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January 1969

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Morris B. Abram

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### Recommended Citation

Morris B. Abram, *Liberalism: A Response to the Campus*, 23 Sw L.J. 662 (1969)  
<https://scholar.smu.edu/smulr/vol23/iss4/4>

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# LIBERALISM: A RESPONSE TO THE CAMPUS\*

by

Morris B. Abram\*\*

AT A TIME when the young people of this country are challenging all of us to accept new and better national priorities and goals, we must be prepared to examine and re-examine every opinion we hold, including those to which we are most committed. The principles of the liberal political creed lie at the heart of my own beliefs and during the past year, as a new university president, I have had occasion to take a long searching look at my opinions. Let me now state at the outset that, having weighed them, I have not found them wanting. I am, therefore, prepared to present and defend anew what I believe to be the fundamental basis of the liberal tradition in America, and what I know to be the essential place of the liberal tradition at the American university. I agree with Bruce Bliven, who, paraphrasing Voltaire, noted recently, "If [liberalism] did not exist, it would have to be invented."<sup>1</sup>

The liberal tradition, composed as it is of many central elements, does not lend itself easily to a brief definition. In my judgment, the liberal tradition refers not to a specific economic or social program, or a set of substantive laws, but to a certain approach to government, an approach most fundamentally embodied in our Bill of Rights and based upon the freedom of thought and speech under which—no matter how odious a man's thoughts or opinions may be—the power of persuasion rather than the power of physical force is supreme. Under the liberal approach, each individual is free from invasion of his home; each is entitled to privacy. Liberalism means, too, due process for all and the governance of all men, including those empowered to govern, by the law. This is what the very best part of our system is all about.

[F]reedom of men under government to have a standing rule to live by, common to everyone of that society . . . a liberty to follow my own will in all things where the rule prescribes not and not to be subject to the inconstant, uncertain, unknown arbitrary will of another man.<sup>2</sup>

This concept of men free from the arbitrariness of their fellow men, as expressed by John Locke in his *Second Treatise*, lies at the core of our liberal democratic tradition.

In the university, as in perhaps no other institution of a democratic society, that element of the liberal tradition described as "the free trade of ideas" must reign supreme. Mr. Justice Holmes said that our constitutional experiment is based upon the theory that "the best test of truth

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\* This Article is based on the Fifth Annual Robert G. Storey Lecture delivered by President Abram at Southern Methodist University, March 25, 1969.

\*\* B.A., University of Georgia; J.D., University of Chicago; B.A., M.A., Oxford University. President, Brandeis University.

<sup>1</sup> New York Times, July 27, 1969, at 33, col. 1.

<sup>2</sup> J. LOCKE, *THE SECOND TREATISE OF GOVERNMENT* § 22, at 15 (T. Cook ed. 1947).

is the power of the thought to get itself accepted in the competition of the market . . . .”<sup>3</sup> This, of course, is the essence of a university—a forum, a home of reason, a free and open place where men may study, declaim, debate, and preach whatever truth they see or feel.

The liberal tradition at the university has often been under assault. Formerly, the attack came from without, from challenges issued by the general public, by individuals, and by legislatures. Such assaults were typical during my youth in the South. Among those assaulting the University of Georgia when I attended it were state legislators, members of the Board of Regents, and people of substance in the community, and if, for example, an integrationist appeared on the faculty, every opportunity was taken to attack the university and to try to curtail freedom of speech on the campus. And although the threats of the fifties, the era of Joe McCarthy when we lived under a repressive blanket of fear, have subsided, the universities still bear many residual scars from the barrage of forces loosed against them during this period.

Today the liberal tradition at the university is also under attack from within. Today the university is being forced to defend itself not so much from outside pressures as from the assaults of some idealistic but tragically naive and misguided students. And I believe that these attacks, if successful, could prove disastrous for our universities as we know them and, indeed, for our entire society.

I spoke at Harvard a few weeks before the takeover of University Hall—and I had a disturbing experience there. I had been telling the students that the liberal democratic system in this country can work, and I began to describe to two of them how the system can renew, and innovate, and do justice. One of the young men turned to me and said, “What about the Civilian Exclusion Orders and Internment Orders of 1942? What happened to due process when the Japanese were evacuated from the West Coast, when this country sentenced thousands of people to concentration camps because of their ancestry—without charge, and without due process?” The two students indicated that if they had been alive then, they would have put their bodies between the Japanese and the officials from the War Relocation Authority, between the federal troops and the Nisei.

The treatment of Japanese-Americans during this period was an outrageous act, a blot on our national history. The constitutionality of the internment of these 117,000 Americans was never decided by the Supreme Court, although their exclusion from the West Coast was upheld in *Korematsu v. United States*.<sup>4</sup> I believe that this six-to-three decision was one of the most infamous in the entire history of the Court, and that such an exclusion, in the words of Mr. Justice Murphy, who was one of the dissenters, “goes over ‘the very brink of constitutional power’ and falls into the ugly abyss of racism.”<sup>5</sup> Perhaps there should have been an act of civil disobedience to test the constitutionality of the internment—for certainly

<sup>3</sup> *Abrams v. United States*, 250 U.S. 616, 630 (1919).

<sup>4</sup> 323 U.S. 214 (1944).

<sup>5</sup> *Id.* at 233.

this was even more obnoxious than the exclusion. At any rate, I could not help but respect the dedicated idealism of these students.

And then ten minutes later, these two students informed me that they were amongst a group who had gone into a classroom at Harvard some weeks ago and stopped a course from being taught. They declared that the newspapers "hadn't told it like it was." They said the course wanted to put down riots, not deal with the conditions that created such violent disturbances. As they described it, they had walked into that class and pointed their fingers at the professor and said, "This course is not going to be given at Harvard University. It is never going to be given at Harvard as long as we are here."

This generation of students is at one and the same time the best and most difficult generation we have ever had on our campuses. They correctly perceive, better than any generation before them, that our society is failing in crucially important respects. But in some students—especially some that are termed "radicals"—there is a streak of authoritarianism as well as a fine blend of idealism. For these students, some of the failures of our society lead to a belief—strongly held but mistaken—that the liberal tradition itself is a failure and not worth retaining.

If those students had been able to use civil disobedience to protest the internment of Japanese-Americans during World War II, they would have been saying that the elementary rights of due process cannot be taken away simply because an army commander or, indeed, even the President of the United States, believes that it is in the best interests of the country to do so. But in the Harvard classroom, they arbitrarily infringed upon basic rights of the professor and of their fellow students because they believed in the justice of their own cause. And, unfortunately, such actions often find support on our campuses today as some students and other members of the university community who believe they hold a monopoly on truth assert that testing it in the marketplace of ideas is too slow and uncertain. They find it quicker and more expedient to try to impose their view of truth through disruption and sometimes through violence.

Every cause that has engaged the attention and commanded the dedication of men and women has laid claim to some higher moral law. But when one man asserts that his own superior moral position allows him to stop another man from speaking out, he invites attack upon himself from others who may assert that *they* have a superior moral position. History is strewn with the victims of zealots acting on higher moral principles. The alternative is uncomfortable but inevitable. I must allow other people's ideas, even those with which I vehemently disagree, to have full play because that is the only justification for my being able to say things that may be unpleasant or odious to others. As my former law partner Adlai Stevenson once remarked, "The sound of tireless voices is the price we pay for the right to hear the music of our own opinions."<sup>6</sup>

I have lived in the South most of my life. I have found myself on the

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<sup>6</sup> THE WIT AND WISDOM OF ADLAI STEVENSON 23 (E. Hanna ed. 1965).

minority side in many issues, and I know that in a test of force I would have been on the losing side as well. This has been significant to me personally not only in the world of politics, but also in the world of law. I have been in courtroom after courtroom in which I had no power of confrontation; all I had was the power of logic. There were no legions or divisions behind me—and the lawyer on the other side had none either. My life has been one of entering situations in which a neutral person must be convinced by the force and logic of ideas. I have never felt that I had to have “lawyer power” in the sense of a battalion of militiamen or a mob behind me in order to convince the court. I do not claim that right, as I see it, always prevails in a legal forum. Indeed, a chief value of the legal formula and the trial is that it gets a decision that is accepted and not that it always produces a result that is satisfactory to all. The young today may regard this as a cynic’s acceptance of a corrupt system; I regard it as the only civilized way to settle disputes in a world of conflicting visions of fact and principle.

Those minorities on our campuses who would eschew the values of the liberal tradition have incredibly short historical memories. They have not profited from the examples of others—both at home and abroad—who have believed that they had the truth and should silence others by force. Such memories are too close personally to many of the members of my generation ever to be forgotten. What some of the young fail to perceive is that the liberal tradition protects not only their public political activity; it protects as well the very private aspects of our lives. The search for individual development and freedom which is so much a part of the youth movement today is vitally dependent on our liberal democratic traditions. I share with our young people a belief in the importance of individual development. I would point out to them that, in a chemical analysis, there is hardly any difference between a 150-pound bear and a 150-pound man. But a man is vastly different from a bear. The distinction, obviously, is not chemical. It lies in man’s ability to imagine, to feel—qualitatively speaking—and to express. It lies in the soul and dignity of man. And if a man is not free to use these capacities without hindrance from society, to that extent a man is compelled to be like an animal.

Many of today’s youth reject out-of-hand any interference by college administrators or governmental agents in their quest for personal development. Justice Brandeis treasured as highly the opportunity for individual development and experience, but he saw that it was only the liberal tradition as embodied in the fourth and fifth amendments which makes it possible. In his famous dissent in the *Olmstead* case he said:

The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man’s spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the

right to be let alone—the most comprehensive of rights and the right most valued by civilized men.<sup>7</sup>

In this modern age there are some special dangers which should be brought home to those students who broke into the private offices and files at Columbia and Harvard. For if students, as private individuals, may lawfully invade the privacy of bureaucratic records, how may we prevent bureaucratic invasion of our individual privacy? For example, as our government grows to meet the problems of providing better housing, food, and medical care for all of its citizens, there is an inevitable bureaucracy which will also grow and be tempted to intrude upon the private lives of the recipients of government aid.<sup>8</sup>

Modern technology itself poses special problems. The techniques of surveillance are so advanced that we must take extra care to control their use. The Supreme Court has taken a good step in *Katz v. United States*<sup>9</sup> in doing away with the "physical trespass requirement," but even more protection is needed. The growth of computer record-keeping also presents dangers of intrusion into the private lives of our citizens. Even now there is a fantastic collection of data from health and hospital records, driving and school records, credit rating, and myriad other sources. We must be extremely careful about the nature of information compiled in this way, its centralization, and the use to which it is put. What must be emphasized again and again to the militants who invaded files and offices is that a belief in one's cause cannot justify a violation of this tradition. Brandeis saw the dangers of men of high purpose and warned in his *Olmstead* dissent "[T]he greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."<sup>10</sup>

We have a great deal to learn from the idealists of this generation, however, for they are right when they point out that we can do infinitely better than we are doing. The gross national product of the United States this week is a billion dollars more than it was last week; this is more than the gross annual output of many nations. The young know that if you accumulated this increase for just twenty-six weeks, you could solve all the material problems with respect to medicine in our country for the next ten years. They know that if you took just the increase for one year—\$52 billion—we would solve the material problems with respect to education for a long period of time. And they know that we squander this increase instead.

I cannot argue with the young who tell me of the injustice of gaping tax loopholes when millions go to bed hungry every night in America. I cannot defend cutbacks in funds for various libraries while we whirl

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<sup>7</sup> *Olmstead v. United States*, 277 U.S. 438, 478 (1928) (dissenting opinion).

<sup>8</sup> A classic example of this bureaucratic threat may be found in *Parrish v. Civil Serv. Comm'n*, 66 Cal. 2d 260, 425 P.2d 223, 57 Cal. Rptr. 623 (1967), where welfare officials of Alameda County conducted a mass morning raid on the homes of welfare clients in search of evidence of fraud under the welfare laws. The court held the raid improper, since the County could not force these people to give up their constitutional rights in order to receive welfare payments.

<sup>9</sup> 389 U.S. 347 (1967).

<sup>10</sup> 277 U.S. at 479.

toward the moon. And I cannot and will not accept the nation's foreign policy *in toto*—certainly not in connection with the war in Viet Nam. But I must defend our constitutional protections for individual rights, and our methods for change in this country. Despite the fact that our procedures often seem to protect imbedded injustice, I would guard and defend them. As I have stated, I believe the democratic process affects the very quality of life. It can be more important than substance, for it amounts to the nature of liberalism, democracy, and freedom.

Let me make it clear, however, that when I warn of the dangers to the liberal tradition posed by those who are ready to ignore the rights of others and to turn aside the processes for peaceful resolution of our problems, I am not speaking about those who engage in peaceful civil disobedience. These people are acting in support of our liberal tradition. Some of us may have forgotten that one of the last things Martin Luther King, Jr. did before he was killed was to go back to Birmingham to serve a jail sentence ordered by the court for a nonextraditable offense. Martin Luther King placed procedures above his personal liberty. He was saying that the country and its institutions must be relied upon to achieve the reforms for which he fought, and he was not going to destroy this country or its procedures by force.

I cannot deny Jefferson's repeated assertion that rebellion is sometimes necessary. I recognize also that men pushed to the extreme may take this course. But our young sometimes urge rebellion because they want instant gratification and immediate solutions. And older generations are now charged with the responsibility of convincing our young people that we can make our systems work well and quickly enough.

As Jefferson said, there are times when injustice is so grave, when immorality is so deep and so pervasive, when there is no possibility of hope—and at these times it may be true that "the tree of liberty must be refreshed . . . with the blood of patriots and tyrants."<sup>11</sup> But are we really in such a period today? Is the American university a tyrant? And, if indeed there be an American university which is tyrannical, in the Jeffersonian meaning of the term—is it Harvard? Is it Swarthmore? Is it the City College System of New York? Or Brandeis? Or Northwestern? Or Sarah Lawrence? The unhappy truth is that the institutions that have been under the most vigorous assault have been the very ones most deeply responsive to change. And in the world outside the campus, is the United States not making any adjustments? Is it so dark? Is the oppression so grave? Have there been no improvements? Is there no hope? Must we put down the temples?

When Professor Paul Freund of Harvard delivered the first Robert G. Storey Lecture,<sup>12</sup> he noted that the Constitution is like an enduring work of art, the meaning of its great clauses taking color from the concerns and needs and aspirations of the time, from the intellectual and moral climate of the age. Now on this point, I would suggest to you that the young are

<sup>11</sup> Letter from Thomas Jefferson to William Stevens Smith, Nov. 13, 1787.

<sup>12</sup> Freund, *The Supreme Court in Contemporary Life*, 19 Sw. L.J. 439 (1965).

going to have an incalculable effect upon courts, legislators, and statutes. The young people today are indeed a remarkable group. Not only are they seeking profound political changes; they are waging a cultural and moral revolution as well. They are launching ideational wars against excessive puritanism and excessive materialism. They are changing the culture of the country and, as Professor Freund points out, the Supreme Court will listen to them, too. We will never again look upon other human beings—and the racial and religious differences of human beings—as we did in my youth. We will learn to reject various forms of hypocrisy, and we will absorb the morals of the young in many respects, too.

We have the duty and responsibility to acknowledge the acceptable parts of the profound social movement taking place today. And we also have the duty and responsibility to reject the parts that are simply incompatible with the lives of free men.

# Southwestern Law Journal

VOLUME 23

October 1969

NUMBER 4

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