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submitted an amicus brief on the side of Schmid, arguing that Princeton confuses academic freedom with a private university's need for internal autonomy. The AAUP correctly notes that academic freedom is appropriate to individuals, not institutions.

For a private university to cloak its administrative functions in the garb of free speech is dangerous public policy and certainly not within the scope of the First Amendment. The private university may be afforded a relative degree of internal autonomy to carry out its functions, but this autonomy must not breach the inviolability which the U.S. Constitution establishes for free speech and associational activities.

To make a case for their absolute right to police their campus and indoctrinate the inhabitants, Princeton cynically misuses the famous *Dartmouth College* case (see box). Chief Justice John Marshall would scarcely recognize his Dartmouth ruling in the hands of Princeton's lawyers. The content of Marshall's opinion, which kept the state of New Hampshire from altering the charter of Dartmouth College because the charter embodied a manifestly public purpose, is totally gutted.

The greatest irony in the Schmid case is Princeton's use of the First Amendment, the constitutional provision guaranteeing America's republican citizenry the right to participate in any discussion of public policy, in order to bring down an iron curtain on its campus. The First Amendment was inspired by the most eloquent treatise on free speech ever written, John Milton's *Areopagitica*. (This impassioned defense of what we now regard as our precious First Amendment freedoms specifically denies legal protection to one category of persons; those who seek an end to civil society, a description appropriate to Khomeini partisans.)

Observers at the Supreme Court reported that Justice Byron White in particular was puzzled why a $15 trespass case was now in the lap of the U.S. Supreme Court. Justice White should have been tipped off when Princeton's attorney Katzenbach argued Princeton thought it had the First Amendment right to exclude "highly offensive" activity from the campus. The constitutional questions involved in the case are of great importance; from Princeton's point of view, the overriding question is political—whether the university can continue to harbor sponsors of the Iranian hostage-holders and their terrorist associates without challenge.

The Dartmouth case

Proponents of Princeton's position in the Chris Schmid case have hearkened back to the 1819 Supreme Court case *Trustees of Dartmouth College v. Woodward* to justify their arguments that a private university can operate independently of "the will of the state." *Dartmouth College* was one of the landmark cases which confirmed the Constitution's prohibition against the impairment of contracts by a state government. In the Princeton case, this is taken to mean that the State of New Jersey cannot "impose" a First-Amendment right on a "private" university.

This "laissez-faire" interpretation does not square at all with the reasoning presented by Chief Justice John Marshall in *Dartmouth College*. Marshall indeed holds that the state of New Hampshire could not revoke the original charter of the college, but he does so from the standpoint that the corporate charter of the college serves *public* purposes, and that this is why the government can create corporations: they are "instruments of government, created for its purposes. (4 Wheaton 518 [1819])."

The state grants a charter because the purposes of the corporation serve the interests of the state, and therefore
purposes by revoking or impairing the charter. The purpose of charters is to *protect* the objects of religious, charitable, and educational institutions.

"The framers of the constitution did not deem [these objects] unworthy of its care and protection. They have, through a different mode, manifested their respect for science, by reserving to the government of the Union the power 'to promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.' They have so far withdrawn science, and the useful arts, from the action of the State governments. Why then should they be supposed so regardless of contracts made for the advancement of literature, as to intend to exclude them from provisions, made for the security of ordinary contracts between man and man? (4 Wheaton 646-47)."

The logic of Marshall's ruling in *Dartmouth College* is therefore that a state cannot impose purposes which *conflict* with the purposes of the institution. Princeton University's own stated purposes include "the maximum possible freedom of thought and expression for each individual student and faculty member." To claim that it can therefore restrict political speech is the height of hypocrisy.

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