

In Response to Ellen Schrecker's "Ward Churchill at the Dalton Trumbo Fountain": An Introduction to the Colorado Conference of the AAUP's *Report on the Termination of Ward Churchill*

Ward Churchill

Repeat a lie often enough and it becomes the truth.

—Joseph Goebbels

Prominently featured in the inaugural issue of the *AAUP Journal of Academic Freedom (JAF)* was an article by historian *cum* AAUP Committee A on Academic Freedom and Tenure member Ellen Schrecker titled "Ward Churchill at the Dalton Trumbo Fountain," purportedly using my much-publicized case at the University of Colorado, Boulder (UCB) as a means of illuminating the more generalized repression of critical scholarship in the United States since September 2001. Having received a heads-up that the article would be appearing, I must admit that I'd been awaiting its publication with considerable eagerness. This was so, both because I hoped its release might reflect a change for the better in my theretofore negative experience with the AAUP's national office, and because I held—in fact, still hold—Schrecker's work concerning the impact of McCarthyism on the academy in highest esteem.<sup>1</sup> She of all people, I imagined, could

be relied upon not only to recount what had transpired at UCB in a fair and accurate manner but to properly contextualize it.

Hence, it should not be difficult to imagine how stunned I was, upon my first reading of the piece, to find myself depicted as a “long-haired fifty-eight-year-old ... who affected a modified Native American style of dress with a beaded headband and dark glasses,” a man who’d “latched on to the Native American cause” from “the fringes of the 1960s left” although “the nature of his [own] identity as a Native American” is “spurious.”<sup>2</sup> The reason for this last assessment, it was explained, is that, “Apparently, one of his ancestors had married a Native American woman ... though Churchill was not actually her descendant.”<sup>3</sup> Bluntly put, anyone viewing me through the lens of the “facts” Schrecker recited in this regard would have had little alternative but to conclude that I was guilty of “ethnic fraud,” and am perhaps a rather comic figure as well.

Remarkably, given the acutely personal nature of her observations, as well as the disparaging manner in which they were offered, Schrecker gave no hint of having bothered to actually acquaint herself with my background in any way at all. Indeed, while simply parroting my “enemies within ... the faction-ridden American Indian Movement” concerning my supposed fashion preferences,<sup>4</sup> the only source she cited in connection with everything else was a story appearing in the openly reactionary *Denver Post* at the very height of the Colorado media’s virulent campaign to discredit me during the spring of 2005.<sup>5</sup> Not to put too fine a point on it, she’d have done no worse had she simply regurgitated as fact the contents of a profile emanating from Joe McCarthy’s internal security subcommittee when characterizing one of the individuals targeted by that squalid entity.<sup>6</sup>

Nor was this the end of it. Having “set the record straight” with respect to my lineage and ethnicity, she proceeded to do the same on the question of my scholarly integrity. While she is a bit more careful to project an appearance of balance on this score, devoting several pages to examining the role of the American Council of Trustees and Alumni (ACTA) and other right-wing organizations in pushing my case, criticizing procedural flaws in UCB’s handling of it,

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and parsing several of the findings against me, her bottom line is unequivocal: "[I]t is clear that, in several instances, Churchill did go beyond the evidence and was less than scrupulous with his sources ... stretching the truth to make a polemical point"; is thus an academic "charlatan" whose "sloppy scholarship" is "intentionally fallacious and misleading"; and therefore, self-evidently, "guilty of scholarly misconduct."<sup>7</sup> Worst of all, perhaps, I was not only an "unpopular professor," I'm endowed with an "abrasive personality."<sup>8</sup>

In view of her assaults on both my character and my professional reputation, Schrecker's ultimate contention that "Churchill did not have to be dismissed" could only be greeted with astonishment. So too, the reasoning by which she claimed to have arrived at this conclusion, that is, that professors shown to be no less disreputable than I "remain on other faculties."<sup>9</sup> While there were and are important arguments to be made concerning the selectivity with which scholarly standards are enforced in the academy, the glaring disparities in the penalties imposed upon violators, and the ideological bias inhering in both problems, Schrecker advanced none of them (or at least not in any coherent form).<sup>10</sup> All told, while it might have been possible to mount a weaker defense of academic freedom *vis-à-vis* my case, I frankly can't imagine how.

In truth, were I asked to decide the fate of a professor whose comportment was consistent with that attributed by Schrecker to me, I'd quite likely fire her or him. That said, the question becomes whether the attribution of such misconduct to me, by Schrecker or anyone else, was valid. I submit that it was not, as has now been confirmed by the Colorado Conference of the AAUP, and that Schrecker had every reason to know it wasn't—or at least to treat the matter with a far greater degree of skepticism than she did—at the time she wrote her article. I further submit that she consistently glossed over this inconvenient reality, often presenting it as the very opposite of itself, apparently for reasons having to do with the internal politics of the AAUP at a national level. Finally, I submit that Schrecker's behavior merely reflects a posture assumed by the AAUP from its earliest moments.

### On the Matter of Schrecker's "Corrections"

The shock I experienced upon reading the first few pages of "Ward Churchill at the Dalton Trumbo Fountain" evolved into a profound sense of disgust well before I'd finished reading the article. From there, it is but the shortest of steps to the cold rage that has always propelled my "take-no-prisoners" way of making a point,<sup>11</sup> and I sent a lengthy e-mail to AAUP president and *Journal of Academic Freedom* editor Cary Nelson.<sup>12</sup> Therein, giving full vent to my anger—yes, terms like "racism" and "unmitigated crap" were indeed employed—I demanded that Schrecker be required to produce evidence that I'd *ever* worn a headband, beaded or otherwise, and to explain what on earth she meant by "a modified Native American style of dress"—Levis? Pocketed tee-shirts? "Cowboy" boots? An occasional tweed jacket?—as well as the basis upon which she'd assigned ethnic-specific significance to my propensity to wear dark glasses.<sup>13</sup>

After itemizing several serious misrepresentations of fact in Schrecker's discussion of my personal and familial history and identity, and observing that these were easily avoidable since, had she troubled herself to ask, I'd have quickly provided correcting documentation,<sup>14</sup> I turned to what I saw as her most egregiously race-baiting indulgence of all. This took the form of a snide little comment in which Schrecker suggested that, in the unlikely event that UCB might eventually have institutional second thoughts about its subversion of academic freedom in my case, an appropriate signifier of its remorse might be the building of an "earth lodge" at mid-campus.<sup>15</sup> Really. One shudders to think what comparably amusing quips she'd have introduced to the discussion of, say, a queer studies scholar.

To this, I added a lengthy list of the substantive inaccuracies and distortions with which Schrecker had salted her characterizations of both the institutional procedures at issue in my case and the nature and validity of the findings of "research misconduct" accruing from that process. It was hardly a state secret that, as a collateral effect of the trial of my lawsuit against UCB discussed by Schrecker in her article,<sup>16</sup> I was in possession of a comprehensive set of documents relevant to the case.<sup>17</sup> I had, moreover, provided a veritable roadmap to the material in an essay published in a special issue on academic freedom in the post-9/11 university by the

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journal *Works and Days* several months earlier.<sup>18</sup> These things being so, I asked, why was it that even the most obviously relevant items had been neither requested nor referenced by Schrecker?

It's worth noting that I felt a twinge of regret that it was Cary Nelson on the receiving end of my blistering communiqué, since he'd already undergone the unpleasant experience during a 2009 conference at which we were both keynoters of having me publicly rebut as being "categorically untrue" his explanation to the audience that the reason the AAUP had taken no action in my case was that I'd never requested it to do so. As it turned out, Nelson had been lied to on the matter—as were Committee A member Michael Bérubé and others<sup>19</sup>—by former AAUP general secretary Roger Bowen, to whom my request had been submitted in 2006. To his great credit, rather than seeking to conceal what had transpired, Nelson quickly spread the word and went on to describe Bowen's multifaceted and prolonged deception in his 2010 book, *No University Is an Island*.<sup>20</sup>

The response to my e-mail was immediate and came not only from Nelson but Schrecker as well. Nelson observed that "it would have been a good idea to let you see the piece before it was published," for fact-checking purposes if nothing else, and assured me that a "substantive response" would be published in the *JAF*, should I care to write one.<sup>21</sup> For her part, Schrecker sent a separate e-mail explaining that, while she'd "thought about" contacting me in the course of preparing the article, she'd ultimately decided she "might gain more credibility if [she] maintained a distance." Nonetheless, she said she'd "like to be able to make corrections, if not in the piece that has already come out, at least in my forthcoming book that contains much of it as a chapter."<sup>22</sup>

In reply, I observed that I'd "never really understood or accepted the proposition that quarantining certain sources at the expense of factual accuracy serves—or even *could* serve—to increase one's credibility." Moreover, I continued, apples were plainly mixed with oranges in Schrecker's purported explanation, given the fundamental difference between relying upon my personal interpretation of the facts on the one hand and requesting copies of primary

documents upon which to base her own conclusions on the other. While pointing out that it was her failure to do the latter, not the former, that I'd raised as an issue, I wrapped up by offering to provide any and all such documents as she might desire in undertaking her corrections (or for any other purpose).<sup>23</sup>

With the air thus cleared—or so I thought—I was delighted, a day later, to receive an e-mail from Nelson informing me that Schrecker was revising her article and that the original version would be replaced with the revision as soon as it was finished.<sup>24</sup> I immediately agreed to the procedure, assuring both Nelson and Schrecker that I'd hold off on formulating any response for publication until after the new version was posted (at which point, I hoped, a response would no longer be necessary). In addition, I provided three links “to get things rolling on the documents front” and indicated once again that I could and would quickly “provide other documents as/if need be.”<sup>25</sup> Unfortunately, I've yet to hear another word on the matter from Schrecker, a circumstance that to my mind can only be construed as indication of a distinct disinterest in examining primary materials of central relevance to the topic about which she was writing. That such a posture seems peculiar when assumed by a seasoned historian should go without saying.

Curious though it may be, however, Schrecker's “don't confuse me with the facts” approach to interpreting my case and its implications was again manifestly apparent when she simply reiterated most of the fallacies infusing the original when her revision of “Ward Churchill at the Dalton Trumbo Fountain: Academic Freedom in the Aftermath of 9/11” was posted on February 22, 2010.<sup>26</sup> While several of the most flagrantly racist passages—notably the “earth lodge” comment and those pertaining to my supposed “style of dress”—were deleted, much else along the same lines was retained. In some instances, misrepresentations were simply left untouched.<sup>27</sup> In others, Schrecker's changes were self-nullifying; having abandoned her contrafactual depiction of my ancestry in favor of acknowledging she was “in no position to judge,”<sup>28</sup> for example, she promptly proceeded to do exactly that, pronouncing the “nature of [my] identity as a Native American” to be “questionable.”<sup>29</sup>

More significantly still, *none* of the multitudinous distortions imbedded in Schrecker's description of my "sloppy scholarship" and the research misconduct investigation ostensibly arising from it were altered in any way at all. Even such easily corrected matters as her mischaracterization of those whose "information" was used by the UCB administration to predicate its investigation of my research as having been "critics in the field of Indian studies" were left untouched.<sup>30</sup> In substance, the *only* changes she'd made to her original text were those serving to diminish the prospect that her well-cultivated liberal image might be marred by too overt an indulgence in the crudities of gutter-level race-baiting. The circumstances being such that it was impossible for me to consider this to have been either inadvertent or benignly intended, I notified Cary Nelson that my response would be forthcoming.

### Fashioning a Response

I did in fact set about drafting a detailed rejoinder to Schrecker, intending to lay bare the relatively sophisticated—and therefore insidious—manner in which she'd employed not only outright untruths, but, more routinely, a series of half-truths, omissions, and other forms of misdirection to craft the sort of "balanced" narrative in which "both sides of the story" are presented with an appearance of "objectivity." As I went along, however, I quickly ran up against the truth lodged in Noam Chomsky's oft-repeated observation that while it may take only a sentence to assert a falsehood, a lengthy explanation is frequently required to reveal why it was a lie.<sup>31</sup> Such straightforward misrepresentations of fact as Schrecker's insistence upon casting my critics as "Indian studies" scholars could usually be exposed in a rather brief fashion, of course, but the far more subtle pattern(s) of contextual manipulation imbedded in her narrative demanded much more elaborate responses. Several of the more important examples follow.

### About Those "Faculty Committees"

To show that the outcome of my case carried a “faculty imprimatur,” Schrecker twice quoted ACTA luminary *cum* UC president Hank Brown’s 2007 claim that “[t]hree separate panels of more than 20 tenured faculty, from the University of Colorado and other universities, ha[d] unanimously found” me to be “intellectually dishonest.”<sup>32</sup> While the figures advanced in Brown’s—and, insofar as she elected to simply parrot it, Schrecker’s—summary are superficially impressive, they are also grossly misleading. Any claim that the process involved three “quasi-judicial faculty committees”—here, I’m using Schrecker’s own terminology—is contingent, first of all, on counting UCB’s Standing Committee on Research Misconduct (SCRM).<sup>33</sup> Second, it is necessary to count the special panel assembled by the SCRM to conduct the investigation in my case as having both constituted and functioned as a legitimate faculty entity rather than as an adjunct to the administration. Demonstrably, neither is true.

Setting aside the decidedly negative legal implications attending Schrecker’s use of the term “quasi-judicial” in the context at hand,<sup>34</sup> about which she was warned,<sup>35</sup> a fundamental mischaracterization was embodied in her repetition and affirmation of the university’s pretense that the SCRM is a “faculty committee.” In fact, it was and remains an integral component of the UCB administration—that is, its offices are in the administration building; its funding is a regular item in the administrative budget; its chair is rostered for that purpose at least half-time to the administration; only deans can nominate faculty members to serve on the SCRM and each nominee must be approved by the administration before being seated; and its members are immunized against the consequences of any failure to comply with the norms of scholarship in material produced for the committee, the explicitly articulated rationale being that SCRM documents are inherently administrative rather than scholarly in nature.<sup>36</sup>

It should be emphasized that by the time Schrecker wrote what she wrote, even SCRM chair and director of the administration’s Office of Research Integrity Joseph G. Rosse was on record conceding that rather than being a faculty committee, per se, the SCRM is actually “an administration committee made up of faculty members.”<sup>37</sup> It is through this lens that Schrecker’s glowing description of how the SCRM “modeled its inquiry on the rigorous



examination by a group of eminent historians of the work of Emory professor Michael Bellesiles" must be assessed.<sup>38</sup> While several falsities lodged in the passage will be addressed in the subsections below, it is appropriate to observe at this juncture that even its most basic premise embodied a complete inversion of reality. While *I* argued for a procedure similar to that employed by Emory in the Bellesiles case to be followed in mine, the SCRM flatly *rejected* the idea.<sup>39</sup>

Hence, not only were there elemental differences between the Emory model and that fashioned for use in my case, but such differences were consciously intended by the SCRM. For example, while a panel of three senior scholars in Bellesiles' own discipline (history), none of them from his home institution, were convened to assess the charges against him,<sup>40</sup> the majority—three of five—of those comprising the investigative panel in my case were handpicked from the UCB faculty.<sup>41</sup> Moreover, *none* of the panelists in my case were grounded in American Indian Studies (AIS).<sup>42</sup> Still more conspicuously, Emory didn't select a person to chair the panel investigating Bellesiles' scholarship primarily on the basis of her experience *as a prosecutor*, as the SCRM admitted it did in my case.<sup>43</sup>

Last, for the moment, but hardly least, there's not the least indication that Emory selected anyone to serve on the Bellesiles panel who'd already engaged in an e-mail campaign to discredit him, as Mimi Wesson, the former prosecutor who chaired the investigative panel in my case had, to Rosse's knowledge, done to me during the months before he appointed her to play such a crucial role in my case.<sup>44</sup> In fairness, it should be noted that Schrecker did touch upon this "problem," even quoting a few of Wesson's disparaging comments (characterizing me as a "male celebrity wrongdoer," for instance, and comparing me to, among others, an accused child molester).<sup>45</sup> In doing so, however, she framed the "problem" exclusively in terms of "an e-mail"<sup>46</sup>—singular—rather than the "large number" of such missives both Wesson and Rosse had by then long since acknowledged were at issue,<sup>47</sup> thereby minimizing appreciably the magnitude of what actually transpired and the significance of its implications.<sup>48</sup>

In light of these factors alone, it should be obvious that both the nature and extent of the control exercised by the SCRM—and thus the administration more generally—over the investigative panel precluded any possibility that it “operated in accordance with the traditional procedures” of faculty governance, as Schrecker claimed.<sup>49</sup> The rules of simple logical consistency would require that anyone accepting or advancing the proposition that either the SCRM or its investigative appendage constituted a faculty committee merely because the members held faculty positions, as Schrecker did, should also characterize the ad hoc group of three administrators who initiated the investigative process in February 2005 as having been one as well. After all, the chancellor and both of the deans involved each held a senior faculty position at UCB.<sup>50</sup> The same applied to virtually everyone filling a key slot in the administration, including Hank Brown,<sup>51</sup> so why not just describe the administration, collectively, as comprising one big “faculty committee”? Plainly, a deeper structural and functional analysis than that reflected in Schrecker’s usage is necessary if the term—and, for that matter, the whole vernacular of faculty governance—is to retain any meaning at all.

#### About That “Ample Opportunity to Defend Myself”

A no less egregious distortion was embodied in Schrecker’s observation that the SCRM “was in no hurry” to act upon the charges against me.<sup>52</sup> In actuality, the preliminary inquiry dragged on for four months, not because any remarkable amount of time was devoted to “studying” the accusations, as she claimed,<sup>53</sup> but because the chancellor was still rather gratuitously adding what he termed “supplementary allegations” three months after the initial research misconduct complaint was submitted.<sup>54</sup> After the inquiry phase of the process was finally completed and the bulk of the charges sent forward for full investigation in early August 2005, a further four months were required to assemble an investigative panel tailored to the administration’s expectations.<sup>55</sup> Once the investigation itself at last got underway in January 2006, a mere 120 days was allotted—an interval only thirty-odd days longer than that required by the Emory

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panel to adequately explore a *much* narrower range of issues<sup>56</sup>—and the deadline rigidly enforced.<sup>57</sup>

This last was so, despite my being informed at the outset of the investigation that the panelists had yet to finalize the list of things they wished me to address and, because they might opt to simply “drop some of these charges,” I should to “hold off” on formulating any responses until further notice.<sup>58</sup> Twenty of the 120 days thus elapsed before I was so much as apprised of which allegations I was required to address—it turned out to be all of them—and, even then, the nature of the issues about which panel demanded explanations shifted continuously.<sup>59</sup> Greatly exacerbating the problem was the time consumed, again at the panelists’ request, by my and my experts’ repeated attempts to acquaint the committee with the analytical and interpretive methods employed in AIS scholarship.<sup>60</sup> All told, about half the time allocated for the investigation was taken up with such things, a matter speaking directly to the collective absence of background or competency among those selected as panelists to perform the tasks they’d agreed to undertake.

Nonetheless, although I repeatedly asked for an extension of the deadline in order to complete written submissions on several points<sup>61</sup>—a prerogative to which I was entitled under the rules supposedly governing research misconduct investigations at UCB—Wesson not only denied my requests out of hand, but, as three of them subsequently testified, failed to so much as inform the other panelists that such an extension was permissible.<sup>62</sup> Instead, she e-mailed at least one of them, stressing the supposed adverse impact of my case on financial contributions to the university and the corresponding “urgency” she assigned to getting the investigation wrapped up by the original target date.<sup>63</sup> So great was Wesson’s “hurry” in this regard that, with the approval of the SCRM, she assumed the lead role at a press conference announcing the panel’s findings before I’d even received a copy, much less had a chance to respond (as the rules entitled me to do, prior to the panel’s findings being publicized).<sup>64</sup> Under such circumstances, Schrecker’s bland observation that I was afforded “ample opportunity to defend [my]self” was and remains facially laughable.

### About That “Rigorous” and “Exhaustive” Report

As was mentioned above, Schrecker imbued the investigative panel’s “examination” of my work with scholarly “rigor,” a quality she presumably discerned in the “exhaustive analysis of the seven allegations against [my] scholarship” contained in its report.<sup>65</sup> Here, the most charitable interpretation of her stance is that Schrecker—in common with many others, among them historian Joan Scott, another (now former) member of Committee A<sup>66</sup>—was simply taken in by the care with which the panel crafted a document that, on the basis of appearances alone, might be expected to convey exactly the impression she registered. Heavily larded with all the customary trappings of scholarship—reviews of the literature, maps, more than 250 footnotes citing both archival and secondary materials, and so on—the document they produced *looks far* more like an essay destined for publication in academic journal than, say, the report of the Bellesiles panel.<sup>67</sup>

Lending credence to the prospect that Schrecker may have been guided more by style than substance in her assessment of the investigative report in my case, it appears that she so little understood either the allegation or the panel’s findings with regard to the plagiarism of material written by Fay Cohen that she ended up “explaining” that the appropriation of an entire article was involved.<sup>68</sup> This is *not* what was said in the report, wherein the issue was clearly framed in terms of several paragraphs lifted *from* the article in question (and, as Schrecker *did* note, it was never established that I was responsible even for that).<sup>69</sup> There are other examples, but this one alone is sufficient to raise suspicions that Schrecker’s bestowal of the term “rigorous” upon the investigative process as a whole correlated to the *lack* of rigor displayed in her reading of the panel’s work product.

Still, there was ample indication that Schrecker knew the investigative report, despite its well-nigh impeccable presentational form, couldn’t—or at least *shouldn’t*—be accepted at face value. Saliently in this regard, she remarked upon two of the findings of research misconduct “thrown out” by the only bona fide faculty committee involved in the entire process—a panel

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drawn from the faculty senate's Committee on Privilege and Tenure (P&T)—during hearings conducted in January 2007 to review evidence presented in the report.<sup>70</sup> As with the Wesson e-mails, however, Schrecker's failure to mention that parts of two other findings were also rejected by the P&T panel,<sup>71</sup> or the P&T panelists' conclusion that in at least two instances the investigative panel had "exceeded its charge" in seeking a pretext upon which to base an adverse finding,<sup>72</sup> signals a conscious effort to minimize the implications of the P&T review.<sup>73</sup>

There are further, and much starker, indications that Schrecker deliberately obscured defects in the investigative report. For instance, although she cited one of them,<sup>74</sup> and was thus unquestionably aware of it, no mention is made anywhere in her text of *any* of the five separate research misconduct complaints filed against the investigative panel by well over a dozen "tenured faculty at the University of Colorado and other universities," in combination charging that in their report the panelists engaged in serial plagiarism, the systematic misrepresentation of sources, and falsifications of fact in more than a hundred instances.<sup>75</sup> Having thus declined to acknowledge the very existence of the complaints, Schrecker necessarily omitted any reference to the fact that rather than address the issues raised therein, the SCRM, invoking the rationale described in the first subsection above, quietly declared the report to be a *nonscholarly* document, its authors and contents exempt from any need to comply with the requirements of scholarship.<sup>76</sup>

As things stand, and as they stood at the time Schrecker's article was published, *none* of the raft of charges against the investigative panel has been rebutted by the university. Assuming that even a fraction of them are valid—and I should note, as Schrecker didn't, that even Wesson had publicly conceded the accuracy of one of them before apparently being instructed by her superiors to make no further comments on such matters<sup>77</sup>—the vaunted investigative report would more nearly resemble the deliberately fraudulent material published by Alan Sokal in *Social Text* than anything else springing readily to mind.<sup>78</sup> The more so, since Sokal's hoax was perpetrated for the explicit purpose of demonstrating how easily utter nonsense can be passed off as solid scholarship to a purportedly discerning academic audience, so long as it is properly

packaged and affirms outlooks, prejudices, or conclusions to which the audience is for whatever reason(s) predisposed.<sup>79</sup>

### About That Little Matter of the Jury Verdict

Any lingering doubts that the charges lodged against me by the UCB administration were pretextual, or that the investigative committee's findings were fraudulent, *should* have been dispelled by the verdict obtaining from the 2009 trial of the First Amendment and wrongful termination lawsuit I filed against the University of Colorado Board of Regents (in its official capacity) the morning after my firing.<sup>80</sup> As Schrecker observed in this regard, the jurors were unanimous in concluding that I'd been fired illegally, in retaliation for my constitutionally protected expression of political views. As she also observed, the jury split regarding the amount I should be awarded in compensation for damages sustained as a result of the university's unlawful actions, with five of the six jurors voting to bestow a "generous financial settlement," and the sixth refusing for ideological reasons to award me anything at all.<sup>81</sup> Rather than end with a hung jury because of an issue I'd told them was of no particular concern to me, the five compromised by awarding me \$1.<sup>82</sup>

So far, so good, but the verdict addressed *four* questions, not two.<sup>83</sup> Schrecker, in common with the university's public relations personnel and the Denver-area media, offered no hint that this was so, or that the jury found unanimously in my favor regarding both of the other issues. The first, that I did in fact suffer tangible damages as a result of the university's illegal course of conduct, is in obvious ways implicit to the discussion of compensation, so they can perhaps be forgiven for not having bothered to point it out. The same does *not* pertain to the second, however, given that it consisted of the jury's determination that the university had failed to show *any* legitimate grounds for my firing.<sup>84</sup> Since this element of the verdict alone addressed what was to all practical intents and purposes the crux of the cases presented by both sides, there can be no prospect that Schrecker, any more than the administration's spokespeople, saw it as being of so little importance as to be unworthy of mention.

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To appreciate the significance of what was hidden behind Schrecker's silence in this connection, it must be considered that the verdict was rendered at the end of a four-week trial, during which the university's attorneys and witnesses repeatedly impressed upon the jury that I'd been found guilty by my "faculty peers" of committing a litany of scholarly offenses involving the very "worst kinds of academic fraud," *any one of which* would have been sufficient to warrant my firing "for cause."<sup>85</sup> My own position was that every one of the findings was fraudulent. The university took its best shot at demonstrating their validity, introducing scores of documentary exhibits, and calling as witnesses all five members of the investigative panel as well the chair of the SCRM and two of the five members of the P&T panel.<sup>86</sup> In addition to a roughly equal number of exhibits and my own testimony, I called a dozen experts to the stand.<sup>87</sup>

By far the most crucial dimension of the evidence brought out at trial accrued from my ability, manifested through my attorneys, both to directly elicit testimony from my own witnesses and to cross-examine those testifying for the university—neither of which I was allowed to do during the investigative proceedings<sup>88</sup>—and to do so without arbitrary constraints being placed upon the scope of my questioning (as was consistently done during the P&T review hearings).<sup>89</sup> Thus, for the first time, I was actually afforded that fabled "ample opportunity to defend myself," and, under *those* circumstances, the university's no less fabled "case" against me melted away like butter on a hot biscuit.

So blatantly self-contradictory and dissembling were the institution's key witnesses that, many of them having been caught telling what one juror described as "outright lies" as well,<sup>90</sup> the jurors ultimately came to view *none* of their testimony as being credible.<sup>91</sup> It became transparently obvious on several occasions, moreover, that documentary exhibits offered by the university neither said nor otherwise demonstrated what its attorneys claimed (in some instances, precisely the opposite).<sup>92</sup> In contrast, and most likely because they weren't required to rationalize or defend positions that had never amounted to more than an elaborate subterfuge, my own witnesses and exhibits held up quite well. In any case, the jury was unquestionably

enabled during the trial to consider a far more comprehensive and critical body of evidence than any of its academic antecedents had ever admitted to the record.

That in itself was sufficient, in my estimation, to ensure the jury's consensus that the university had produced nothing capable of withstanding scrutiny to sustain a single one of the findings set forth in the investigative report (I had in fact been predicting such an outcome for years).<sup>93</sup> Somewhat more surprising—and gratifying—was the complaint subsequently expressed by several jurors that the questions posed on the verdict form precluded their making it absolutely clear that in rejecting the investigative panel's findings they weren't motivated merely by the university's failure to meet its burden of proof, but also, and more substantially, by the view that I'd been effectively exonerated by the evidence presented.<sup>94</sup> Rephrased, it was the jury's conclusion that I'd engaged in no research misconduct, and they were disappointed that they'd been prevented from saying so, explicitly, and as a matter of judicial record.<sup>95</sup>

Why the UC administration and members of the various "faculty committees" implicated in the case would want to pretend that this aspect of the verdict doesn't exist is self-explanatory. So, too, the reactionary media outlets that were and remain quite heavily invested in portraying me as a "proven scholarly fraud," as well as those, both in the media and elsewhere, seeking to parlay my alleged misdeeds in a handful of paragraphs into an across-the-board denial of every less-than-triumphal moment in and facet of US history addressed or even touched upon in the entire corpus of my published work. Far less obvious is what might have motivated anyone embracing the values and priorities claimed by Schrecker not only to share but to have actively participated in the effort to fulfill such an unsavory agenda. This question will be addressed, albeit in a necessarily speculative fashion, in the final two sections.

### Considering the Alternatives

I was about forty-five pages into my response, having more extensively addressed the matters covered above and begun what I intended to be a detailed survey of the falsifications salting the investigative report, when I broke off the effort, realizing that I was largely repeating things that



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I, along with a number of others, had already brought out. Much of it was set forth and thoroughly documented in my *Works and Days* piece, which had by that point been in circulation for roughly two years, but was to all appearances being rather studiously ignored.<sup>96</sup> All five of the highly detailed complaints against the investigative committee had been readily accessible for two years longer still, but had suffered an identical fate. So, too, were the most relevant component of the jury verdict and the trial record, available upon request to anyone wishing to survey the copious body of evidence upon which the jurors' conclusion was based.

In addition to what I earlier described as a "don't confuse me with the facts" approach to my case by "responsible" academics expressing firm and mostly negative opinions on the matter, it was clear to me that something more was involved. This amounted to a concerted effort in such circles to marginalize and in some instances actively disparage the far smaller number of scholars who'd actually bothered to acquaint themselves with the facts and had been drawn thereby to conclusions markedly different from those embodied in the rapidly congealing "consensus view." The tendency is nowhere better illustrated than in Schrecker's bizarre contention that by the time I was fired in mid-2007, I was supported by only "a handful of radicals ... at Boulder and elsewhere."<sup>97</sup>

Since, only two sentences earlier, she'd noted that both had "protested [my] firing," Schrecker's overarching and altogether dismissive characterization necessarily encompassed not only "the ACLU's Colorado affiliate" but "the local Colorado chapter of the AAUP" as well.<sup>98</sup> Also subsumed within her depiction were such noted scholars as Stanley Fish, Richard Delgado, and the late Derrick Bell, each of whom was on record with supportive articles,<sup>99</sup> to say nothing of those—Leonard Baca, for instance—who weighed in with complaints against the investigative panelists,<sup>100</sup> and those like Barbara Alice Mann, Sumi Cho, and Robert A. Williams Jr., who testified in my behalf at trial.<sup>101</sup> While I in no sense disavow the many genuine radicals among my supporters, it's been a while since I've encountered anyone purportedly to the left of Sean Hannity inclined to apply the term to either the American Civil Liberties Union (ACLU) or Stanley Fish.

A final twist of the knife was provided by Schrecker's trivialization of the issues raised by those who've supported me, a matter she accomplished by quoting one such "radical," Cornell University professor of law, literature, and AIS Eric Cheyfitz, but only to the effect that in his view the investigative panelists had been "really nitpicking."<sup>102</sup> While the quote was accurate, a serious distortion was embodied in Schrecker's selection of a snippet likely to be viewed as mere "whining" to represent Cheyfitz's position. As she was unquestionably aware, since she elsewhere cited the very article in which he most forcefully articulated them,<sup>103</sup> Cheyfitz's central conclusions were that I'd been "framed" and that the charges brought against me exemplified "the political construction of research misconduct."<sup>104</sup> Clearly, the substance of Cheyfitz's actual critique was conspicuously different from that bound up in the relatively petty criticism Schrecker imputed to him.

Those being the circumstances, I was left with little choice but to conclude that nothing I might say, or that could be said by individual scholars, no matter how distinguished, or even by a jury at the end of a lengthy trial, was likely to penetrate the wall of prevarication and denial behind which "the academic community" had by and large elected to hide from the realities and attendant implications of what been done at and by the University of Colorado. Breaching such a barrier, assuming it *could* be breached, would require that some competent entity within the academy itself—but operating in manner entirely free of institutional control—finally undertake a thoroughgoing excavation of the entire record and disseminate an official report of its findings. The problem, of course, was that very few such entities exist.

There was a time when academic organizations like the American Historical Association (AHA) accepted at least limited responsibility for overseeing compliance with the exacting codes of professional ethics they'd promulgated, in part by conducting formal investigations of alleged violations. Such procedures were abruptly jettisoned in 1985, however, when it became obvious that uniform—rather than selective—enforcement of the AHA's rules of "professional integrity" would likely have the effect of discrediting much if not *most* of the work produced by even the most respected historians and thus the discipline of history itself.<sup>105</sup> Thereafter, while

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those ensconced in the AHA's professional division have continued to pontificate on how the standards should be understood,<sup>106</sup> they have been applied in a localized and extraordinarily uneven manner.<sup>107</sup>

Over the longer run, of course, the AAUP's Committee A has served such purposes, or claimed to, although Committee A investigations have been notoriously infrequent in comparison to the number of academic freedom cases arising in any given year (or decade).<sup>108</sup> And, of course, the already slim prospect of a Committee A investigation in my case had been further diminished by general secretary Roger Bowen's earlier-discussed pattern of dishonest reporting on the matter throughout the period when the effect of AAUP scrutiny might have been most constructive.<sup>109</sup> Still, in view of an AAUP national Council resolution shortly after the verdict holding that the allegations against me "should ... not [have been] referred to disciplinary hearings,"<sup>110</sup> and my receipt of a letter from associate secretary Gregory Scholtz a few months later asking whether I "would be amenable" to the AAUP investigating "issues of academic freedom and due process" in my case,<sup>111</sup> I didn't rule out the possibility until October 13, 2009, when the AAUP professional staff, for reasons left unexplained, decided not to proceed.<sup>112</sup>

### Enter the Colorado AAUP Conference

The national AAUP's ongoing default did not leave me bereft of options. While I was unaware of it until fairly late in the game, the association's Colorado state conference, which had been, for what should be obvious reasons, closely monitoring my case from the outset, had also been seeking a Committee A investigation. In early July 2009, apparently uncomfortable with the noncommittal posture still on display at the national office, the council's executive committee authorized the president, retired Colorado State University business professor Myron Hulen, to inform me that it was prepared to undertake a full investigation on its own initiative, and to ascertain whether I desired that it do so (a question to which I immediately replied in the affirmative).<sup>113</sup> The conference then informed the national office staff that its Colorado

Committee for the Protection of Faculty Rights (CCPFR) intended to investigate, and proposed that it do so in conjunction with Committee A.<sup>114</sup>

Following the October 13 decision of the national AAUP's professional staff, I confirmed with Hulen that I wished CCPFR to proceed without Committee A participation.<sup>115</sup> A formal arrangement was then worked out wherein I agreed to provide the CCPFR investigators with the entire 17,000-page record of my case (including all hearing and trial transcripts and exhibits), to respond to any and all questions they might wish to pose, and to provide them such assistance as I was able in identifying and locating any additional witnesses or materials they might request. At this juncture, another confession is in order: While it was quite gratifying that a recognized academic entity had at last stepped up to the plate, and I was more than willing to cooperate in the manner stipulated, I was from the outset rather skeptical concerning the outcome.

Not the least reason for my trepidation in this regard was that the investigators were unknown to me, even by reputation.<sup>116</sup> Unlike Committee A, the CCPFR had no national pool of experts to draw from, and I frankly had no idea whether the people involved would be up to the task, so daunting as to easily become overwhelming, of sifting what was important from the mountain of evidence they'd received and translating it into a coherent set of conclusions. As the months wore on, including extended periods without contact, I became increasingly doubtful. Indeed, by the time the investigators' report was finally completed, nearly *two years* after I'd handed over the first batch of documents, I'd more or less resigned myself to the idea that it might never be finished.

I should really have had more faith. The Colorado AAUP conference's 137-page *Report on the Termination of Professor Ward Churchill*, released on November 1, 2011, is extraordinarily thorough and well-argued, the investigators having plainly engaged in research additional to their examination of the material I provided (and the scope of the few questions posed to me). One result is that the report brings out several points that even *I* had overlooked. And, as I anticipated would be the case, should the evidence be subjected to such exhaustive scrutiny by

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a competent academic body, the key component of the jury's verdict is unequivocally confirmed by the document. As lead author Don Eron summed up during an interview conducted a week after the report was made public, "We found that [Churchill] did not commit academic misconduct . . . . [W]hat [the SCRM] called academic misconduct was actually normative practice used by numerous experts in the field—and even by some people on the committee itself."<sup>117</sup>

Consider *that* to be my response to Ellen Schrecker. As well, the Colorado conference report can stand as my reply to Joan Scott and everyone else who's served as a member of Committee A since February 2005, to Roger Bowen and the AAUP professional staff who declined to recommend a Committee A investigation in October 2009, to the Board of Regents and UC administrators involved in my case, to the members of all "three faculty committees" who actively collaborated with the administration in manufacturing the pretext for my firing, to the University of Colorado PR flacks and "objective journalists" who persist in peddling that pretext as valid, and to all my "colleagues" in the "scholarly community," at UCB and elsewhere, who found and continue to find it convenient to accept at face value the collective fraud of the persons and entities I've just named.

There will of course be those who will wish to claim that the report is "one-sided." To them, my reply is that any such impression has been caused by the fact that, as Rudy Acuña aptly observed while recounting his own academic freedom and integrity case vis-à-vis administrators at the University of California, Santa Barbara, during the early 1990s: "Sometimes there *is* no other side."<sup>118</sup> That has always been true in my case. Those who have contrived to create a contrary appearance, as Schrecker did, and as many others have done over the past several years, have—irrespective of their motives in doing so—simply been repeating a lie. As regards the implications of such behavior, I'm quite content to rest my response upon the quote from nazi propaganda minister Joseph Goebbels deployed as an epigram at the beginning of this essay.<sup>119</sup>

### On the Question of Motives

Schrecker claimed that, “since [the] case is still being litigated and none of the panel members can speak about it, we do not know what motivated them” to participate in a process they knew to be illegitimate.<sup>120</sup> This, again, is untrue. As was noted earlier, the entire investigative panel testified, both during the P&T review and again at trial, where they were joined by two members of the five-member P&T panel who voted to fire me. All of the panelists who testified were probed with respect to their motives and responded with varying degrees of candor. Their answers are a matter of record, readily accessible by anyone, including Schrecker, who might wish to inspect them. Meanwhile, however, it might be useful to contemplate the reason blurted out by P&T panelist Donald Dean Morley, in response to the question of why he considered the charges against me to be so serious:

We don't know if Professor Churchill's fabricated history of the Native American experience is causing some young man to become incredibly bitter to where he picks up an AR-15 some day and kills a bunch of people.<sup>121</sup>

Given that the P&T panel concluded that I might be said to have “fabricated” aspects of only one event in my 4,000-odd pages of published scholarship on “the history of the Native American experience,” and disregarding the fact that the panelists were wrong with regard even to *that* instance, Morley's rationale was no more absurd than it was revealing. As stated, his motive in wanting to see me fired had *nothing* to do with my supposed research misconduct, *per se*, and *everything* to do with the very nature of my work. Rephrased, he rejects virtually everything I've had to say—viscerally, since he purports to no expertise in the subject matter—and therefore prefers to view it *all* as a “fabrication.” On that basis, it follows that I should be silenced (or at least discredited). His motive was thus, as he framed it, explicitly ideological.

Similar insights can be extracted from the testimonies of other panelists as well, but the example provided should suffice for present purposes. The more interesting question in any case goes to *Schrecker's* motives in crafting her article the way she did. It has been suggested to me that she was forced to write it as she wrote it in order that it be accepted for publication in

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the *JAF*. If so, it would say much about the already much-remarked climate prevailing at the national level of the AAUP. I consider the explanation dubious, however, not least because Schrecker subsequently included most of the article, verbatim and with the same paucity of documentation, in a book over which the *JAF* editorial board exercised no control whatever.<sup>122</sup>

A more likely scenario is that, far from being "forced" to do what she did by some shadowy group of bad guys in the national office, Schrecker did it because, regardless of any pragmatic or bureaucratic issues dividing them, she, no less than they, accepts a peculiarly deformed notion of academic freedom adopted by the AAUP in its early years, as well the *quid pro quo* arrangement into which the association later entered as an expedient to realizing its version of faculty rights. The roots of these matters can be traced at least as far back as October 1917, when Columbia University economist E.R.A. Seligman, a founder of the AAUP and then chair of Committee A, openly collaborated with the university's president, Nicholas Murray Butler, in purging a pair of faculty members, including another AAUP founder, James McKeen Cattell, for publicly opposing US entry into World War I.<sup>123</sup>

A month later, AAUP president Frank Thilly endorsed Butler and Seligman's action in his annual report, asserting that "the members of our profession stand loyally behind the President in this war . . . . They have no sympathy with the disloyal and even with the indifferent, and they do not believe that this is a time for ill-considered speech and action . . . . They do not look with favor upon those who, in times like these, insist upon an inalienable right to say whatever they please on every and all occasions."<sup>124</sup> This was followed, in January 1918, by a report from a special Committee on Academic Freedom in Wartime, chaired by future AAUP president Arthur Lovejoy, holding that it was perfectly reasonable to expect the professoriate to "refrain from public discussion of the war; and in their private intercourse with neighbors, colleagues, and students . . . avoid all hostile or offensive expressions concerning the United States and its government," and that "those who refuse to conform to this requirement . . . should be dismissed."<sup>125</sup>

It is important to emphasize that the constraints thus placed upon the right of faculty members to express “truth as [they] see it” on political matters in the AAUP’s conception of academic freedom was entirely unconnected to whatever degrees of truth or falsity—that is, scholarly integrity—might be reflected in their statements.<sup>126</sup> As was abundantly demonstrated by the association’s silence regarding the massive enlistment of university-based historians in cranking out “morale-boosting” fabrications adorned in all the proper scholarly trappings for governmental entities like the National Board of Historical Service and propagandist George Creel’s Committee on Public Information during the war years,<sup>127</sup> the AAUP’s position constituted a *purely* ideological embrace of the status quo.

Little changed in that respect during the postwar period, although the focus shifted from excluding those whose pronouncements might be construed as “undermining the war effort” from the domain of academic freedom, to proscribing the espousal of radicalism more generally. While the AAUP published no statements to this effect as bluntly put as Thilly’s and Lovejoy’s, it also offered nothing of substance to counter Nicholas Murray Butler’s assertions during the early 1920s that there was no place in the academy for “Bolshiviki of the intellect,” “the philosophy of anarchy,” nor any other “queer, odd, unconventional, [or] otherwise minded” outlook generating “perpetual opposition” to the prevailing order.<sup>128</sup> That the AAUP did not immediately embrace Butler’s formulation in this instance, as it had his earlier rationale for firing Cattell, was perhaps due only to his propensity, typical of conservatives to this day, to condemn as “radical” a broad range of decidedly *liberal* causes (for example, women’s suffrage).<sup>129</sup>

It took several years to develop a means by which wheat might be separated from chaff in this regard. First off, in 1919, under Lovejoy’s stewardship, the AAUP officially disavowed unionization in favor of a strategy of developing an accommodationist relationship with “management” for purposes of securing faculty rights (as construed at the national level).<sup>130</sup> This was followed, in 1920, by the concession of “final authority” in all matters of institutional policy to university regents and trustees in exchange for faculty “participation” in the



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"governing process," that is, formation of faculty "senates" imbued with the "power" to offer recommendations and pass nonbinding resolutions.<sup>131</sup> There were several other moves in the same direction during the period.

By 1923, a reasonably clear line of demarcation had been established: liberals would be defined as those of "the left" who could be relied upon to assist Those In Charge in limiting the scope of academic freedom in order to create a niche for themselves within the existing institutional hierarchy, while radicals were those "irresponsible" enough to insist that the purpose of a university has, or should have, something to do with liberating society itself from *precisely* such constraints.<sup>132</sup> As the matter was put by one irate minion of the trustees of Amherst College amidst their firing of its president, Alexander Meiklejohn, on grounds that he'd "failed to prevent radicalism" from taking hold among the faculty and students, Meiklejohn's problem was that he actually seemed to believe that "the goal of the liberal college is freedom."<sup>133</sup>

Thus reassured that the liberal concept of academic freedom and attendant rights of faculty advanced by the AAUP not only presented no threat to their control over the academy, but might instead serve to strengthen it by preempting what had originally been and might continue to be advanced as a radical demand, conservative boards of regents and trustees and university administrators moved rather quickly to accept the association's cooptive proposals. In 1924, the Association of American Colleges (AAC)—a body representing *only* trustees and administrators—adopted a "declaration on principles of tenure" patterned after the AAUP's own.<sup>134</sup> The following January, the American Council on Education (ACE) convened a national conference on academic freedom and tenure during which it adopted a revision of the AAC declaration, coauthored by Arthur Lovejoy and expanded to cover both academic freedom and promotion.<sup>135</sup> Within three years, it had "been endorsed by every major higher educational association in the [US]."<sup>136</sup>

In its own terms, the Seligman-Thilly-Lovejoy approach had of course "succeeded," but the upshot, as analyst Clyde W. Barrow has observed, was that in pursuing it the AAUP had

rendered itself “so moribund ... that [by 1924] it could not find a violation of academic freedom at the University of Tennessee when everyone involved, including the administration, admitted that professors were dismissed for teaching evolution.”<sup>137</sup> This is but one of many such examples.<sup>138</sup> Essentially, the association had already become so bureaucratic and preoccupied with rigidly legalistic points of procedure that, even in cases that were *not* explicitly political, it was often utterly ineffectual in defending the rights of faculty members targeted for teaching what they believed to be true. And, to be sure, in cases where the political beliefs clearly *were* at issue, the situation was worse.

### A Legacy

At first blush, there might seem to have been little point in my dredging up these ancient actions and pronouncements. Eight decades and more have elapsed since the last of the events touched upon in the preceding section, and, whatever the AAUP may have said and done during the “bad old days,” such things have surely been offset by its subsequent record of achievements. After all, Barrow’s description of its having become “moribund” by 1924 would appear to fly directly in the face of the fact that the AAUP not only continues to exist, but is generally regarded as the foremost champion of academic freedom on the scene today. It is thus only reasonable to conclude that the association’s history in the interim *must* have been such that it has transcended its early defects. Such is the appearance, but appearances, as they say, are often deceiving. While they are considerably more refined now than they were then, and the procedures employed much more sophisticated, there are clear lines of continuity joining the AAUP’s contemporary positions and practices to the very worst of those it evidenced between 1917 and 1930.

A residue of the “principles” articulated by Arthur Lovejoy’s Committee on Academic Freedom in Wartime is readily apparent in the AAUP’s benchmark 1940 *Statement of Principles on Academic Freedom and Tenure*, for example, as well as the association’s 1970 “Interpretive Comments” on that document,<sup>139</sup> and its 1964 *Committee A Statement on Extramural Utterances*.<sup>140</sup>

As one historian puts it,

The [association's] stand on "extramural utterances" holds the faculty member to narrower standards than those existing for the non-academic. When the faculty member "speaks or writes as a citizen" his [or her] "social position in the community imposes special obligations." Thus the AAUP condones, under undefined "extraordinary circumstances," "the disciplining of a faculty member for exercising the rights of free speech guaranteed him [or her] as a citizen by the Constitution of the United States ... ." According to the AAUP, a faculty member violates the "standard of academic responsibility" by "incitement of misconduct, or conceivably some other impropriety of circumstance." In other words, by the AAUP's standards, a faculty member who, to take one instance, supports non-violent but illegal civil disobedience is probably guilty of "unprofessional conduct."<sup>141</sup>

These criteria were invoked by administrators more or less continuously throughout the latter 1960s and early 1970s as a basis upon which to expel political dissidents from their faculties or, more frequently still, to prevent their being hired in the first place. Given the AAUP's pronounced tendency to conflate academic freedom with tenure, moreover, it typically took no position at all regarding the aspirant and junior faculty members, most of them young radicals, who comprised the great majority of those purged from or denied entry to the professoriate during the period.<sup>142</sup> Not infrequently, there were also loud echoes of E.R.A. Seligman's role in the Cattell firing, as when untenured University of Chicago historian Michael Kay was summarily fired in May 1968 for the "offense" of participating in an anti-ROTC protest, only to find his class immediately taken over by the president of the local AAUP chapter.<sup>143</sup>

The AAUP has also become quite adept at accepting pretexts involving "purely administrative considerations" — "institutional reorganization" and "financial exigency," being the principal examples — as justification for the expulsion of radical faculty members. The template for this technique will be discerned, somewhat ironically from my point of view, in the 1915 case of law professor James H. Brewster at the University of Colorado, Boulder. In

December 1914, Brewster gave testimony “extremely critical of industrial practices in the state following the infamous Ludlow massacre” before the US Commission on Industrial Relations, and a bit later appeared as counsel for the United Mine Workers during congressional hearings.<sup>144</sup> Against this backdrop his faculty contract was not renewed for 1915–16, a matter he quite reasonably construed as political retaliation and therefore requested an AAUP investigation.

[T]he AAUP investigating committee discovered that the governor had [in fact] intervened and pressured the university president to dismiss Brewster ... . Nevertheless, the AAUP exonerated the university on grounds that the administration had been planning a “reconstruction of the law faculty” before Brewster was hired and that his appointment was never intended to extend beyond the time when financial conditions made this reconstruction possible.<sup>145</sup>

By 1935, as illustrated by the case of Granville Hicks, professor of English at Rensselaer Polytechnic Institute and literary editor of *The New Masses* (a Communist Party publication),<sup>146</sup> administrative reliance upon such pretexts, and the AAUP’s acceptance of them, had become routine.

On May 10, 1935, the administration informed [Hicks] that he would not be rehired for the next year because of “the immediate need for retrenchment.” Hicks protested and ... was able to get the AAUP to consider his charge that his politics rather than the Institute’s finances had occasioned his dismissal. The AAUP, in its cautious way, agreed. “It is difficult to avoid the inference that Professor Hicks would have been dealt with otherwise, but for his economic and social beliefs.”<sup>147</sup>

Even so, the AAUP neither censored Rensselaer nor took any other action in the matter, while, apart from a one-year appointment arranged by a friend at Harvard in 1938, Hicks was never able to find another academic appointment.<sup>148</sup> There were scores of similar cases during the period, and, although data on the matter have never been collected by the AAUP—or anyone else that I’m aware of—there have undoubtedly been hundreds since.

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Another time-honored pretext, or cluster of pretexts, regularly employed by administrators for purposes of selectively removing radicals from faculty positions is very well illustrated by my own case. This of course centers upon charges that the scholarship or teaching of those targeted is either deficient, biased, fraudulent, or some combination thereof. Here, too, the AAUP has historically served as a major facilitator, although the practice seems to have arisen before formation of the association itself. There may be earlier precedents, but the 1895 case of economist Edward Bemis at the University of Chicago provides a template. While it's now undisputed that Bemis was fired because several corporate benefactors had been offended by his scathing critiques of their business practices, the university's president, William Rainey Harper, claimed that Bemis's dismissal resulted from his "confound[ing] personal pleading for scientific thought," thereby violating "professional standards of scholarship," that is, "[T]o serve the university, we must use scientific methods and do scientific work."<sup>149</sup>

There were a number of similar cases during the AAUP's early years, including most famously that of economist Scott Nearing—dismissed by the University of Pennsylvania in 1914 on the spurious grounds that his work had been found to contain numerous "economic fallacies" and "fallacious conclusions"<sup>150</sup>—although none of them resulted in censure by the association. Indeed, with Seligman in charge of Committee A, most such firings appear to have been accepted as justified (or at least not violative of academic freedom).<sup>151</sup> By far the most conspicuous example, however, devolves upon AAUP luminary Arthur Lovejoy's role during the 1940s in defining membership in the Communist Party as preclusive of "objectivity," thereby *prima facie* evidence of "scholarly fraud," and thus grounds upon which any and all faculty members belonging to the party could and *should* be fired "for cause" (he also held that false denials of Communist Party membership, and refusal to either confirm or deny it, constituted "ethical violations" of such severity as to warrant termination for cause).<sup>152</sup>

These, of course, were the very arguments employed by administrators across the country to justify the firing of more than a hundred radical professors, whether or not they were actually Communist Party members, throughout the so-called McCarthy Era.<sup>153</sup> While it's true that the

AAUP never officially adopted Lovejoy's position—indeed, it issued a whole series of statements opposing what was happening<sup>154</sup>—it's equally true that despite numerous requests from those purged or local chapters, not a single Committee A investigation was initiated until 1956, after McCarthyism had finally run its course. While the AAUP's nonperformance has typically been blamed on the psychological incapacitation of general secretary Ralph Himstead during the crucial period, this hardly explains why neither the national Council nor Committee A took action to remove him or otherwise resolve the problem for several years.<sup>155</sup> It also doesn't explain why those universities that were eventually censured for violations of academic freedom and tenure during the purge were ultimately "removed from the blacklist without having made restitution to the teachers they had fired."<sup>156</sup>

Probably in response to outrage expressed in many quarters concerning the spectacular nature of its default during the 1940s and early 1950s, the AAUP's national organs began during the 1960s to devise ways of obviating the need for Committee A investigations in cases involving administrative claims of scholarly fraud (or "research misconduct," to use the current vernacular). Mainly, this took the form of recommending ever more detailed procedures to be followed by faculty bodies on local campuses in investigating such charges,<sup>157</sup> meanwhile taking the position that, so long as such procedures are technically adhered to, the outcomes will not be subject review at the national level.<sup>158</sup> Where radicals are concerned, this has often meant that "the AAUP [has been] more than ready to endorse sham due process if it has the formal appearance the organization demands,"<sup>159</sup> thus enabling administrative enlistment of "cooperative" faculty members at the local level to lend the requisite aura of justification to political firings.

Small wonder that by 1970, as radical historian Jesse Lemisch remarked at the time, increasing numbers of younger scholars had come to view the AAUP as little more than a mechanism to "legitimize repression,"<sup>160</sup> or that, as Cary Nelson has acknowledged, the association's membership has declined by well over half since that year.<sup>161</sup> In the interim, the offending AAUP policies have calcified while Those In Charge have become ever more

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practiced in the techniques of exploiting them. This, in my view, is what compelled Schrecker to write "Ward Churchill at the Dalton Trumbo Fountain" as she did. Either she maintained the pretense that, whatever its "flaws," the investigative process involving "three faculty committees" really *had* arrived at valid conclusions—thus justifying, though not necessitating, my firing—or she had to confront head-on the invalidity of the process itself.<sup>162</sup> Invested as she plainly is in the AAUP, the latter choice was impossible.

Not so paradoxically, it is precisely this attitude that has given rise to serious questions as whether the association will be able to retain—or regain—any relevancy at all in coming years.<sup>163</sup> While there are a number of factors involved, one of the more important would be for the AAUP to break with its traditional exclusion of radicals from the protections of academic freedom and with it the entire range of subterfuges developed via its longstanding *quid pro quo* with trustees and administrators who engage in politically motivated firings while maintaining an opposite appearance. At this juncture, a key component of any such effort would be for the national office and Committee A to abandon the pretense that the findings of local "faculty committees" are somehow sacrosanct.

A ready alternative is offered in the model developed by the Canadian Association of University Teachers, which conducts "extremely thorough Committee A-style investigations, produces investigative reports that are even more detailed than the AAUP's, and has no problem disagreeing with the stand taken by a university faculty."<sup>164</sup> In this regard, the Colorado AAUP conference report embodies an excellent example of the form such investigative documents would assume in the US, a matter of no small significance in itself, and the more so since any transition so fundamental as that suggested here would likely require a far greater degree of collaboration between the national, local, and regional levels of the AAUP than has prevailed in the past. Pursuing such options might—*might*—allow the association not only to survive, but to become at last what it always claimed to be. If so, it would be a victory for us all.

## Notes

1. Specifically, I consider Schrecker's *No Ivory Tower: McCarthyism and the Universities* (New York: Oxford University Press, 1986) to be the best available study of the phenomenon. I also acknowledge that I'm personally, albeit only slightly, acquainted with Schrecker herself; we were both presenters at the Great Lakes American Studies Association annual conference held at the University of Toledo in 1996 and on a panel together at the American Philosophical Association annual meeting in Chicago in 2008.
2. Ellen Schrecker, "Ward Churchill at the Dalton Trumbo Fountain: Academic Freedom in the Aftermath of 9/11," *AAUP Journal of Academic Freedom* 1 (January 2010): 4, 5, 6.
3. Schrecker, "Ward Churchill," 4.
4. Schrecker, "Ward Churchill," 5, 6n10. On page 5, Schrecker also describes the individuals in question as my "former allies," although there was no point at which our political or personal relationships were *ever* anything but hostile. It also seems worth mentioning that while she repeatedly refers to statements emanating from the National AIM faction, at no point did she so much as acknowledge the existence of the Confederation of Autonomous AIM Chapters, of which I've been part since its inception, and which has all along been strongly supportive of me. While the distorted portrait Schrecker painted of the situation may well have resulted from ignorance rather than malice—and thereby provides an instructive example of what happens when white liberals entitle themselves to cherry-pick the often ugly political infighting arising in colonial contexts about which they know little or nothing—her bias was nonetheless clear.
5. Schrecker, "Ward Churchill," 6n11. The citation is to Dave Curtain, Howard Pankratz, and Arthur Kane, "Questions Stoke Ward Churchill's Firebrand Past," *Denver Post*, February 13, 2005. The vicious intensity of the media campaign in Colorado is a matter of record. See, e.g., Mike Littwin, "Now It's All Ward Churchill, All the Time," *Rocky Mountain News*, February 10, 2005; Jason Salzman, "No Excuse for Churchill Frenzy: Not Even Serious Issues Justify Nonstop Coverage by News, KHOW and Others," *Rocky Mountain News*, March 5, 2005.
6. Schrecker is by no means unaware of the instrumental role played by the Hearst newspaper syndicate and other right-wing media in effectuating McCarthy's smear campaigns during the 1950s. Indeed, as she herself has put it, "In many respects, the press was the Wisconsin senator's chief collaborator." One can only wonder what lesson, if any, she's managed to draw from her own insight. See Ellen Schrecker, *Many Are the Crimes: McCarthyism in America* (Boston: Little, Brown, 1998), 243.
7. Schrecker, "Ward Churchill," 13, 21, 1, 16, 22.
8. Schrecker, "Ward Churchill," 22, 20.
9. Schrecker, "Ward Churchill," 21.
10. For an excellent example of such argumentation, complete with a dozen illustrative case studies, see Jon Weiner, *Historians in Trouble: Plagiarism, Fraud, and Politics in the Ivory Tower* (New York: New Press, 2005). Instructively, Schrecker cited the book while completely avoiding its substance.
11. The description quoted is from Schrecker, "Ward Churchill," 5.
12. Ward Churchill, e-mail message to Cary Nelson, January 27, 2010.
13. Actually, my left eye has been light-sensitive since it was damaged in a 1976 logging accident. That fact aside, though, why Schrecker saw my wearing shades as an effort to look "Indian" rather than like,



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say, a typical Chicago blues man, a rocker on the order of Lou Reed or Bono, or even a member of the US Secret Service remains mysterious.

14. Indeed, key elements of this documentation, including the video record of the 1994 council meeting of the United Keetoowah Band of Cherokee Indians of Oklahoma during which my formal enrollment as an associate member (that is, a person verified by the band genealogist to be of Cherokee descent, but of less than one-quarter blood quantum) was confirmed, and had been posted on my support group's website (<http://www.wardchurchill.net>) for several years at the point Schrecker wrote what she did. A simple Google search was all that was necessary to come across the evidence. Apparently, she didn't even bother with that before presuming to "sum up" my ancestry and identity in a public forum.

15. Schrecker, "Ward Churchill," 2.

16. Schrecker, "Ward Churchill," 20–21.

17. Apart from a complete trial transcript, the material in question includes complete transcripts of both the investigative committee hearings and the hearings subsequently conducted by the Privilege and Tenure committee, my own and others' written submissions to the various committees, all the reports issued by those committees, nearly 17,000 pages of internal university communications divulged under the Colorado Open Records Act, and all five of the formal research misconduct complaints I know to have been filed against the investigative committee (there may well have been others of which I'm unaware).

18. Ward Churchill, "The Myth of Academic Freedom: Experiencing the Application of Liberal Principle in a Neoconservative Era," *Works and Days* 26–27, no. 51/52, 53/54 (2008–09): 139–230. The essay includes 429 endnotes, the majority of them citing official documents.

19. In 2008, Bérubé also claimed in his foreword to a book to which I was a contributor that I'd never requested an AAUP investigation. As it happened, one of the editors knew better and brought the offending passage to my attention. I challenged and Bérubé agreed to delete it. Steve Best, e-mail message to Michael Bérubé, September 22, 2008.

20. Cary Nelson, *No University Is an Island: Saving Academic Freedom* (New York: New York University Press, 2010), 232–33.

21. Churchill, e-mail message to Nelson, January 27, 2010.

22. Ellen Schrecker, e-mail message to Churchill, January 27, 2010.

23. Churchill, e-mail message to Schrecker, January 28, 2010.

24. Nelson, e-mail message to Churchill and Schrecker, January 29, 2010.

25. Churchill, e-mail message to Cary Nelson and Ellen Schrecker, January 29, 2010. I also requested that, with an eye to "damage control," the article be removed from the *JAF* website pending revision. Nelson declined to do so, on grounds that he saw no point in further "dramatizing the situation." Nelson, e-mail message to Churchill and Schrecker, January 29, 2010.

26. Hereinafter cited as Schrecker, "Ward Churchill" (Feb. 2010 version), available at <http://www.academicfreedomjournal.org/VolumeOne/Schrecker.pdf>.

27. For example, Schrecker's description of my "enemies ... within the faction-ridden American Indian Movement" as my "former allies," discussed in note 4 above, was left as-is. Schrecker, "Ward Churchill" (Feb. 2010 version), 4. This, despite my having explained at some length in my January 27 e-mail to Nelson, which he shared with Schrecker, why such a portrayal was grossly distortive. Had she asked the "former allies" themselves, they'd have said the same.

28. Schrecker, "Ward Churchill" (Feb. 2010 version), 4.

29. Schrecker, "Ward Churchill" (Feb. 2010 version), 5. It should be noted that the phrase quoted is identical to what was originally said, other than that the word "spurious" was replaced with "questionable."
30. Schrecker, "Ward Churchill" (Feb. 2010 version), 10. As I pointed out in my January 27 e-mail to Nelson, none of the "critics" from whom the administration "obtained information" were "in the field of Indian studies," nor have any of them ever claimed to be. Thomas Brown, for example, was at the time an assistant professor of sociology at Lamar University; John LaVelle was an associate professor of law at the University of New Mexico. That Schrecker was aware of this is evidenced by the fact that in the same section of my e-mail I observed that she'd erroneously placed LaVelle at Arizona State University. *That* was corrected. The misimpression that accusations were lodged against me by scholars in my own discipline was not.
31. I've heard Chomsky articulate this theme in several variations over the years, both in interviews and public lectures, and, at least once, in personal conversation.
32. Schrecker, "Ward Churchill" (Feb. 2010 version), 19, quoting a statement by Hank Brown, available at <http://www.cu.edu/content/inside-higher-ed-july-30-2007>.
33. Schrecker, "Ward Churchill" (Feb. 2010 version), 20.
34. Among other things, Schrecker's usage directly conflicts with the position taken by the AAUP itself in the *amici curiae* brief submitted jointly with the ACLU and National Coalition against Censorship to the Colorado Court of Appeals on February 18, 2010, regarding the outcome of *Ward Churchill v. The University of Colorado at Boulder and Regents of the University of Colorado*, case no. 06-CV-11473, Colo. Dist. Ct., Denver (2009) (hereinafter cited as *Churchill v. University of Colorado*).
35. Churchill, e-mail message to Schrecker, January 28, 2010.
36. Joseph G. Rosse, letter to Churchill, July 18, 2007.
37. See the transcript of testimony by Rosse during the dismissal for cause hearings conducted by a panel drawn from the UC faculty senate's Committee on Privilege and Tenure (hereinafter cited as *P&T Transcript*), January 20, 2007, 1967. Also see Rosse's testimony in the trial transcript for *Churchill v. University of Colorado* (hereinafter cited as *Trial Transcript*), March 25, 2009, 3025.
38. Schrecker, "Ward Churchill" (Feb. 2010 version), 12.
39. Churchill, e-mail message to Rosse, October 12, 2005, and Rosse, e-mail message to Churchill, October 12, 2005. Also see testimony of Joseph G. Rosse, *P&T Transcript*, January 20, 2007, 1886–87.
40. The three historians comprising the investigative panel in the Bellesiles case were Hannah H. Gray (University of Chicago), Stanley Katz (Princeton University), and Laura Thatcher Ulrich (Harvard University). Ulrich, like Bellesiles himself, specializes in early American history.
41. The three from UCB were Marianne "Mimi" Wesson (law), Michael Radelet (sociology), and Marjorie Keniston McIntosh (emeritus, history). The others were Robert N. Clinton (law, Arizona State University) and José Limón (literature, University of Texas).
42. While one of the panelists, Robert N. Clinton, specializes in federal Indian law, he utilizes markedly different interpretive methods than those employed in AIS. See, for example, the testimony of University of Arizona professor of law and AIS Robert A. Williams, Jr., *P&T Transcript*, January 11, 2007, 1321, 1384–85, 1421–30; and Cornell University professor of law, literature, and AIS Eric Cheyfitz, *P&T Transcript*, January 12, 2007, 1542, 1553–55.
43. Testimony of Joseph G. Rosse, *P&T Transcript*, January 20, 2007, 1897; *Trial Transcript*, March 25, 2009, 3031–33.

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44. Before the P&T review panel, and again during the trial, Wesson attested that she provided copies of the offending e-mails to Rosse prior to his appointing her to chair the investigative committee. Rosse, for his part, conceded that he was in fact made aware of "a couple" such missives. See Wesson testimony, *P&T Transcript*, January 8, 2007, 147, 153–55, and *Trial Transcript*, March 16, 2009, 1478; Rosse testimony, *P&T Transcript*, January 20, 2007, 1899–1902.
45. Schrecker, "Ward Churchill" (Feb. 2010 version), 11.
46. Schrecker, "Ward Churchill" (Feb. 2010 version), 11, 17.
47. Testimonies of Marianne "Mimi" Wesson, *P&T Transcript*, January 8, 2007, 154–55, and Joseph G. Rosse, *P&T Transcript*, January 20, 2007, 1899–1900, 1937–42. Also see Wesson testimony, *Trial Transcript*, March 16, 2009, 1478. It is impossible to know how many such e-mails were ultimately sent, to whom, or over what period of time, because the university failed to produce copies either in response to requests submitted under the Colorado Open Records Act or during the pretrial discovery process. The sole example is thus a February 28, 2005, e-mail disclosed to me by its recipient. *P&T Transcript*, January 8, 2007, 148, 155–56.
48. It should be noted that minimization is a standard technique employed by those engaged in historiographical denial. See, for example, Deborah Lipstadt, *Denying the Holocaust: The Growing Assault on Truth and Memory* (New York: Free Press, 1993), esp. 7–8, 46, 49, 90–94.
49. Schrecker, "Ward Churchill" (Feb. 2010 version), 20.
50. Chancellor Phil DiStefano has been a faculty member in UCB's School of Education since 1974. David Getches, interim dean of the law school in 2005, was a professor of law at UCB from 1979 until his death in July 2011. Then-dean of arts and sciences Todd Gleeson recently returned to his professorship in integrated physiology at UCB, a position he's held since 1981.
51. As part of his package in assuming the presidency, Brown was appointed professor of political science at UCB, a position he held until his retirement in 2007. He was then accorded emeritus status and continues to teach courses on a regular basis.
52. Schrecker, "Ward Churchill" (Feb. 2010 version), 11.
53. *Ibid.*
54. The chancellor's complaint was filed on March 29, 2005. On June 15, he submitted over fifty pages of downloaded newspaper articles that, while conceding that he'd not so much as read them, he described as "supplemental allegations." Both the latter submission and the SCRM's acceptance of it directly contradicted UCB's publicly stated position that "a news story, in and of itself, does not constitute a new complaint." See Charlie Brennan and Kevin Vaughan, "For Now, Focus of Churchill Probe Is Set: At This Stage, Panel Isn't Allowed to Consider New Questions about Professor," *Rocky Mountain News*, June 10, 2005; Charlie Brennan, "CU Expanding Inquiry: Evidence Uncovered by News to Be Included," *Rocky Mountain News*, June 16, 2005.
55. There were, as Schrecker put it, "problems staffing [the] investigation"; "Ward Churchill" (Feb. 2010 version), 11. She neglected to mention, however, that such "problems" included the devising of pretexts upon which to avoid seating several scholars expert on matters central to the investigation—for example, Richard Delgado, among the leading lights in critical race theory, an interpretive approach to legal analysis widely used in AIS—and thus considered likely to reach conclusions favorable to me. For explication, see the testimony of Rosse, *P&T Transcript*, January 20, 2007, 1892–95, and *Trial Transcript*, March 25, 2009, 3046–47.
56. The investigative panel in the Bellesiles case confined itself to addressing five questions, all of them devolving upon a single theme. It began its work on May 5, 2002, and finished eighty-seven days later.

See Stanley N. Katz, Hannah H. Gray, and Louise Thatcher Ulrich, "Report of the Investigative Committee in the Matter of Professor Michael Bellesiles," July 10, 2002, 1–3, [http://www.emory.edu/news/Releases/Final\\_Report.pdf](http://www.emory.edu/news/Releases/Final_Report.pdf).

57. This is obviously a far cry from "nearly a year," as Schrecker described it; "Ward Churchill" (Feb. 2010 version), 12. It appears that to arrive at such a timeframe, she conflated the SCRM with the investigative panel, an error resulting from mere sloppiness rather than a deliberate misrepresentation. Given that the two were treated as distinctly different entities in the "three separate faculty panels" scenario she'd earlier endorsed, however, the result was quite misleading.

58. See the testimony of Michael Radelet, *P&T Transcript*, January 21, 2007, 2157.

59. For specific examples, see the testimony of Ward Churchill, *Trial Transcript*, March 23, 2009, 2572–75, and *Trial Transcript*, March 24, 2009, 2629–30.

60. Such requests were initiated by Marjorie McIntosh during my very first meeting with the committee. As was confirmed by McIntosh in her testimony before the P&T review panel, I responded in part by providing her and the committee with a copy of Linda Tuhiwai Smith's *Decolonizing Methodologies: Research and Indigenous Peoples* (London/Dunedin, New Zealand: Zed Books/University of Otago Press, 1999); see *P&T Transcript*, March 10, 2007, 965–68. In addition, besides my own responses to queries about AIS methodology, which took up a hefty portion of each of the four sessions thereafter, the contribution of one of the five experts I called, Prof. George Tinker (April 1, 2006), consisted all but entirely of his trying to explain such things to the committee, while that of a second, Prof. Michael Yellow Bird (April 15, 2006), was devoted in substantial part to the same purpose. On the complexity of AIS interpretive methods and the sheer impossibility of *anyone* mastering them in the time available to the committee members, see, e.g., the testimony of Prof. Robert A. Williams Jr., *P&T Transcript*, January 11, 2007, esp. 1384–85, 1421–30.

61. Apart from my own several requests for additional time, my attorney, David Lane, requested an extension of "at least one month" in a March 24, 2005, letter to Wesson and the committee's legal counsel, Eric Eliff. Therein, Lane noted the ever-changing and "broaden[ing] scope of the investigation" and observed that it would be "simply unfair" under such circumstances for the committee to "insist upon compliance with previously imposed deadlines."

62. See the testimonies of Marianne "Mimi" Wesson, *P&T Transcript*, January 8, 2007, 136–37, 272–74; Robert N. Clinton, *P&T Transcript*, January 9, 2007, 596–97; Marjorie K. McIntosh, *P&T Transcript*, January 10, 2007, 902–903, 930–31; and Michael Radelet, *P&T Transcript*, January 21, 2007, 2152–56. Also see Wesson's testimony in *Trial Transcript*, March 16, 2009, 1390–91.

63. Marianne "Mimi" Wesson, e-mail message to Robert N. Clinton, March 1, 2006. Also see Wesson's testimony in *Trial Transcript*, March 16, 2009, 1394–1404.

64. See the testimony of Marianne "Mimi" Wesson, *Trial Transcript*, March 16, 2009, 1492–98. It should be noted that a P&T grievance panel subsequently concluded that releasing the report prior to my reviewing and responding to it, especially when this was done in conjunction with a press conference, violated Sections VII.A 1-2 and VII.B of the SCRM rules, and thus my rights as a faculty member. So, too, by extension, does UCB's ongoing posting of the uncorrected report on its official website, absent concomitant posting of my formal responses. The P&T requested that the UCB administration undertake specific corrective actions. The request was refused. See University of Colorado Faculty Senate, Committee on Privilege and Tenure, "Level 2 Panel Report: Grievance on Breaches of Confidentiality against Professor Ward Churchill," July 10, 2007, 2–3; UCB chancellor G.P. "Bud" Peterson, e-mail message to P&T chair Weldon A. Lodwick, September 18, 2007.

65. Schrecker, "Ward Churchill" (Feb. 2010 version), 16.

66. While Scott's own work offers no hint that she might be personally conversant with the subject matters addressed in the report, and there's no indication that she bothered to fact check *anything* said therein, she nonetheless willingly placed herself on public record endorsing it as conclusive evidence of my scholarly misdeeds. See, e.g., Scott's comments in Liz Garbus's documentary film, *Shouting Fire: Voices from the Edges of Free Speech* (New York: Moxie Firecracker), first aired on HBO in 2009.

67. See Marianne Wesson, Robert N. Clinton, José E. Limón, Marjorie K. McIntosh, and Michael L. Radelet, "Report of the Investigative Committee of the Standing Committee on Research Misconduct at the University of Colorado concerning Allegations of Academic Misconduct against Professor Ward Churchill," May 16, 2006,

<http://www.colorado.edu/news/reports/churchill/download/WardChurchillReport.pdf> (hereinafter cited as *Investigative Report*). The Bellesiles panel report is cited in n56, above.

68. Schrecker, "Ward Churchill" (Feb. 2010 version), 15.

69. *Investigative Report*, 91.

70. Schrecker, "Ward Churchill at the Trumbo Fountain" (Feb. 2010 version), 18, citing University of Colorado, Faculty Senate Committee on Privilege and Tenure, "Panel Report Regarding Dismissal for Cause of Professor Ward Churchill and Issues of Selective Enforcement," April 11, 2007, 38, 45–46, [http://wardchurchills.net/files/PT\\_panel\\_report\\_041107.pdf](http://wardchurchills.net/files/PT_panel_report_041107.pdf) (hereinafter cited as *P&T Report*).

71. *P&T Report*, 42, 48, 52, 53.

72. *P&T Report*, 31, 52.

73. Given the convoluted nature of the argument, Schrecker may be excused for having missed the fact that the P&T panel sustained one of the investigative panelists' findings of plagiarism on spurious grounds, that is, citing as evidence my "continued citation" of an article I've never cited at all. The error resulted from the P&T panelists' confusion of the article in question with another, which I *have* in fact cited repeatedly. Citing one could be construed as evidence of plagiaristic intent, in P&T's estimation, the other not. By this reasoning, the finding of plagiarism should have been voided. *P&T Report*, 59–60.

74. Schrecker, "Ward Churchill" (Feb. 2010 version), 40n43, citing Vijay Gupta, Margaret LeCompte, Paul Levitt, Thomas Mayer, Emma Perez, Michael Yellow Bird, Eric Cheyfitz, Martin Walter, Leonard Baca, and Brenda Romero, "A Filing of Research Misconduct Charges Against the Churchill Investigating Committee," May 10, 2007, [http://www.wardchurchill.net/files/misconduct\\_charges\\_letter\\_and\\_supporting\\_docs.doc](http://www.wardchurchill.net/files/misconduct_charges_letter_and_supporting_docs.doc).

75. In addition to the complaint cited in n74, see James M. Craven, Jennifer Harbury, Ruth Hsu, David E. Stannard, Haunani-Kay Trask, and Sharon H. Venne, "Research Misconduct Complaint Concerning Investigative Committee Report of May 9, 2006," May 28, 2007; and Joseph H. Wenzel, "Comments Regarding the May 9, 2006, *Report of the Standing Committee on Research Misconduct at the University of Colorado, Boulder, against Professor Ward Churchill* and an Included Complaint of Research Misconduct against Professor Marjorie K. McIntosh, in Particular, and the Committee Members, by Their Endorsement of the Report," December 3, 2007. I also filed separate complaints on July 18 and July 19, 2007. All documents cited or mentioned are available at <http://www.wardchurchill.net>.

76. Rosse, letter to Churchill, July 18, 2007 (cited in n36, above), and Rosse testimony, *Trial Transcript*, March 25, 2009, 3048. It should be noted that Wesson has nonetheless continued to publicly insist that the report is a "scholarly document." See, e.g., Wesson testimony, *Trial Transcript*, March 17, 2009, 1627, 1631. Also see n77, below.

77. As Schrecker recounted (with only slight inaccuracy), the investigative panel found me guilty of twice misrepresenting a source, Neal Salisbury's *Manitou and Providence*, in passages discussing an early seventeenth-century smallpox outbreak among the Wampanoag Indians because the word "Wampanoag" does not appear on the pages of Salisbury I'd cited. Salisbury *does* refer to the Pokanokets, however, and "Pokanoket" is simply another word for "Wampanoag." Schrecker, "Ward Churchill" (Feb. 2010 version), 14. What Schrecker did *not* mention in this regard is that when Wesson was publicly confronted with the information by several Boulder faculty members, she professed the panelists to have been "unaware" of it, but said they would ensure that their "error" would be "corrected for the scholarly record" (observe that she didn't refer to it, *à la* the SCRM, as being merely an "administrative" record). Marianne Wesson, "An Error in the Churchill Report needs Correction," *Silver and Gold Record*, April 12, 2007. There are several problems with Wesson's "explanation," beginning with the fact that the Wampanoag/Pokanoket connection is made both in Salisbury's index *and* in one of the two paragraphs in my entire body of work where the Wampanoag epidemic is discussed, that is, the very passages the panel supposedly examined so "exhaustively." Moreover, the uncorrected investigative report is still posted "for the scholarly record" on the university's official website.

78. Alan Sokal, "Transgressing Boundaries: Toward a Transformative Hermeneutics of Quantum Gravity," *Social Text* 46-47 (Spring-Summer 1996): 217-52.

79. For further background, see Editors of *Lingua Franca*, *The Sokal Hoax: The Sham That Shook the Academy* (Lincoln: Lingua Franca Books/University of Nebraska Press, 2000), esp. Alan Sokal, "Why I Wrote My Parody," 127-29.

80. For whatever reason, Schrecker mischaracterized the timing of my filing as having been "June 2006" (i.e., coinciding with the SCRM's endorsement of the investigative report and the chancellor's recommendation to fire me). Schrecker, "Ward Churchill" (Feb. 2010 version), 20. For the record, the regents voted to fire me on July 24, and my suit was filed on the morning of July 25, 2007.

81. Schrecker, "Ward Churchill" (Feb. 2010 version), 20. My contention that the hold-out was ideologically motivated arises from the fact that she joined the other jurors in finding that I'd been fired illegally, that the university had not been able to demonstrate *any* reason other than my political statements and views for firing me, and that I had in fact suffered damages as a result of the university's unlawful conduct. It follows, since her adamant refusal to award compensation clearly *wasn't* based on evidentiary or legal considerations, that, finding my political views distasteful, she was motivated by a desire that I not be "rewarded" for having expressed them. That she said as much during jury deliberations has been confirmed by several of the jurors during post-trial conversations.

82. Schrecker, "Ward Churchill" (Feb. 2010 version), 20, citing "Ward Churchill's \$1 Damage Award Said to Have Been Product of Jury Compromise," *Chronicle of Higher Education*, April 3, 2009, <http://chronicle.com/article/Ward-Churchill-s-1-Damage/42681>.

83. The verdict consisted of the jury's responses to four questions formulated by the judge in consultation with my attorneys and the university counsel. Each response constituted a separate component of the verdict. Schrecker's observations concerned only the responses to the first and fourth questions.

84. The third question on the verdict form read, "Have the Defendants shown by a preponderance of the evidence that the Plaintiff would have been dismissed for other reasons, even in the absence of the protected speech activity?" To this, the jurors unanimously responded, "No." *Trial Transcript*, April 2, 2009, 4161.

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85. See, as examples, the opening statement of university counsel Patrick O'Rourke, *Trial Transcript*, March 10, 2009, 326; testimony of UC Colorado Springs communications professor *cum* P&T panelist Donald Dean Morley, *Trial Transcript*, March 27, 2009, 3414–15, 3443, 3467–68.

86. The university called additional witnesses, including the entire Board of Regents, but mainly for other purposes.

87. My experts included professors Robert A. Williams Jr. (March 12), Derrick Bell (March 13), Paul Lombardo (March 16), Sumi Cho (March 17), Michael Yellow Bird (March 17–18), David E. Stannard (March 19), Philo Hutcheson (March 19), Barbara Alice Mann (March 20), Eric Cheyfitz (March 20), and George "Tink" Tinker (March 23), as well as two nonacademics: Elaine Katzenberger (May 18) and Russell Means (March 23). I testified on March 23–24. For testimonies, see *Trial Transcript* on the dates indicated.

88. Neither I nor my attorney was permitted to speak in the presence of any witness, including my own, during the investigative proceedings. Although it was known to the panel that I'm a one-finger typist, I was required to type any questions I wished to ask into a computer and e-mail them across the room to Wesson, who would then pose them verbally to the witness, sometimes introducing her own caveats or alterations. As one of the P&T panelists later conceded—with considerable understatement—I was thus saddled with an "incredibly awkward cross-examination process" throughout the investigation.

Testimony of Donald Dean Morley, *Trial Transcript*, March 27, 2009, 3427.

89. A peculiar aspect of P&T review proceedings is that hearings are presided over by an individual who is not a member of the investigative/deliberative panel itself. It is this person—UC Denver mathematician Philip Langer, in my case—rather than the panel itself, who makes evidentiary rulings, rules on objections, and so on. Although "practices accepted [in] the relevant research community" was the "articulated standard" by which the panel would ostensibly decide the core question of whether certain of my activities were even "deviations" of the sort necessary to constitute research misconduct, Langer ruled that evidence concerning practices accepted in several fields of obvious relevance to my interdisciplinary scholarship—law and political science, as examples—was inadmissible. This is but one illustration of the manner in which my ability to present evidence was circumscribed during the P&T review. See, e.g., *P&T Transcript*, January 8, 2007, 243, 249, 365, 370, 389–91.

90. More politely phrased by the juror to whom the quoted description is attributed, "during our deliberations, we listed every witness that testified at trial, and determined that the majority of the University of Colorado's witnesses were biased and dishonest ... . Clearly, a majority of the people sitting on the various committees were biased against Churchill." Affidavit of Bethany R. Newill, *Churchill v. University of Colorado*, July 17, 2009, available at <http://www.wardchurchill.net>.

91. This assessment was articulated by the five jurors who accepted an invitation from the judge to participate in an informal post-verdict meeting in his chambers with my attorneys and one of the two representing the university. No record was kept, but for general confirmation, see, e.g., Michael Roberts, "Juror Bethany Newill talks about the Ward Churchill trial," *Westword Blogs*, April 2, 2009, [http://blogs.westword.com/latestword/2009/04/juror\\_bethany\\_newill\\_talks\\_abo.php](http://blogs.westword.com/latestword/2009/04/juror_bethany_newill_talks_abo.php).

92. See, for example, the exchange between university counsel Patrick O'Rourke and I concerning one such exhibit during his cross-examination of me. *Trial Transcript*, March 24, 2009, 2672.

93. My position, which I first stated to the media in February 2005, is reasonably well summarized in Berny Morson, "Churchill's Lawyer Wants Appeal Heard in Denver: Lane Hopes for Sympathetic Jury," *Rocky Mountain News*, July 27, 2007.

94. "A majority of the jurors thought that the academic misconduct charges were not valid." Newill affidavit (cited in n90, above). "To me, it just seemed like the charges were trumped up." Newill, quoted in Roberts, "Juror Bethany Newill Talks." The same was said by all five jurors who attended the meeting mentioned in n91, above, and in my subsequent conversations with one of them. All additionally concurred with Newill's assessment, stated in her affidavit, that, "The procedures afforded to Churchill by the University of Colorado, especially the P&T hearing ... were biased and unfair."

95. "At first, ... the jurors thought that part of their duty was to weigh in on the strength of [UC's] academic-misconduct evidence." Newill, paraphrased in Roberts, "Juror Bethany Newill Talks." The jurors' collective disappointment that the questions posed on the verdict form (see n83, above) did not allow them to do so was described by the jury foreman during the meeting mentioned in n91, above. The sense that I was actually innocent of any misconduct was communicated by all five jurors in attendance, and reaffirmed by one of them in a subsequent conversation with me.

96. Churchill, "The Myth of Academic Freedom." A much-condensed version of the essay was subsequently published with the subtitle "Reflections on the Fraudulence of Liberal Principles in a Neoconservative Era" in *Academic Repression: Reflections from the Academic Industrial Complex*, ed. Anthony J. Nocella II, Steven Best, and Peter McLaren (Oakland, CA: AK Press, 2010), 179–99, and an updated version of the full text under the original title, but without annotation, in *Academic Freedom in the Post-9/11 Era*, ed. Edward J. Carvalho and David B. Downing (New York: Palgrave, 2010), 65–113. It is also worth mentioning that earlier versions of what became the *Works and Days* piece had appeared with the subtitle "Personal Experiences of Liberal Principle in a Neoconservative Era [Fragments of a Work in Progress]" in *Social Text* 90 25, no. 1 (Spring 2007): 17–39; with the parenthetical deleted from the subtitle in *What is Wrong with Academia Today? Essays on the Politicization of American Education*, ed. Rex S. Wirth, Thomas R. Whiddon, and Tony J. Mason (Lewiston, NY: Edwin Mellon Press, 2008), 135–204; and with the parenthetical altered to read "... [Sketches from a Work in Progress]" in *Dangerous Professors: Academic Freedom and the National Security Campus*, ed. Malini Johar Schueller and Ashley Dawson (Ann Arbor: University of Michigan Press, 2009), 253–90.

97. Schrecker, "Ward Churchill" (Feb. 2010 version), 20.

98. Ibid.

99. See Richard Delgado, "Shooting the Messenger," *American Indian Law Review* 20, no. 2 (Winter 2005–06): 477–94; Derrick Bell, "Academic Freedom in Political Perspective," *Works and Days* 26–27, nos. 51/52, 53/54 (2008–09): 253–66; and Stanley Fish, "Ward Churchill Redux," *New York Times*, April 5, 2009.

100. For the complete roster of signatories, see n74 and n75, above.

101. For the complete roster of those who gave expert testimony in my behalf during the trial, see n87, above. Academics testifying on other matters included Evelyn Hu-DeHart (March 10, 2009), Robert Perkinson (March 11, 2009), Deward E. Walker (March 12, 2009), former UC president Betsy Hoffman (March 13, 2009), and Emma Perez (March 19, 2009). For testimonies, see *Trial Transcript* on the dates indicated.

102. Schrecker, "Ward Churchill" (Feb. 2010 version), 13, quoting an observation made by Cheyfitz during an interview with a reporter for the UC faculty newspaper. See Jefferson Dodge "Debate over Churchill Case Persists," *Silver & Gold Record*, March 29, 2007.

103. "For a useful précis of the case from one of Churchill's supporters, see Eric Cheyfitz, "Framing Ward Churchill: The Political Construction of Research Misconduct," *Works and Days* 51–54 26–67 (2008–09), digital copy in the author's possession, courtesy of Ward Churchill. Schrecker, "Ward Churchill" (Feb. 2010 version), 39n30.



104. Cheyfitz, "Framing Ward Churchill," 231–52. Also see his testimony during the P&T review and at trial; *P&T Transcript*, January 12, 2007, 15; and *Trial Transcript*, March 20, 2009, 2236–346.
105. Peter Novick, *That Noble Dream: The "Objectivity Question" and the American Historical Profession* (Cambridge: Cambridge University Press, 1988), 618, 621, citing/quoting Colin Campbell, "History and Ethics: A Dispute," *New York Times*, December 23, 1984; Jonathan Wiener, "Footnotes to History," *The Nation* 240 (1985): 180, 181; Colin Campbell, "Academic Fraud Inquiry is Dropped," *New York Times*, January 3, 2005; Karen J. Winkler, "Brouhaha Over Historian's Use of Sources Renews Scholars' Interest in Ethics Codes," *Chronicle of Higher Education*, February 6, 1985, 9.
106. See, for example, Peter Charles Hoffer, *Past Imperfect: Facts, Fictions, Fraud—American History from Bancroft and Parkman to Ambrose, Bellesiles, Ellis, and Goodwin* (New York: PublicAffairs, 2004).
107. Compare the outcome of the Bellesiles case to those of, say, Edward Pearson, chair of the history department at Franklin and Marshall College, or, more saliently, Georgetown historian—later national archivist—Allen Weinstein. For background, see Wiener, *Historians in Trouble: on Bellesiles, 73–93; on Pearson, 120–35; on Weinstein, 31–57.*
108. "[O]f the hundreds of inquiries received [by the AAUP national office] each year ... barely half a dozen" result in "full-blown cases and investigations." Nelson, *No University Is an Island*, 224, 223.
109. After he left his position heading the AAUP national office, but still trading on the fact that he'd held it, Bowen *finally* admitted that I'd been requesting an AAUP investigation since 2006—and thus that he'd been lying to Committee A all along—but only in the context of a diatribe about *my* supposed "dishonesty." See Roger Bowen, "Freedom, but for Honest Research," *Wall Street Journal*, April 1, 2009.
110. The resolution—to which, it should be acknowledged, Schrecker was a signatory—was released on April 7, 2009, five days after the jury verdict.
111. Gregory F. Scholtz, letter to Ward Churchill, August 20, 2009 (copy on file). My affirmative response was communicated in a letter dated August 30, 2009 (copy on file).
112. My own theory is that the then-recent internal revelation of Bowen's duplicity was quite embarrassing to all concerned. Rather than running the risk that opening an investigation so belatedly might require an explanation, thus publicly exposing the AAUP's "dirty laundry"—i.e., that its process had been actively subverted from within—both the staff *and* Committee A preferred to let sleeping dogs lie. Certainly, Schrecker made no mention of the Bowen affair in her article. Indeed, among those in the AAUP national apparatus, Cary Nelson alone has publicly acknowledged what happened (see n20, above).
113. Ward Churchill, letter to Myron Hulen, July 13, 2009 (copy on file).
114. Hulen, letter to Greg [Scholtz] and Bob, undated (but sent at some point between July 10 and 15, 2009) (copy on file). I subsequently seconded the proposal; Churchill, letter to Scholtz, August 30, 2009.
115. Hulen/Churchill, e-mail exchange, October 15–16, 2009.
116. I'm not even sure who all was involved, or in what capacities. The one thing I *am* sure of in this regard is that the one individual in the CCPFR with whom I had a prior relationship—UCB sociology professor Tom Mayer (now retired)—effectively recused himself at the outset. It will be noted, however, that in examining the findings of plagiarism against me, the CCPFR investigators did rely upon an unpublished analysis Mayer had produced in 2006, as well as a research misconduct complaint against the investigative panel, to which he was one of the ten signatories, filed the same year (see n74, above).
117. Quoted in Michael Roberts, "CU's Treatment of Ward Churchill, Phil Mitchell Makes It a Questionable Employer, Report Finds," *Westword*, November 9, 2011, [http://blogs.westword.com/latestword/2011/11/cu\\_ward\\_churchill\\_phil\\_mitchell\\_firing\\_report\\_php](http://blogs.westword.com/latestword/2011/11/cu_ward_churchill_phil_mitchell_firing_report_php). Also

see Peter Schmidt, "AAUP Unit Slams U. of Colorado Over Firings of 2 Controversial Faculty Members," *Chronicle of Higher Education*, November 8, 2011, <http://chronicle.com/article/AAUP-Unit-Slams-U-of-Colorado/129691/>.

118. Rodolfo F. Acuña, *Sometimes There Is No Other Side: Chicanos and the Myth of Equality* (Notre Dame, IN: Notre Dame University Press, 1998).

119. It's possible that the quote, of which there are several variations, has been routinely misattributed to Goebbels, as no specific source has ever been cited. In any case, it would seem to be a corruption of Hitler's more ponderous observation that, "the most brilliant propaganda technique will yield no success unless one fundamental principle is borne in mind . . . . It must confine itself to a few points and repeat them over and over." Adolf Hitler, *Mein Kampf* (Boston: Sentry Editions, 1962), 184.

120. Schrecker, "Ward Churchill" (Feb. 2010 version), 20.

121. Testimony of Donald Dean Morley, *Trial Transcript*, March 27, 2009, 3422.

122. Ellen Schrecker, *The Lost Soul of Higher Education: Corporatization, the Assault on Academic Freedom, and the End of the American University* (New York: New Press, 2010), 124–41.

123. See Clyde W. Barrow, *Universities and the Capitalist State: Corporate Liberalism and the Reconstruction of American Higher Education* (Madison: University of Wisconsin Press, 1990), 90, 221, 225–29. For a thoroughly sanitized account, in which the fact that Cattell was among the AAUP's founders goes unmentioned, along with Seligman's status as chair of Committee A and his key role in Cattell's firing, see Schrecker, *Lost Soul of Higher Education*, 46–47.

124. Frank Thilly, "Annual Report of the President," *Bulletin of the AAUP* 3 (November 1917): 19–20.

125. Arthur Lovejoy, "Report on Academic Freedom in Wartime," *Bulletin of the AAUP* 4 (February–March 1918): 37. Also see Barrow, *Universities and the Capitalist State*, 228–29.

126. The phrase quoted is from the University of Colorado's official interpretation of the AAUP's 1940 "Statement on Principles of Academic Freedom and Tenure." Laws of the Regents of the University of Colorado, Article 5, Part D: Principles of Academic Freedom (as amended on October 10, 2002).

127. See Novick, *That Noble Dream*, 118–28; George T. Blakey, *Historians on the Home Front: American Propagandists for the Great War* (Knoxville: University of Kentucky Press, 1970).

128. Barrow, *Universities and the Capitalist State*, 227, 196, quoting Nicholas Murray Butler, *Scholarship and Service* (New York: Scribner's, 1921), 179–80.

129. "Woman suffrage" was described, together with the rights of workers and people of color, as a "form of artificial equality." Butler, *Scholarship and Service*, 89–90, 179–80.

130. The position was advanced in Lovejoy's "Annual Message of the President of the AAUP," published in *Bulletin of the AAUP* 5 (November–December 1919): 10–40. Strongly opposed by local AAUP members at the University of Missouri and elsewhere, it was subjected to a *pro forma* airing of the issues in the *Bulletin*, after which Lovejoy suspended further discussion. Barrow, *Universities and the Capitalist State*, 182–85.

131. J.A. Leighton, "Report of Committee T on the Place and Function of Faculties in University Government and Administration," *Bulletin of the AAUP* 6 (March 1920): 17–47.

132. A general sense of this is conveyed in Frank Hiscock, "Radicalism in the Universities," *Bulletin of the AAUP* 9 (February 1923): 33.

133. Barrow, *Universities and the Capitalist State*, 243, quoting conservative professor/Republican activist George Bosworth Churchill from the *New York Times*, June 26, 1923.

134. Barrow, *Universities and the Capitalist State*, 248, citing "Report of Committee A," *Bulletin of the AAUP* 11 (February 1925): 86.

135. Barrow, *Universities and the Capitalist State*, 248, citing "Report of the Conference on Academic Freedom and Tenure," *Bulletin of the AAUP* 11 (February 1925): 99.
136. Besides the AAC, key endorsers included the Association of Governing Boards, the Association of American Universities, the Association of Urban Universities, the National Association of State Universities, and the Association of Land-Grant Colleges, all of which—like the AAC itself—were and are exclusively devoted to representing the interests of trustees and administrators. Barrow, *Universities and the Capitalist State*, 248, citing H.R. Fairclough, "Academic Tenure and Academic Freedom," *Bulletin of the AAUP* 15 (February 1929): 99–101.
137. Barrow, *Universities and the Capitalist State*, 248, citing "A Professional Fiasco," *The New Republic*, May 28, 1924, 6.
138. By 1918, the openly reactionary Seligman, as chair of Committee A, had already engineered a lasting shift in the AAUP's focus "away from the problem of academic freedom to the more general problem of the security of academic tenure." Among other effects, this ensured that Committee A would investigate only a relative handful of individual grievances in any given year (see n108, above), and then mainly with regard to whether specific procedures had been adhered to by trustees and administrators. Barrow, *Universities and the Capitalist State*, 229, 248, citing/quoting Lovejoy, "Academic Freedom in Wartime," 16–21; "A Professional Fiasco," 6.
139. The texts of the 1940 "Statement" and 1970 "Interpretive Comments" are included in *AAUP Policy Documents and Reports*, 10th ed. (Washington, DC: American Association of University Professors, 2006), 3–11. See esp. point 3 of the 1940 interpretive comments (4) and point 4 of the 1970 comments (6).
140. *AAUP Policy Documents and Reports*, 32.
141. Jesse Lemisch, *On Active Service in Peace and War: Politics and Ideology in the American Historical Profession* (Toronto: New Hogtown Press, 1975), 97–99, quoting *Academic Freedom and Tenure: A Handbook of the American Association of University Professors*, ed. Louis Joughin (Madison: University of Wisconsin Press, 1967), 132, 134, 133.
142. A prime example is that of radical historian/antiwar activist Staughton Lynd who, following a stint at Yale and publication of several books, was rejected for a position at Roosevelt University. Although university officials cited "ad hominem reasons" rather than scholarly deficiencies as prompting their decision not to hire him, the "AAUP found no *prima facie* case of a violation of academic freedom to justify investigation of the matter." Lemisch, *Active Service in Peace and War*, 99, citing correspondence between AAUP general secretary Bertram H. Davis and Roosevelt University president Alfred Young, October 31, 1968.
143. Lemisch, *Active Service in Peace and War*, 99.
144. Barrow, *Universities and the Capitalist State*, 213. Also see Graham Adams Jr., *The Age of Industrial Violence, 1910–1915: The Activities and Findings of the United States Commission on Industrial Relations* (New York: Columbia University Press, 1966), 155–56.
145. Barrow, *Universities and the Capitalist State*, 213, citing "Report on Charges of Violations of Academic Freedom at the University of Colorado and Wesleyan University," *Bulletin of the AAUP* (1915).
146. In addition to his unquestioned skill as an editor, Hicks was recognized as a gifted and prolific author of literary criticism. See, for example, Jack Alan Robbins, ed., *Granville Hicks in The New Masses* (Port Washington, NY: Kennikat Press, 1974).
147. Schrecker, *No Ivory Tower*, 65–66, quoting, without providing a title, a report published in *Bulletin of the AAUP* 11, no. 1 (January 1936): 16, 20.

148. Schrecker, *No Ivory Tower*, 66, citing Daniel Aaron, *Writers on the Left* (New York: Harcourt, Brace, and World, 1961), 262; Richard Pells, *Radical Visions and American Dreams* (New York: Harper & Row, 1974), 172–74.
149. Novick, *Noble Dream*, 64, 68, citing and adapting Harper’s quotes from David Hogan and Clarence Karier, “Professionalizing the Role of Truth Seekers,” *Interchange* 9, no. 2 (1978–79): 47.
150. Barrow, *Universities and the Capitalist State*, 216, citing and adapting quotes from Edward Potts Cheyney, *The University of Pennsylvania, 1740–1940* (Philadelphia: University of Pennsylvania, 1940), 370; more generally, Lightner Witmer, *The Nearing Case* (New York: B.W. Huebsch, 1915).
151. See generally, Barrow, *Universities and the Capitalist State*, 229–42. For unintended corroboration—i.e., that Committee A investigations resulted in findings that academic freedom had been violated in only 73 cases between 1915 and 1947—see Walter P. Metzger, *Academic Freedom in the Age of the University* (New York: Columbia University Press, 1955), 155–56.
152. Schrecker, *No Ivory Tower*, 105–109, 234–35.
153. I prefer, for various reasons, to rely primarily on Schrecker’s study in this connection. Those interested in obtaining a more succinct overview should refer to David Cauter’s *The Great Fear: The Anti-Communist Purge under Truman and Eisenhower* (New York: Simon and Schuster, 1978), 403–30.
154. Schrecker, *No Ivory Tower*, 331.
155. Schrecker observes that, “given their reluctance to confront Himstead, it is possible that his procrastination may have provided a convenient cover for their own ambivalence. Like liberals everywhere, they adhered to the ideology of Cold War anti-Communism.” Schrecker, *No Ivory Tower*, 336.
156. Schrecker, *No Ivory Tower*, 335.
157. See, for example, section 5. Dismissal Procedures, in “Recommended Institutional Regulations on Academic Freedom and Tenure,” first adopted by Committee A in 1968.
158. The latter position is still very much in effect. See Nelson, *No University Is an Island*, 246.
159. Nelson, *No University Is an Island*, 232. The language quoted is Nelson’s; the manner in which it’s applied is entirely mine.
160. Lemisch, *On Active Service in Peace and War*, 97, 99.
161. Nelson, *No University Is an Island*, 146, 207.
162. Another choice might perhaps have been to follow what seems to be standard procedure in national AAUP circles and simply maintain a stony silence on the matter. As Cary Nelson has put it, “The staff no doubt solemnly agrees that I should carry my own views with me to the grave.” Nelson, *No University Is an Island*, 248.
163. Nelson, *No University Is an Island*, 210, citing Robin Wilson, “The AAUP, 92 and Ailing,” *Chronicle of Higher Education*, June 8, 2007. Nelson might as easily have cited a dozen other recent articles.
164. Nelson, *No University Is an Island*, 246.