The Revolting Student

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(This is the text of a talk delivered by Professor Kurland to the Law School Alumni Association of Washington, D.C., in November, 1967.)

Jim Ratcliffe told me that it didn't matter what subject I chose to speak about before this august audience. The tone in which he said it made it clear that my appearance here was due to an act of desperation on the part of the Law School administration from which it expected to salvage very little by way of good will. Jim's attitude suggested, too, that this was so sophisticated a group that nothing I could say would be either informative or interesting. After all, bringing a speaker to Washington has all the attributes of piping natural gas to Texas. Gas usually flows in the opposite direction.

Given a free hand, I have chosen to speak for a few minutes about a phenomenon that is appearing on our campus and, indeed, on the campus of most universities in this country. My subject is: “The Revolting Student.” And my efforts will be directed to showing that the facts of life are a bit more complicated than is generally assumed. Let me, if I may then, make an attempt at classifying some of the species that might properly be placed under the generic label of “the revolting student.”

But first I should make it clear that these students are a small minority on campus and almost non-existent at the Law School. The two or three of these species that we do have in the glass menagerie are among the least interesting specimens.

My first category is made up of that group of students who are superficially in revolt against their parents and the bourgeois society that offered them too many of the good things in life without requiring them to expend the effort that used to be needed to acquire them. This is a group that has inhabited American campuses for several college generations now. But each generation has chosen its own manner of expressing its independence of its predecessors. The essential means that this group has chosen to demonstrate its individuality is by adopting a uniform, a uniform appearance and a uniform behavior. Thus, because their parents wore their hair short, this generation of “new intellectuals” will wear it long. If their parents wore loose clothing, this generation is dedicated to tight clothing. Because their parents were clean-shaven, they are hirsute. (The girls have a rather difficult time with this but seem to bring it off none the less.) If their parents regarded cleanliness as a virtue, they prefer to abominate it. What their predecessors regarded as beautiful, they think to be ugly, and vice versa. What their parents regarded as private, they prefer to indulge in public.

Perhaps the prime article of the new faith of this group is the notion that First Amendment freedoms are epitomized in the right to use four-letter Anglo-Saxon words on all occasions, in all company, and at any time. After all, this was the great issue of academic freedom that helped bring Reagen to the Governorship of California and, for this group, what's good enough for Berkeley is good enough for the world. (To digress for a moment, I must concede that there are times when such words are indeed more meaningful than the polite language of an earlier generation. For example, a professor at the University of Chicago described one of the signs raised at a recent visit to campus by Dow Chemical as saying: “Have intercourse with Dow.” Some of the flavor was certainly lost in translation.)

This first group is indeed a pathetic group. Lacking the implicit courage to take such vivid steps to sever the silver cord, some of them have had to turn to drugs to destroy their own inhibitions. Sex has lost its mystery and romance, And, most frustrating of all, none seems to delight more in their antics than the parents who are the objects of the attack.

By themselves, this species of revolting students would be a passing phase of little more consequence than those who once swallowed goldfish or squeezed their way in telephone booths, except for the damage that they are doing to themselves. At worst, they create minor parietal problems for a university that may not have realized that if it is going to act in loco parentis it should condone rather than condemn these actions and leave to the ordinary community forces the imposition of sanctions appropriate to violators of the law.

This brings me then to the second category of revolting student: those taken up entirely with the major social issues of our time. Unlike the first group—though they are not mutually exclusive—the members of this species share their frustrations with their parents. How, they ask, can a nation, supposedly civilized, find itself in the devastating posture of fighting a war and leaving unresolved the problem of reconciling the Negro and white cultures? No more able to come up with easy answers than the adults, they tend to resort to temper tantrums, directed not at those who might have the power to do something about resolving these issues, but rather at the University, because it is there.

Certainly there is a Negro problem on campus. It is a different problem in the major universities outside the South than in the South. The problem here is, essentially, how does a University bring into its student body a sufficient number of Negro students competent to meet the standards of excellence to which the University aspires. Of course it is true that the lack of such students derives from a deprivation that American society has condoned if not imposed for many years past. But
to recognize the cause is not to suggest a cure. There are only three obvious courses open to a University. It can admit Negro students who do not meet the standards demanded of white students and make fewer demands of them while they are in school. But this is to depressitate every degree granted to a Negro student, the qualified along with the unqualified. It is to provide a second-class status for Negro students. Or it can lower its standards generally for both white and Negro students and abandon its notion of excellence. Or it can maintain its standards for white and Negro students with the consequent inability to secure a sufficiently large proportion of Negroes to satisfy the demands of those anxious to integrate the Negro in American academic society at whatever cost.

Let me assure you that if none of the Universities of which we are proud has solved this problem, it is not for want of effort. There is no Negro student who is today deprived of an education at a first-rate University for lack of funds. Even if the Universities were not prepared to subsidize such students, there is an abundance of foundations who are. And the forces on campus that are pushing for segregation of the races are two. The first is made up of a group of Negro students themselves who prefer their own society to that of the patronizing, guilt-ridden white students. The second force for segregation on campus is the Department of Health, Education, and Welfare, which is doing its darndest through its demands on the Universities to require that students be labelled and treated as separate groups, categorized by H.E.W. as "White," "Negro," and "Others."

There is, of course, nothing I need tell you about the feeling of despair that pervades the campuses over the Viet Nam War. There is essentially no difference between the students of this species and the faculties on this score. Both are appalled at the horrors and stupidities of warfare. Neither has come up with any solution for getting off the back of the tiger and remaining whole. The question may be harder for the older generation that remembers the 1930's and the failure to take timely steps in Europe to prevent the holocaust that enveloped the world. For most, however, the cases are distinguishable. But even these lack the 100% certainty that generates the young. And the oldsters, like the youngsters, feel the same frustration about the inability to make their voices felt where they might do some good. But, most of the faculty, though not all, don't strike out at the nearest object because an appropriate one is not available.

In short, my second species is essentially not by any means a despicable group of revolting students. But if their objectives are to be admired, their means of obtaining them are, at best, ineffective and, at worst, destructive, not of the evils they abhor but of the values they purport to cherish.

This brings me to the third category, and, indeed, the most revolting of the revolting students. I refer here to the so-called Students for a Democratic Society and its ilk. They reveal neither the silliness of the first group nor the decent motives of the second. To a considerable measure they are not students at all, if by students we mean those who are registered as such in universities. Moreover, the greater part of their student leadership derives from the professional student, the one for whom the pursuit of a degree is a lifetime effort to avoid going into the hard, cold world that they deplore and fear. They are nationally organized and externally financed. This group has, essentially, a single objective. That objective is to turn American universities from educational institutions run by faculties into political institutions run by their own cabal. Their models are the South American universities which—it will be recognized—have brought about such model civilizations in their own communities and which are such examples of high academic attainments.

These students derive their strength, essentially, from two devices. The first is their ability to make use of the first two groups of which I have already spoken. The second is their capacity to create incidents that cause the faculties to divert their efforts from teaching and research into the nonproductive activities that are required to afford undue process to the insurgents. First creates a broader student base than their own forces could muster for their program. The second has the same result as guerilla warfare. None of the damage done by individual incidents is of serious consequence, but it creates a desire on the part of the faculties and administrations to concede a little here and a little more there, in the vain hope that such concessions will buy peace and an opportunity to return to what they consider their prime obligations of training and research. And such tactics seriously divide the faculty over the question whether punishment should be imposed on the little darlings. The only question, as of now, is whether the Universities will take a stand before it is too late, before they discover that the process of erosion has turned them from educational institutions into political ones.

In short the strength of S.D.S. lies in its nihilistic philosophy and its small but hard cadre who look upon the universities as a stepping stone to power. Its predecessors in recent times—South America to one side—are to be found in the nihilistic student movements in Germany and Russia. The one that helped pave the way for Hitler and the other for the tyrannies of Communism.

There is about to be a Washington episode for this struggle. The Senate Judiciary Subcommittee on Subversive Activities appears to be ready for a look at the New Left. (Although why it is styled the New Left is

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it is hard not to succumb to the illusion that we have, once and for all, wrested our adversary to the ground. But time, which outwits us all, will presently reveal the boundless extent of our ignorance, our limitless capacity for self-deception.

Still, if you can stand the loneliness, it's a good life. But it is heartwarming, I must confess, once in a while to be invited to come in out of the cold.

I thank you.

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and Parsons. He has also served as Vice Chairman of the Neighborhood Legal Assistance Center, which has involved both the counseling of clients at the Center and the trial of criminal and civil matters in a variety of courts in Cook County.

WALTER VAN GERVEN, Professor of Law at the University of Louvain, Belgium, and GEORGE BRIERE DE L'ISLE, Professor of Private and Criminal Law at the University of Bordeaux, France, have been appointed Visiting Professors of Law. They will teach the Civil Law course in 1968-69, which will be on French law. Professor van Gerven will be in residence during the first half of the year and Professor Briere de l'Isle the second. Both men have previously taught at the Law School. Professor van Gerven was teaching assistant to Professor Rheinstein in the Foreign Law Program in 1959-60. Professor Briere de l'Isle taught in the Program in 1964-65.

The Bigelow Teaching Fellows and Instructors for the academic year 1968-69 will be:

DANNY J. BOGGS, who was graduated from Harvard, Bachelor of Arts cum laude, in 1965, will receive the J.D. from the University of Chicago Law School in June. He has been a Floyd Mechem Scholar during his stay at the Law School. Mr. Boggs won the award for best oral argument in the Hinton Competition in 1967 and is serving as Advisor to the Hinton Moot Court Committee during the current academic year.

DAVID M. BROWN, A.B., magna cum laude and Phi Beta Kappa, University of Southern California in 1965, will be graduated from the Law School of Stanford University this spring. Mr. Brown is an editor of the Stanford Law Review, was the recipient of the American Jurisprudence award for the best work in Criminal Law, and is serving as a dormitory resident head.

MICHAEL M. MARTIN received the degree of Bachelor of Arts with High Distinction from the University of Iowa in 1964, where he was also elected to Phi Beta Kappa. In 1966 he was graduated from the University of Iowa College of Law, second in his class. He served as Editor-in-Chief of the Iowa Law Review and was elected to the Order of the Coif. Upon graduation from law school, Mr. Martin was awarded a Rhodes Scholarship. He is currently a student at New College, Oxford University, where he is a candidate for the B.Litt. degree, with a thesis on British securities regulation.

Jarret C. Oeltjen was awarded the Bachelor of Arts degree by the University of Nebraska in 1965. He is currently a student in the University of Nebraska College of Law, where he will complete the requirements for the J.D. degree in June. He stands first in the senior class at Nebraska, and is an editor of the Nebraska Law Review. During the current academic year Mr. Oeltjen has also been serving as student law clerk to the Honorable Robert Van Pelt, United States District Judge for the District of Nebraska.

W. Thomas Tete will complete the requirements for the degree of Master of Laws at Yale this spring. He was graduated from Louisiana State University, and last May received the J.D. degree from that institution, where he ranked second in his law school class. He was an editor of the Louisiana Law Review and was elected to the Order of the Coif. While an undergraduate, Mr. Tete also served as a tutor and grader in Ethics and Logic in the Department of Philosophy.

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a little beyond me, unless lawlessness and anarchy are to be identified solely with the left.) That the S.D.S. is a part of the New Left is not to be gainsaid. That it is subversive is equally clear, if one is prepared to talk of subversion of educational institutions rather than subversion of the government of the United States. That its money—and there seems to be a lot of it—may be coming from interests anxious to subvert the American government is not unlikely. And yet, the Eastland Committee investigation may, paradoxically, strengthen rather than weaken the power of the S.D.S. in the academic community. For like the victims of the House Un-American Affairs Committee, the targets of an Eastland investigation will find sympathy among many soft-headed academics who are prepared to find persecution even where there really is only legitimate investigation. The irony then lies in the fact that an attack on the S.D.S. by the Eastland Committee, displaying its usual methods and rhetoric, may make it possible for this small group to gain the necessary adherents and protectors within American university faculties to make feasible its destruction of American educational institutions.

So much for today on the revolting students. Having brought you such joyful tidings from the University campus, I had better quit now. Some day, however, I should like to come back and speak to you about the revolting faculty, a story that is equally heartening.