

THE WINDS OF FREEDOM

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Thank you Mr. President, First Lady Sherry, Fellows and spouses of the Academy, honored guests, and my beloved family.

In 1988, under the guidance and leadership of AI and Jeanne Abramson, the Academy visited what was then the City of Leningrad in the Soviet Union. We filled the bus at the airport, and while awaiting transit to our hotel, our beloved Dick Baxter spotted what was obviously a vent in the ceiling of the bus the approximate size of a small dessert dish. Facetiously pretending that this vent contained a secret microphone, Baxter, a tall man, rose to the aisle, stood on his tiptoes, and put his face against the vent, declaring, “You have a lovely country here; my name is Richard Baxter — B-a-x-t-e-r — from Grand Rapids, Michigan.” Everyone on the bus laughed except for the rather dour bus driver and the government employed tour guide. As we approached our hotel, Sally asked me how one could automatically discern that we were in a totalitarian country. I told her, firstly, that she would see very few people smiling, and secondly, that there would not be a news stand or a bookstore anywhere to be found. In the hotels were high quality merchandise stores known as Berioska’s. These stores were not available to the Russian people. Clientele was restricted to tourists bearing American dollars, and official members of the Communist party. The stores were opened earlier in the morning for the exclusive patronage of members of the party. Only after that time could the public enter. This was a vivid reminder to me of George Orwell’s parody on Communism entitled “The Animal Farm,” wherein it is broadly written that “all of the animals are equal, except that some are more equal than others.”

The Twentieth Century has laid a heavy and blood-stained hand on human dignity, liberty, and rights. Two weeks after he was in power, Lenin eliminated no less than 20 newspapers. He openly deplored “the luxury of discussions and disputes.” Said he: “It is a great deal better to discuss with rifles than with the theses of the opposition. It is true that liberty is precious — so precious that it must be rationed.”

History speaks volumes about Stalin’s mass murders and mock trials.

When Dictator Juan Peron seized power in Argentina, he shut down the Supreme Court, and took over all radio and news media.

After he was firmly entrenched in power, Fidel Castro announced to his newly enslaved people that because he and they were now joint owners of the state and all that belonged to it, elections would be redundant and were thereby eliminated. You all remember the compassionate Doctor of Medicine from Buenos Aires by the name of Che Guevara. He was in charge of executing dissidents by firing squad in the old Spanish fortress which lay directly across the bay from Havana.

The Dictator, Pol Pot systematically murdered 1,200,000 people — 20% of the population of Cambodia.

When the colony governing European powers abandoned Africa, it left a vacuum of tyranny and oppression. You well remember names like Idi Amin, Patrice Lumumba, and Mwabe Nkrumah, the self-proclaimed dictator of Ghana, who modestly dubbed himself “The Great Redeemer.” In his own words, Nkrumah announced: “All Africans know that I represent Africa and that I speak in her name. Therefore, no African can have an opinion that differs from mine.”

I need not inventory the unspeakable crimes of Adolph Hitler, not to mention his hideous Nuremberg Laws, which, with the stroke of a pen, disenfranchised every Jew in Germany.

In 1933, shortly after Hitler took power, a massive group of college students assembled on the streets of Berlin, carrying lighted torches. They marched directly to the University of Berlin where, with the torches, they burned thousands upon thousands of books. Joseph Goebbels, Hitler’s Minister of Propaganda, stood gleefully by and praised the students for destroying the past, and lighting the way for the future of the new order. In the 1960’s we had the vicious Red Guard, made up primarily of undereducated, mean spirited teenagers who looted, pillaged, and did all they could to destroy artifacts and other material evidences of the past. Said one Red Guard to the other: “I know she was a capitalist; she owned one couch and two chairs.”

The multiple terrors of the twentieth century leave behind them three common and tragic hallmarks. They are the squelching of free expression, the destruction and obliteration of the past, and the absolute sacking of the rule of law.

In the mid 1960’s, there was enrolled at the University of California/Berkeley, an avid young student by the name of Mario Savio. Mr. Savio, the leader and founder of the so-called “Free Speech Movement” was bound and determined to force the repeal and extinction of a long held university rule prohibiting political expression and/or displays or gatherings on campus property. Savio gathered thousands of students en masse, and neither the National Guard, the Berkeley police, nor the university police were able to shut down this massive show of force and resolve.

The University finally capitulated and rescinded its policy against political expression on campus. When I, and a number of you, emerged from college in the frivolous 50’s. There was only one conclusion we could reach about masses of students gathering together in protest, and in preference over beer parties and football games. That conclusion was simply that this unrest had to be rooted in Communism.

Such, of course, was not the case — the Free Speech Movement had been a success on this huge campus. Over twenty years ago, when my son and daughter proceeded to Berkeley in the footsteps of their mother, I enjoined each of them to keep their eyes and ears opened, reminding them of the privilege of going to school in a virtual marketplace of different ideas — some of which they may agree with, and some of which they may not.

The University of California is a fine world class university, at the forefront of scholarship and research, and bearing no less than 20 Nobel prize winning faculty. The University is also a

cauldron for student agitation. In modern education, at virtually all levels, we are seeing, I fear, an erosion of the venerable and cherished rights born at our birth, and repeatedly bought and paid for at distant places like Verdun, Iwo Jima, the Chosin Reservoir, Khe San, and Kandahar.

Let us look around. Let's examine what has now happened at the Berkeley campus where the proud words "Let There Be Light" are graven in stone. Within the past 12 months, the daily student newspaper has been burned, stolen from its racks, and its editorial office sacked by angry students. It seems that the "Daily Californian" published an unpopular editorial which aroused certain segments of the student population. For this, the paper was forced to and did apologize. Later on, following 9/11/01, a political cartoon was presented in the paper, depicting Osama Bin Laden headed for the fires of Hell, and clothed in typical mid-Eastern garb. The paper was bitterly and vocally attacked and charged with racism. This time, however, there was no apology. Some years ago, after the Savio movement had won its victory, former UN Ambassador Jean Kirkpatrick spoke on the Berkeley campus and was shouted down so vocally that her address was terminated. Indeed, "Let There Be Light"!!

As recently as February of this year, the publisher of the Sacramento newspaper spoke at a Sacramento State University commencement. While trying to draw a balance between security measures and cherished rights, the speaker was shouted down and the address terminated.

I applaud with sincerity current academic efforts to teach students to think critically. This, however, does not license thinking belligerently, rudely, or in confrontation. The protection of free speech is not conditioned upon the approval or acceptance of the listener, nor upon whose ox has been gored.

There are probably those in this audience, including my children and their mother, quietly imploring me to stop picking on their school. I agree, so let's move about 40 miles south of Berkeley to a place I dearly love, called Stanford University. Its founding motto is "Let the Winds of Freedom Blow." It was at this semi-rural paradise that the nurtured and privileged sons and daughters of industry burned down the ROTC building in the 60's.

More recently, the Board of Trustees enacted a speech code, specifically defining the type and kind of speech which could and could not be used on campus. The code made no exception for the large shopping center located on Stanford property. Hence, watch what you say when you enter the lingerie department at Nordstroms on the Stanford shopping center. A courageous law student named Robert Corry filed suit against the University in the Santa Clara County Superior Court, seeking an order enjoining and prohibiting the speech code. Notably, Corry and the University both stipulated that the judgment of the court would be deemed final, and that there would be no appeal.

My suspicions were aroused by such a stipulation for two reasons. First, that the University's belief in the sanctity of its speech code was on weak underpinnings; secondly, that the University would never want to see an adverse and published appellate opinion in the official reports.

Similar speech codes were defeated at the University of Wisconsin and at Michigan. The trial court in the Stanford case pointed out that: "By denying the defendants the ability to discipline or

expel students for violation of the speech code, defendants' ability to express its message is not impaired because defendants retain numerous alternative means of expressing their views."

Bowdoin College prohibits "leering, staring, cat calls, vulgar jokes, language, photographs or cartoons with sexual overtones, and even "terms of familiarity." Syracuse University prohibits "leering, ogling, sexual innuendos, and sexually derogatory jokes." Brown University prohibits "unwelcome sexual propositions, invitations, solicitations, and flirtations."

I am not for one moment defending bad taste, but there are and have long been other ways in which to enforce human decency, and punish unacceptable conduct. In 1896, when the "Winds of Freedom" kicked up, Stanford put down the law, by declaring its "Fundamental Standard:"

"Students at Stanford are expected to show both within and without the University such respect for order, morality, personal honor and the rights of others as is demanded of good citizens. Failure to do this will be sufficient cause for removal from the University."

Many many other colleges, universities, secondary, and primary schools have similar mandates. One is the University of New Mexico, to which I will refer later. There are new and different modes of education, which, collectively, their supporters refer to as "deconstruction" or "post-modernism." For example, there are no longer any such things as ultimate or irrefutable facts. Facts and truths are now said to be relative, and always subject to political interpretation. Hard facts are gone. Tell that, if you will, to the heart broken widow who comes to your office and reaches out for your guidance and expertise. The study of Western culture has been minimized and undermined. The masters of the renaissance, for example, are too closely related to kings, queens, lords and ladies. Gutenberg, Galileo, and Michelangelo are not to be considered. They are far too reminiscent of old class distinctions of the past.

Art has been degraded and cynicized, as never before. While in London a year ago, Sally and I visited a newly constructed modern art museum. I viewed a large cubic structure approximately five to six feet in all dimensions. It was comprised exclusively of old scraps of carpet, tin, and broken pieces of wood. Only a few steps away from this abomination, I saw encased in a lucite box a urinal.

At the college level particularly, there is an emerging desire for sameness at the expense of merit or accomplishment. Some institutions have dispensed with grading altogether. How many law students have you recently inter-viewed for employment, finding that they can relate no class standing to you, because they are unaware of it? The role of the Valedictorian is a disappearing distinction. Regrettably, intimidation of our teachers and professors is a growing concern/

These valued people are criticized and ostracized for the positions they take or the ideas they express. The victim of this growing tendency is, I fear, academic freedom itself. In yesterday's fine address by General Reimer, he reminded us that our most valued asset in this country is our youth. In *Wieman v. Updegraf*, 344 U.S. 183 (1952), Justice Felix Frankfurter said: "Teachers, in our entire educational system, from the primary grades to the university are the priests of our democracy. It is the special task of teachers to foster those habits of open-mindedness and critical inquiry which alone make for responsible citizens. Teachers must be exemplars of open-

mindedness and free inquiry. They cannot carry out their noble tasks if the conditions for the practice of a responsible and critical mind are denied to them.”

If we haven't the benefit of free thinking, robust teachers and professors charged with passing on the ideas and concepts which make us free and great, who will do it? A law professor recently remarked: “When the subject of affirmative action arose in my constitutional law class, a few students raised questions concerning its validity and constitutionality. These students were almost immediately attacked — being hissed in the classroom and later away from class by being called fascist, racist, or Nazi.”

Professor Julius Lester of the University of Massachusetts speaks as follows about being shunned by his colleagues: “I can't describe what it's like to walk down a hallway and people lower their voices or they stop talking or they close the doors as you walk by —just to walk through that atmosphere of hostility, week in, week out. The intent of it, of course, is to make you think twice the next time you sit down to write.”

Shortly after the terrorist attacks in Washington and New York, a professor from Orange Coast College here in Southern California was charged by certain Muslim students with making offensive and combative statements about Muslims in general. The college administration suspended the professor (with pay), thus generating obvious fear among other faculty members. When the investigation was completed, and the administration concluded that the accusations were ill-founded, the professor was restored to his full duties.

At some colleges, the fate of allegedly errant teachers or professors is often decided behind closed doors, without benefit of confrontation, and with the use of secret ballots. One member of such a committee at Hampshire College remarked “The First Amendment was written by a rich, white, male slave owner.” At the University of New Hampshire (not to be confused with Hampshire) another such committee member stated “Perhaps to you it's as sacrosanct as the flag or the national anthem; to us, strict construction of the First Amendment is just another yoke around our necks.”

How many of you remember your first happy days as a freshman in college? The surroundings were impressive, excitement was in the air, you faced new challenges, met new people, and perhaps looked forward to next week's football game. The 17 and 18 year old freshmen at the University of New Mexico in September of 2001 were the same as freshmen have been for decades. But this was a different day — this was September 11, 2001 and by the time these freshmen reached their morning history class, they had already seen on television or been told about the carnage and horror of Manhattan, Washington, D.C. and the fields of Pennsylvania. The debacle of Pearl Harbor was only distant history to these youngsters, who had never seen, perceived, nor imagined what had occurred earlier that morning. In the class, these youngsters looked to history Professor Richard Berthold for guidance and knowledge. What they got instead was Berthold's declaration that “Whoever blows up the Pentagon gets my vote.”

Acknowledging that Berthold had a right to say what he did, the Administration cited the professor's gross violation of University practices, principles, and behavior as out-lined in a clearly written faculty booklet. You see, there are other ways to deal with unacceptable conduct.

A letter of reprimand was placed in Berthold's file, he was prohibited from teaching any further freshmen classes, and his tenure was placed under immediate review. To quote my Texas friends, Berthold should have been "shown the concrete."

In the past 25 years, we have become demographically more complex than ever before. Women are achieving their long deserved goals, and people of every creed, color, and religion are attending our schools, colleges, and universities. Such is the way it is and the way it will be.

There is no surer way to create victimhood than openly to tell someone that he or she is a victim. Yet, on campuses from one coast to the other, new students with different backgrounds are being told at orientation sessions that they may be victims of cruelty, insults or other misconduct.

They are told how and where to report such incidents.

In many orientation booklets, this same admonition is clearly present. As the result of this, what we have on our campuses is separateness — and an "us versus them" frame of mind. Depending upon racial origin, skin color, gender, religion, or sexual preference, groups are breaking off into separate entities, with separate housing, separate courses, separate social events, and in some cases, separate commencement exercises. The educators call this "multi-cultural." I call it destructive.

On our buildings, in our schoolhouses, on the sides of our trucks, in our newspapers, and on our storefronts, is the ubiquitous statement — UNITED WE STAND. Why in the world, on campus or off, can't we live up to this pronouncement? I submit to you that to insult, mistreat, make fun of, or otherwise abuse another person because of skin color, gender, racial origin, religion, or biological choice, is ignorant, wrong, and mean spirited. There is quite enough hatred far beyond our shores that we must not tolerate it here.

I want to speak to you about an insidious doctrine that's been with us only since recently. It has a high-minded "Emily Post" type ring to it, but it is mischievous, dangerous, has no meaning, save and except the meaning that its proponent chooses. That doctrine is the idea of "political correctness," and these are some of its dark characteristics. It is oppressive. It dilutes courage. It offers safe harbor to timid school administrators and frightened school board members. It brings with it no meaningful or objective standard. It allows one to look the other way when an obvious injustice is being done. It is driven by expedience and fear. Finally, it reeks with arrogance.

Here are some examples of "political correctness" in action. A six year old boy steals a kiss from his little play-mate on the playground, and is suspended for eight days. An old Washington Redskin linebacker is presented by his wife with a custom license plate that proudly identifies him as "Redskin." The California Department of Motor Vehicles takes the plates away from him. The plight of teacher Christine Pelton of Piper, Kansas. She requires a written biology essay which counts for a large percentage of the grade. Twenty-six of her students plagiarized directly and verbatim from the Internet. Twenty-six F's are given in return. The principal upholds Ms. Pelton; the superintendent upholds Ms. Pelton; but the local school board reverses her decision as being too harsh. Votes are hard to come by, you know. Ms. Pelton quits the next day. An Orange Coast College Professor is suspended and punished before a hearing is conducted. The

teacher at Palisades High School who awards F's to those senior students who would rather surf than come to class, is reversed by the school board. Mustn't mess up those 4.0 grade point averages! Lastly, city planners in Berkeley, California and in Ann Arbor, Michigan are frantic and scratching their heads as to whether to call the passage way into the underground drainage and sewer system a "manhole" or a "personhole."

That's right ladies and gentlemen, I'll say it again; educated men perplexed as to whether to call an access duct a "manhole" or "person-hole." I'd like to summon a large panel. In that panel I would like to include every lady in this big room. I would like to invite Margaret Thatcher, Condoleeza Rice, Congresswoman Maxine Waters, from a district nearby, Justice Sandra O'Connor, Justice Ruth Ginsberg, Ann Richards, two or three women fighter pilots from the carrier Stennis on the Arabian Sea, who take their lives in their hands every night when they take off for missions over Afghanistan. I'd like to assemble this panel, tell them what this vexing engineering problem is, and then let them tell me who gives a damn!!

In my remarks this morning I may have trod upon some sensitive territory. I hope very much that I have not misused this podium or this privilege in which to politicize. What makes this Academy great is that we are professional men and women all of whom took the same oath, and each of whom is dedicated to justice. We don't care what the other colleagues' politics are.

A man summed all of this up more eloquently than I. His name is Heston: "Americans know something without a name is undermining the nation, turning the mind mushy when it comes to separating truth from falsehood, and right from wrong — and they don't like it. If you talk about race, it does not make you a racist. If you see distinctions between the genders, it does not make you a sexist."

Ladies and gentlemen, I have drawn a very exaggerated parallel between the multiple instances of inhumanity in the twentieth century and the academic irregularities, which we face today. But in both, I see a common three-way thread. I see the same thread that runs through the totalitarianism of which I spoke earlier — the suppression of free expression, the minimization or destruction of the past, and the tampering or compromise with the rule of law.

What to do about all this? The school boards of which I speak are your school boards. Their members are garnered or rejected by your votes. The errant, confused administrators and, in some cases, professors, are compensated with your money. We have ways in which to do something about all of the things that I have raised.

In the eighteenth century there lived a courageous man — once imprisoned and twice exiled for expressing controversial views about his government. Francois Voltaire said: "I may not agree with what you say, but I will defend to the death your right to say it."

Thank you for this privilege.