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THE REVIEW'S MAIN OF THE YEAR

Rob Corry, Speech Code Slayer

By Jeffrey Glasesa
Senior Staff Writer

Thanks to Robert Corry, Stanford University can finally live up to its motto: *The Wind of Freedom Is Blowing*. On February 27, 1995, Santa Clara County Superior Court Judge Peter G. Stone ruled in favor of a coalition of students and alumni led by Mr.

Corry, who challenged the legality of the University's former speech code — a precedent-setting decision which put campus speech codes across the country in jeopardy. Commonly known as the Grey Interpretation of The

Fundamental Standard, Stanford's former speech code had loomed over campus debate since its ratification by the Student Conduct Legislative Council and then-President Donald Kennedy in 1990. If it had not been for Robert Corry, free speech would remain unrealized at Stanford. For this reason, we believe that recognition of Mr. Corry is past due.

The Review has thus chosen to name Mr. Corry as 1995's Man of the Year. This award is annually given to a person who has had a substantial impact on Stanford University in the previous year. Well-deserving of this honor, Mr. Corry has exemplified qualities such as strength of conviction,

leadership, integrity, and zeal, not only in his successful campaign to bring free speech to Stanford, but also in all of his other endeavors. While one article may not do justice to the accomplishments of Robert Corry, a moment of recognition for him is definitely in order.

Editor's Note: The Stanford Review annually selects its Man of the Year as the person who has most impacted Stanford University, for better or for worse, in the previous year. Past winners include William Hewlett and David Packard, Condeleeza Rice, and Gerhard Casper.

To many, Robert Corry is the quintessential conservative activist. He has demonstrated his ability to take on any issue or to affect positive change on a number of occasions. As an undergraduate at Colorado University-Boulder, for example, he engineered

a conservative take-over of the student government. At Stanford Law School, Mr. Corry announced that he would challenge any liberal to debate any issue at any time. As a student, and later as an alumnus, he doggedly fought to abolish Stanford's speech code, which is no more, thanks to his efforts. And at present, he continues to fight for his beliefs as a tireless litigation attorney.

Unabashed by opposition, Robert Corry is not afraid to stand up for his beliefs, even when he is their lone advocate. In fact, he claims that as a conservative he received a better education at Stanford than his "politically correct" counterparts, because his views were constantly challenged by the



prevailing liberal dogma of professors, administrators, and fellow students. He attributes his strong political disposition not only to his experiences at Stanford, but also to his lowan roots and to his late grandfather, a freedom-loving, patriotic WWII veteran.

Mr. Corry has long stood up for his political beliefs, partly through student government. He has held student government offices nine times in his life, ranging from student body president of his high school to graduate senator in the ASSU. His goal, he says, has always been to give something back to his school and community at large.

Striking a balance with his more altruistic motives, Mr. Corry admits that he has a streak of rebellion. "I love to argue; and now, finally, I get paid to argue. That's the beauty of litigation," claimed Mr. Corry. "My mother has always said that I was born to be a lawyer."

His rebellious streak, coupled with his strength of conviction, leadership abilities, and altruism, are the forces which impelled him to sue the University over its speech code. Professes Mr. Corry, "It was a tough decision [to sue Stanford]. I've always loved Stanford." He claimed that his "love of Stanford and the love of freedom in general" are

continued on page 5

what brought him to fight University's speech code. He explained: "I decided that somebody had to stand up and make the argument that the speech code was damaging to Stanford and damaging to its students by cutting off the free flow of knowledge and information....I had a disgust for tyranny over students' minds. That's what the speech code was, which is antithetical to the mission of higher education....Suing the University was our only choice; we had no other option."

Taking on a team of attorneys hired by the University, considered by many to be some of the finest in the state, Mr. Corry and his team of plaintiffs managed to win the case and defeat the University's speech code, a decision the University has decided not to appeal. Mr. Corry credits his fellow team members, particularly Stanford Law student Scott Kupor, for playing a key role in helping him win the case.

Since this decision one year ago, there has been no reported incidence which would have violated the former speech code. According to Mr. Corry, this "totally vindicates our theory that the speech code was totally unnecessary. All along we argued that the speech code was not needed."

Mr. Corry sees the speech code case as

the first of many cases in which he plans to litigate for the sake of justice. With the precedent-setting speech code case behind him, Mr. Corry is now working at the Pacific Legal Foundation, a public interest legal organization in Sacramento. There, he has been actively engaged in a number of civil rights cases. In one of his current cases, for instance, he represents Governor Wilson in a law suit against government-mandated affirmative action policies. His legal accomplishments thus far – less than two years after graduating from law school – have caught the attention of The National Law Journal, which named him one of the top 40 lawyers under age 40.

When asked about his plans for the future, Mr. Corry revealed that he has been asked to run for California Attorney General in 1998. Although he is definitely interested in this opportunity, he is not prepared to announce his candidacy at this point; because, he claimed, "I may be able to do more for the issues I believe in at the Pacific Legal Foundation than as part of the government."

Regardless of whether he decides to run for office, one thing is for certain: Robert Corry has and will continue to make a difference. ♦

Free Speech Movement '90s Style

IN 1964, students at the University of California, Berkeley, took to the streets in the name of free speech. Three decades later and a few miles across San Francisco Bay, a small cadre of Stanford University students set out with the same goal. But instead of carrying placards toward the campus square, they took to court armed with legal briefs.

The Stanford speech code—also known as the Grey Interpretation for its author, law professor Thomas Grey—was adopted in 1990 after 18 months of heated campus debate over prohibiting “hate speech.” In its own terms, the code sought “to clarify the point at which free expression ends and prohibited discriminatory harassment begins.” It did so by proscribing speech or expression that “is intended to insult or stigmatize an individual or a small number of individuals on the basis of their sex, race, color, handicap, religion, sexual orientation, or national or ethnic origin.”

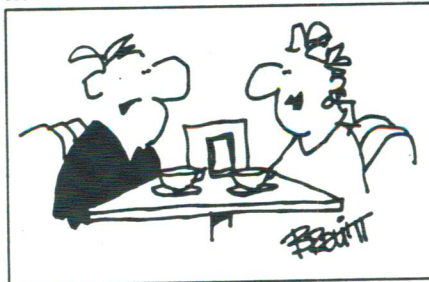
Stanford was confident that the carefully worded code, which followed the famous “Fighting Words” doctrine laid out in *Chaplinsky v. New Hampshire*—combined with Stanford’s status as a private institution, which renders it less vulnerable to legislative/judicial interference than, for instance, U.C. Berkeley—would provide ample protection against any legal challenge. In any other state, this strategy might have worked. In 1992, however, California amended its education code with the Leonard Law, which extended to students the right to say on any campus, public or private, anything he or she can legally say off campus.

Led by Robert Corry, a 26-year-old Stanford law student who had yet to graduate or pass the California Bar,

nine students filed suit last May in Santa Clara County Superior Court. Although in place for two years, the Stanford code had never been enforced. Yet as Corry, now a staff attorney with the Pacific Legal Foundation in Sacramento, explains, “The code’s chilling effect was a major factor in our decision to sue. . . . We wanted to be able to speak freely on controversial and sensitive topics. . . .”

California Superior Court Judge Peter Stone issued his opinion in *Corry, et al. v. The Leland Stanford, Jr. University, et al.* on February 27. Ruling for the students, Stone wrote a 43-page opinion that found the code “overbroad” and criticized it for attempting selectively to ban certain words and expressions. Drawing on the U.S. Supreme Court’s 1992 decision in *R.A.V. v. City of St. Paul*, Stone wrote, “Defendants cannot proscribe speech that merely hurts the feelings of those who hear it.”

Robert Corry and the other dissident students had initially hoped to overturn the speech code through the Student Senate. When his bill to do so was introduced for debate, Corry quickly learned the extent of the university’s devotion to the code: Stanford President Gerhard Casper, a former constitutional law professor, testified in its favor for nearly an hour. “I tried to lobby within the system to get rid of it, and the lawsuit was simply the last straw,” says Corry. “Since the code doesn’t apply to them, Stanford officials don’t know what it’s like to wake



“My movie criticism course?
Ferociously exhilarating, a triumph!”

Craig L. Hymowitz is a fellow with the Investigative Journalism Project of the Center for the Study of Popular Culture in Los Angeles.

up every morning and know that if you say the wrong thing you can be expelled from school.”

In court, Stanford attorneys challenged the Leonard Law’s constitutionality, charging that it violated Stanford’s right of academic freedom. Judge Stone found otherwise, noting that Stanford’s speech code violated students’ First Amendment rights by proscribing “more than just fighting words,” and violated *R.A.V.* by targeting “the content of certain speech.”

As UCLA law professor Eugene Volokh interprets current Supreme Court jurisprudence, “racial epithets might sometimes be fighting words. . . but the interesting twist *R.A.V.* puts on this is that you just can’t ban fighting words with a particular point of view.”

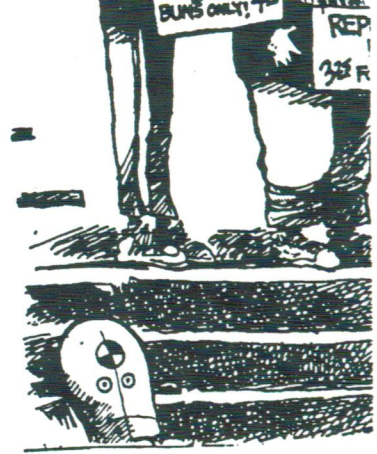
In finding against Stanford, Judge Stone also upheld California’s Leonard Law, declaring that it represents an instance where “the State has undertaken to restore constitutional speech protections otherwise available to its citizens.” He went on to remind Stanford officials that, as overseers of a major university, they have ample resources at their disposal to “ardently and effectively express their intolerance for intolerance through wholly constitutional means.”

CORRY worries that the university might now resort to increased “sensitivity training” as an alternative to the speech code. “I hope they realize that free speech is the answer to bad speech, not thought control,” he says.

President Casper sought to minimize the consequences of the decision. “Civility at Stanford will continue, with or without the Grey Interpretation,” he said in announcing the University’s decision not to appeal the court’s ruling. But many other observers think Stone’s ruling spells the end for speech codes. “I think it’s over,” says California State Senator and Stanford law professor Tom Campbell of the speech code movement. UCLA’s Volokh agrees: “Speech codes are in very big trouble.”

Ironically, Robert Corry says that he recently received a phone call from a U.C. Berkeley student who wants to challenge his school’s speech code, asking him, “Can you come across the bay and show us how it’s done?”

—CRAIG L. HYMOWITZ



F EXAMINER, LEAD EDITORIAL 3/5/95 A-12

Conservatives and free speech

Once insistent that universities silence unwanted invective, conservative voices now defend free expression on campus

IT WASN'T SO LONG AGO that die-hard conservatives stood foursquare on the Constitution in ideological opposition to demands of the civil rights movement. They patriotically supported American military involvement abroad. They denounced protesters who went limp when arrested for civil disobedience. And, of course, they gaged in outrage at the Free Speech Movement at UC-Berkeley.

Thirty years later, however, "civil rights" is the cornerstone word for conservatives in their upcoming fight against affirmative action. Opposition to military involvement abroad comes mostly from conservative voices. And they don't seem outraged these days about civil disobedience as practiced by anti-abortion activists who go limp when arrested. (At the same time, liberal veterans of the civil rights movement now support standards in hiring to rectify de facto segregation or sexism. Support for military expeditions abroad — in the name of human rights — comes mostly from liberal voices. And the civil disobedience of anti-abortion demonstrations is viewed by liberals as criminal behavior.)

But the most astonishing flip is the issue of free speech on the campus.

Last week, we heard a young attorney for the very conservative Pacific Legal Foundation saying, in public, "We value our right to free speech, especially in a university setting. There are few rights more important than the right to speak out."

And we hear Stanford University

solemnly assert that free speech doesn't include speech that contains hateful words.

It was the first case argued by Robert Corry, who was a student when he and eight others filed suit against Stanford's five-year-old regulations against "personal vilification of students on the basis of their sex, race, color, handicap, religion, sexual orientation or national and ethnic origin." They claimed it was a free speech issue.

The university argued that fighting words, "gutter epithets and symbols of bigotry" aren't protected by the First Amendment, an awkward position that the court wisely rejected.

Because the university's hate-speech rules included only certain epithets and failed to mention others, Judge Peter Stone of Santa Clara County Superior Court said Stanford violated the U.S. Constitution by regulating the content of speech. The university had asserted its own First Amendment right as a private institution "to be free of state regulation with respect to its speech," a laughable convolution that failed to persuade the judge.

"If a student harbors racist sentiments, let him bring his views out rather than let them fester," said Corry, a voice of 1995 conservatism. "That's what free speech is all about."

The university may appeal, but in the meantime, we find ourselves taking a spin on the whirligig of time with student firebrand Mario Savio (now middle-aged) and his outraged critics back in 1964. Amazingly, they have much in common today.

LET GOP 'contract' an

You picture Congress in stea airships about to bomb (torpedo wide array of environmental, hea and safety protections now in pl or in preparation under dozens of: eral laws" (editorial, "Torpedoing vironmental law," Feb. 26).

Either your age or your mem lacks recall of the past 40 years w liberal Democrats cozied up to e: ronmentalists, winning voting sup: over the opposition voice, to get: "cherished legislation" passed. I c believe you would publicly state t these now-threatened laws actu won passage by bipartisan suppor

Where were you when the atte was made to support sane tim management, by certain legislat and the timber industry vs. those claimed we were going to eradi the spotted owl? Perhaps the n has not reached you regarding number of teachers, in countie: pendent on a timber economy, are going to lose their jobs becau lack of funding.

I recall the opposition in Wasl ton and Sacramento to those purposefully gummed up the w and made environmental rul: complex and unmanageable, wh: decent wage-paying businesses to leave the country and the sta

GERALD J. TREL
Camera:

Ordeal of an ex-president

THESE ARE rough days for Car-

that set off the financial crisis. To make his

The eagerness of Republic: eliminate all environmental p tion is puzzling. Do these dim: think they can slip an amen: through Congress exempting and their families from the c birth defects, genetic damag

Free Speech Will Rightfully Reign Over Stanford

Recently, Stanford President Gerhard Casper announced that the University would not appeal the court decision striking down the school's speech code. The code prohibited insults based on "sex, race, color, handicap, religion, sexual orientation, or national and

Robert Corry

ethnic origin." In the case of *Corry v. Stanford University*, Superior Court Judge Peter G. Stone agreed with the nine student plaintiffs that Stanford's speech code violated our free speech rights and chilled discussion of sensitive issues. Judge Stone also upheld California's Leonard Law, which provides students at private universities the same First Amendment rights that we enjoy off campus.

In his concession speech, President Casper repeatedly disagreed with the Judge's ruling and with the Leonard Law. At one point, Casper stated that because he grew up in Nazi Germany, he confessed "to possessing less certainty about absolute positions than do the plaintiffs in *Corry*." As a plaintiff, I cannot in good conscience accept full credit for this "absolute" position. This is also the position of the First Amendment, of the great men who penned the Constitution, of the majority of the United States Supreme Court through the years, and of the American

people since before we were even a nation. Most importantly, this so-called "absolute position" is the position of the thoughtful and articulate 43-page opinion ultimately rendered by Judge Stone, an exceptional man who unquestionably appreciates the value of freedom. As a young boy, Judge Stone accompanied his family as they fled the persecution of Jews in Nazi Germany for a better life in America. In holding this absolute position, the Stanford Nine are in good company indeed.

Americans have a historical reverence for free speech. I know we always will, if my fellow plaintiffs are any indication. In America, we solve our problems by talking them over. Perhaps if Germany had had a First Amendment or a Leonard Law, my grandfather, the late Robert M. Corry, would not have needed to brave the German bullets with the first wave of troops on D-Day at Omaha Beach, June 6, 1944. The atrocities of the Holocaust might have been prevented by a free people who could speak out against their government's abhorrent policies.

If there is a compromise to be made between free speech and other considerations, that compromise was made in 1791 when the First Amendment was ratified. "Congress shall make no law...abridging the freedom of speech." *Make no law. Be-*

fore the plaintiffs won this case, for what great end did Stanford compromise its students' freedom of speech? The assurance that students are not offended—not generally, but only by reason of their “sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin.” Stanford’s official policy constituted intolerance for intolerance.

But freedom is not free. So that we all have the right to free speech, we are all offended from time to time. Few things are more offensive to me than someone malevolently burning an American flag, but America is great enough to tolerate such displays. Similarly, Stanford is strong enough to tolerate “politically incorrect” speech. In fact, such speech may help us accomplish our mission or educating young minds even more effectively. In America, we answer bad speech with more speech, not censorship. Students need to learn how to respond, not how to censor. Funny, Stanford’s administration never clamored to protect me from the insult of someone burning an American flag.

In expressing disapproval of the Leonard Law, President Casper attempted to characterize this enlightened statute as “governmental intrusion” into the private sector. In my years at Stanford Law School, I rarely heard a professor argue that government, consistent with the Constitution, should not cure a problem where one exists. Silencing of students by university speech codes is a problem in the State of California. Speech codes are contrary to the very mission of our educational institutions. By teaching students that it is acceptable to censor disagreeable speech, speech codes warp the young minds that will someday be running this state and nation.

Perhaps this would be a better world if private citizens were entirely free of governmental control. But government regulates nearly every aspect of Stanford’s affairs, from the disposal of its wastes to the hiring of its professors. What higher justification for such intervention can there be than protecting the educational process so fundamental to our future? President

Casper’s reasoning eliminates countless other laws meddling in the private sector and invites our rendering the state powerless to allow its citizens to vindicate their constitutional rights.

Obviously, *Corry v. Stanford* is a great victory for students. No student matriculates at a great educational institution like Stanford to handicap his or her ability to think, speak, and search for the truth. Without the legal expertise of a lawyer, nine students, including myself, courageously brought this challenge to court. Because we triumphed over the skilled corporate lawyers Stanford hired to defend itself, our victory is especially sweet. Students everywhere now realize they too can stand up for their freedom against oppression and win. To paraphrase the great Judge Learned Hand, if liberty dies in people’s hearts, no court can save it. Right now, liberty is alive and well in the hearts of Stanford students.

But this case is also great victory for Stanford itself. We now join the nation’s other great schools in allowing that unbridled freedom of speech that is essential to a good education. Indeed, if free speech cannot flourish at a place like Stanford, then this country is in pathetic shape. Stanford was temporarily held prisoner by the current climate of political correctness. Desiring not to offend certain specific people for certain special reasons, Stanford lost sight of the essential freedom of speech. The Stanford Nine have freed their school to commit itself to the fundamental principles of academic freedom embodied in its own motto: “Let the Winds of Freedom Blow.” Amen.

Rob Corry is the lead plaintiff in *Corry v. Stanford University*; he argued the case in court representing himself and eight other students. Mr. Corry graduated from Stanford Law School in June, 1994, and is now an attorney practicing at the Pacific Legal Foundation in Sacramento. He is a former columnist for *The Stanford Review*.