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Stanley R. Rolnick
Southern Arkansas University

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AN EXCEPTIONAL DECISION
THE TRIAL OF PROFESSOR RICHARD T. ELY BY THE BOARD OF REGENTS
OF THE UNIVERSITY OF WISCONSIN, 1894

STANLEY R. ROLNICK
Southern State College

In 1892 Richard T. Ely, a German-trained political economist, surrendered his chair at Johns Hopkins to become head of a new School of Economics, Political Science and History at the University of Wisconsin, one of the many state universities undergoing physical and academic expansion in the closing years of the century. At that time a national scene characterized by agrarian unrest, waves of immigration from unaccustomed sources, industrial conflict, and political disputes centering around tariffs and monetary standards afforded scholars a realm for speculation ranging from the reactionary to the visionary. Meanwhile, sensational journals and sober periodicals alike were inclined to focus public attention on faculty aberrations and accomplishments. As the incidence of theological proscription in higher education declined, a new set of clashes involving political economy and sociology were evoking bitterly contested and well publicized academic-freedom disputes.

University life in America had proven sufficiently flexible to allow for modification of curricula and the slow growth of a spirit of free inquiry, but it had not evolved sufficiently to permit facile solutions for the crises of the 1890's. Fundamentally, professors continued to be employees of private corporations or of governmental entities, potentially removable by arbitrary action of the authorities.¹ Instructors and administrative officers held concepts of their relative positions which often made them incapable of friendly understanding of each other's problems. A university president, writing in a popular magazine as "One of the Guild," in 1900 asserted that most professors were weaklings who held their jobs chiefly because there were not enough really good men to go around.² Opinions of some teachers and their advocates about the administrators were no more flattering. Z. S. Holbrook believed that the modern college president, motivated by a zeal for money-getting, was "a cross between a theologian and a Napoleon of finance." He singled out a particular administrator who "oscillates between a maudlin sentimentalism about Jesus and an undertone of diplomacy and intrigue that would excite the contempt of Henry VIII for its shallowness and its transparency."³ In specific instances of disagreement such judgments could be even more severe.

In addition to their internal problems, academic communities were frequently hampered by perplexing external pressures. Private institutions often owed their solvency to the generosity of donors from the business world who were in a position to influence the course of research and instruction. Vigorous assertions of disinterestedness by men of wealth did not allay the fears of implied restraint which some teachers felt.⁴ By the turn of the century bitter academic-freedom disputes had been fought out at Chicago, Brown, Cornell, and Stanford Universities.⁵ Meanwhile, state-supported institutions of higher learning also

¹ E. C. Elliott and M. M. Chambers, *The Colleges and the Courts; Judicial Decisions Regarding Institutions of Higher Education in the United States* (New York, 1936), 71-75; Alexander Brody, *The American State and Higher Education, The Legal, Political and Constitutional Relationships* (Washington, 1935), 150, 152.

² "Perplexities of a College President," *Atlantic*, 85:486-487, 490-491 (April, 1900).

³ Z. S. Holbrook to Richard T. Ely, November, 1895, Richard T. Ely Papers, State Historical Society of Wisconsin.

⁴ Chicago's economist Edward Bemis, for example, charged that an eastern college's faculty considered it a matter of conscience to accept a Rockefeller gift "lest in refusing it, while accepting others no better they would injure Mr. Rockefeller's reputation." Edward Bemis to Henry Demarest Lloyd, September 10, 1895, Henry Demarest Lloyd Papers, State Historical Society of Wisconsin.

⁵ S. R. Bolnick, the Development of the Idea of Academic Freedom in American Higher Education, 1870-1920, unpublished Ph.D. dissertation, University of Wisconsin, 1951.

progressed gradually toward the university ideal, but some of them suffered virtual academic civil wars in the process. As agencies of public service under legislative control, they were subject to the vicissitudes of changing political currents. In the words of a state university president's wife, "political trickery... here is always on the alert to get quacks and politicians into the faculty."⁶ During the 1890's intermittent squabbles between the authorities of the University of North Carolina and Trinity College (later Duke University) impeded the development of both centers of learning. And during the same period Kansas State College witnessed a ludicrous series of mass hirings and firings of faculty members as the Republicans and Populists alternately controlled the state government.⁷

Aside from meeting the direct demands of sponsoring authorities and performing the traditional functions of teaching and inquiry, academic centers were popularly expected to provide all manner of auxiliary benefits. Theories set out in the pages of *Education* illustrate the perplexities. An editorial in 1889 deplored the excessive emphasis on the doctrine of free trade in American universities, but a writer in the same journal a few months later announced that it was a duty of all economists to call attention to the responsibility of protectionism for impoverishing the nation's agricultural population.⁸ A few years later Charles F. Thwing, an eminent educator, maintained that the college should "cause noble character to blossom in noble doing, as noble doing is the seed of yet more noble character."⁹ But such a goal was vague. Baylor University's President Rufus Burleson sought to make his institution a nursery of "learning, piety, and patriotism," while Professor Alexander Ormond of Princeton believed that the "higher schools and universities" should serve as "centers of self-criticism" so that society could be "purged from its evil extreme tendencies, and its energies be directed into productive channels."¹⁰ Even where publicly viewed violations of academic freedom did not result, rumors and actual instances of pressures on professors to conform to certain patterns were common during the 1890's.

The career of Richard T. Ely epitomized many of the trends and problems of the academic world in a rapidly changing society. He had received his early training at Columbia and then had studied in Europe. In the mid-eighties Ely played a leading role in founding the American Economic Association and in the expression of its principles. Eventually he taught at Johns Hopkins, a major private institution, and at Wisconsin, an important state university. The unconventional nature of the economist's teaching and scholarship involved him in more than one clash with authority, and some of his activities were subjects of sharp public controversy. In a series of talks in Baltimore on the history of political economy Ely defied the approach of the older generation of classical economists. But he explained to Hopkins' President Gilman that he

should not endeavor so much to teach or enforce any specific economic doctrines as to explain the various theories actually maintained by those who have contributed in one way or another to the growth of the science.¹¹

In 1891 a talk on "The Progress of Socialism" brought from the *Philadelphia Telegraph* the observation that the professor's private expression of his ideas was

⁶ Josephine Raymond to Richard T. Ely, May 5, 1900, Ely Papers.

⁷ Paul Neff Garber, *John Carlisle Kilgo: President of Trinity College, 1894-1910* (Durham, 1937), 34-56, 166-224; Aubrey Lee Brooks, *Walter Clark, Fighting Judge* (Chapel Hill, 1944), 109-121; Luther L. Gobbel, *Church-State Relationships in North Carolina Since 1776* (Durham, 1938), 132-171; Julius T. Willard, *History of Kansas State College of Agriculture and Applied Science* (Manhattan, Kansas, 1940), 96 ff.

⁸ *Education*, 9:343 (January, 1889); Arthur Latham Perry, "Preparations for Citizenship at Williams College," *Education*, 9:518 (April, 1889).

⁹ Charles F. Thwing, "The Relation of the College to the Community," *Education*, 11:421-422 (March, 1891).

¹⁰ Alexander T. Ormond, "University Ideals at Princeton," *ibid.*, 1897, p. 357.

¹¹ Ely to Gilman, September 23, 1881, Daniel Coit Gilman Papers, Johns Hopkins University Library.

not dangerous, "but when he teaches such doctrines in the name or with the sanction of a most respected seat of learning in the United States, he becomes at once an exceedingly dangerous teacher."¹² The authorities did not restrain Ely, but his candid approach to social problems alarmed some factions close to the Baltimore university. In a public meeting which the Hopkins economist addressed, President John Cowen of the Baltimore and Ohio Railroad, "speaking like a Pope," vehemently attacked the professor's interpretations. When Ely subsequently responded in kind, Cowen retorted that he would never send any of his sons to Hopkins as long as Ely was there. Although President Gilman eventually heard more about the incident from the railroad official, who was also a University trustee, he never reprimanded Ely.¹³

When Ely moved to Wisconsin in 1892 to head the new School of Economics, Political Science and History, he joined with historian Frederick Jackson Turner and other colleagues in an effort to provide a type of advanced training in the social sciences that could prepare students to analyze the causes for social and economic problems, and so train them in research methods that they would seek independent solutions for these problems. This work led eventually to the close association between the university and the state government during the progressive period--the "Wisconsin Idea" which attracted national attention and imitation in some states. In such relatively new fields as sociology, as well as in the older social sciences, the men whom Ely brought to Madison consistently interested themselves in practical affairs as well as in basic research, and their conclusions could not be expected always to satisfy every element in the community. But before the School had completed its second full year, a violent attack was leveled at Ely, beginning with a controversy in the press and culminating in a public trial before a committee of the Wisconsin regents.¹⁴

The furor began in midsummer of 1894 when Wisconsin's Superintendent of Public Instruction, Oliver Wells, attacked the professor in the columns of the *Nation* and the *New York Evening Post*. Wells accused Ely of involvement in union activities in Madison and the perpetration of writings embodying "utopian, impractical, or pernicious doctrines." Wells charged specifically that the university economist had demanded the unionization of the strike-bound firm where he sometimes had printing work done, and had consorted with the delegate who was in charge of the strike. Ely had, moreover, allegedly informed one of the owners of the shop that

a dirty, dissipated, unmarried, unreliable, and unskilled tramp, if a union man, should be employed in preference to an industrious, skillful, trustworthy, non-union man who is the head of a family.

And "essentially the same principles" were propounded in Ely's books.¹⁵

The prevailing mood in the state and nation was highly sensitive to charges of this kind as a consequence of economic dislocation attending the panic of 1893 and the recent and violent Pullman strike in Chicago, but there was no immediate sensational reaction in the university community. President Charles Kendall Adams of the university and many of Ely's colleagues considered the attack groundless, and some friends counselled him to initiate a libel suit against Wells, and to request a regents' investigation. But there were serious doubts both as to the fairness of any trial in view of the atmosphere of excitement which might be generated and the wisdom of tacitly granting the right of university authorities to censor faculty teaching and writing. Ely himself was in Virginia, far away from the controversy, and was unable to decide on an immediate plan of counterattack in the face of much well intentioned but confusing advice.

¹² Ely to Herbert Baxter Adams, July 19, 1882, Herbert Baxter Adams Papers, Johns Hopkins University Library; clipping from *Philadelphia Telegraph*, February 9, 1891, in Gilman Papers.

¹³ Richard T. Ely, *Ground Under Our Feet: An Autobiography* (New York, 1938), 102; Ely to Lloyd, December 24, 1895, Lloyd Papers.

¹⁴ The work of the School is discussed in Merle Curti and Vernon Carstensen, *The University of Wisconsin, A History* (2 vols., Madison, 1949), vol. 1, 630-645. Except where otherwise noted the account of the attack on Ely and the trial is based on *ibid.*, 508-527 and the Ely Papers, June-August, 1894.

¹⁵ *Nation*, 59-27 (July 12, 1894).

Before the harrassed professor could act, the Board of Regents, over the opposition of a minority, selected a committee of its members to investigate the charges against Ely.

The appointment of the committee forced the professor and his supporters to make some sort of counter move. A number of Ely's professional friends, especially his former student, David Kinley, then teaching at the University of Illinois, and Frederick Jackson Turner, provided advice and collected evidence in his behalf. Before the regents began their hearings Bishop John H. Vincent read to a summer Chautauqua audience Ely's categorical reply to the charges. It pictured Wells as a shameless politician and publicity seeker; Ely declared that he himself was not only opposed to socialism and anarchism but that he had become in the course of time "on the whole, more conservative." The reply concluded with an impressive listing of Ely's former students.

Meanwhile, news of the impending trial gave editorialists of metropolitan newspapers an opportunity to formulate their opinions on this academic imbroglio with strong political undertones. The Democratic *Baltimore Sun* and the Populist *Non-Conformist* of Indianapolis joined the *Journal of the Knights of Labor* in defending the accused teacher. Numerous papers took the middle position that Ely should be fired if he were found guilty of teaching erroneous doctrines, and the staunchly Republican *Inter-Ocean* of Chicago openly denounced the practice of anarchists and socialists holding university posts.¹⁶ The Madison newspapers generally were friendly toward Ely in the early stages of the dispute.

The regents' committee began to wrestle with the tangled issues of the case early in August. The group's composition did not suggest any sharp political bias. Dr. H. B. Dale, a physician, and John Johnson, Milwaukee banker and something of a scholar, were Democrats. Regent H. W. Chynoweth was a Republican generally believed to be conservative, but he was also a long-time associate of Wisconsin progressive leader Robert LaFollette. One of the most important questions which these men faced was whether to look into Ely's writings, for the answer would indicate the extent of freedom of research for scholars at the university. It soon became evident that they would limit their inquiry to Ely's recent classroom teaching. Superintendent Wells was not present for the opening public hearing on August 20, but he sent a long letter reiterating his conviction that the economist's work was damaging to the state university, and demanding that Ely's writings as well as his teachings be scrutinized. Wells and his attorney did attend the second meeting the following evening, and despite their forceful representations concerning admission of Ely's books as evidence, the committee denied the request. Regent Chynoweth flippantly inquired whether the plaintiff wished to inflict on the committee "a reading of these entire works"; with more cogency Regent Johnson pointed out that there was no necessary connection between Ely's teaching and his writing and that the implications of censorship in such a course were highly disturbing. "It would put this committee in a very unenviable position," he concluded, "to sit as censors upon all such books."

With the scope of the investigation temporarily settled, the regents took up the specific charge against Ely, and the unfolding of the actual trial was anticlimactic. Witnesses from the printing firm gave evidence that the professor had not threatened a boycott but had merely urged them to recognize the union for fear that the Christian Social Union, of which he was secretary, might not permit its work to be done by an anti-union plant. The allegation that Ely had connived with a walking delegate named J. F. Klunk turned out to have been based on an understandable but comical error. Superintendent Wells' informants had mistaken H. H. Powers, one of Ely's students who had actually met with Klunk, for the economist himself because both wore short, full beards. After the committee had adjourned again, Wells reaffirmed his opposition to the circumscribed range of the inquiry, and sent another letter to the committee. This he buttressed with quotations from Ely's *Socialism and Reform*, but he held that it was difficult to cite implicating passages from a work "so innocent of clear cut thought, and so uniformly barren of explicit statements."

Toward the end of the trial, during the meeting of August 23 from which Wells and his lawyer were again absent, the regents agreed to receive evidence about Ely's books. These data consisted of letters from scholars and journalists

¹⁶ "Professor Ely Charged with Heresy," *Public Opinion*, 17:462 (August 16, 1894).

which pointed up the basic conservatism of the Wisconsin economist on most social issues of the day. With these testimonies the defense has thoroughly discredited the general attack on Ely's "utopian, impractical, or pernicious doctrines."

There remained little doubt that the board would acquit Ely, but the inquiry had begun to harm the university, and the widespread publicity tended to multiply this effect. A writer in the *Dial* late in the summer observed:

It has been reserved for the University of Wisconsin to offer the first example, to our knowledge, of a trial for heresy in which theology has no part. To hale a public teacher of science before an investigating committee, for the purpose of examining his opinions and pronouncements upon their orthodoxy from a purely scientific viewpoint, is a procedure so novel, and...so startling, that one may well pause to consider its significance, and the possible consequences of an extension of the principle thus involved.¹⁷

A simple exoneration of the accused would have shown that he could not legitimately be called an enemy of the existing social order but that would have done little toward affirming academic freedom. The state and nation witnessed intense controversy in the 1890's, and questions of the rights of laborers, farmers, and businessmen were by no means agreed upon. If it had been shown merely that a professor of economics was not opposed to the rights of private property, the fundamental concept of the university as an arena for the free flow of ideas would hardly have been demonstrated. At the suggestion of John M. Olin, a professor in the law school, the regents' committee prepared a report which not only cleared Ely but also set forth its formal position on freedom for teachers. The regents emphasized the numerous publications of the faculty and their "diversity of views regarding the great questions which at present agitate the human mind," and the impossibility of maintaining a great university if professors were to be dismissed or criticized for opinions regarded as visionary in some quarters. The report concluded with an apostrophe to academic freedom:

We cannot for a moment believe that knowledge has reached its final goal, or that the present condition of society is perfect.... In all lines of academic investigation it is of the utmost importance that the investigator should be absolutely free to follow the indications of truth wherever they may lead. Whatever may be the limitations which trammel inquiry elsewhere we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone the truth can be found.

The board as a whole adopted the committee report and passed a resolution censuring the superintendent who had initiated the charges. The university profited from a widespread acceptance of the report and the noble sentiment favoring free inquiry buttressed the idea of academic freedom. Despite occasional periods of turmoil in the subsequent history of the University of Wisconsin, the declaration was never officially repudiated.¹⁸

The Ely trial provided an opportunity for people outside the university community to become better acquainted with the kind of work which went on there, and to appreciate the anomalies in the status of professors. An observer in the *Dial* proposed an improvement by which the beginner would have probationary standing and the man who had "won his professional spurs" would enjoy tenure. The democratic tenet that the "voice of the people is the voice of God," urged the writer "is a challenge to a society which has to deal with some matters that can be judged only by the trained intellect."¹⁹ A respondent quickly reaffirmed the traditional attitude with the dour observation that teachers were part of "the great army of the employed" and should be accountable to some higher authority lest they should advocate wild and untried theories.²⁰

¹⁷ "Freedom of Teaching," *Dial*, 17:103 (September 1, 1894).

¹⁸ When the Wisconsin Class of 1910 voted to present to the University a plaque bearing the last sentence of the regent statement, the regents accused the class of being influenced by radicals and of joining with them in attacking regent policies. Five years later the plaque was accepted and placed at the entrance of the main university building.

¹⁹ "Freedom of Teaching," *Dial*, 17:103-104 (September 1, 1894).

²⁰ Duane Mowry, "Freedom of Teaching," *Dial*, 17:149 (September 16, 1894), letter to the editor.

Within educational circles, the Wisconsin experience provided valuable lessons for other heretics, but the disturbing implications of the trial lingered. As late as 1901 Ely complained that "I have not, myself, entirely gotten over the effects of the unjust attacks upon me six years ago."²¹ Just before the Ely trial the administration at one other institution adopted an attitude of increasing caution rather than greater tolerance toward potential radicalism. Early in June of 1894 the trustees of Johns Hopkins University decided that the important current "political, economic, financial and social questions" should be discussed before students "only by the ablest and wisest persons whose services the university can command." They asked the executive committee to make a special report on the subject, and recommended in the interim that "great caution in the selection and engagement of lecturers and other teachers" be exercised.²² Possibly this precautionary measure enabled that university to avoid some of the difficulties faced by other institutions in a period of social and economic ferment. But the next half century was to bring to the academic world recurrent crises, shaped by continuing disagreements among men as to the limits of the pursuit of truth and by the occasional impact of sharpened emotions accompanying wartime emergencies.

²¹ Ely to E. A. Ross, March 19, 1901, Ely Papers.

²² Gilman sent a copy of the report to Herbert Baxter Adams; June 5, 1894, Gilman Papers.