freshmen, 21 percent of students identified themselves as conservative, compared with 24 percent who said they were liberal--down from a peak of 38 percent liberal in 1971.

Many conservative students favor satire and ridicule as campus weapons. The best example is the bake sales on more than a dozen campuses mocking affirmative action in college admissions by selling cookies at \$1 to white males and 50 cents to Latino or black males. Many of these sales were shut down by campus

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administrators, thus demonstrating how dumb and repressive college officials can be. (Similar "wage gap" cookie sales by feminists ran into no such trouble.) At Northwestern, the administrator who halted the sale said, "This is not a bake sale, and your permit is only for a bake sale!" At the University of Washington, the administration said that the cookie sellers had failed to apply for a food permit and that the administration did not in fact shut them down. FIRE produced official university documents contradicting both arguments. Watch for more bake sales and more anticensorship stunts. Repressive speech policies are under heavy pressure and starting to break down.

  
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