

Battle of the Atlantic, War in the Mediterranean & Denial of Speech on Campus

What Happens Next – 06.26.2022

Larry Bernstein:

Welcome to What Happens Next. My name is Larry Bernstein.

The topics on today's program will be the World War 2 Battle of the Atlantic and the War in the Mediterranean and the second topic is the growing intolerance of conservatives on campus.

Our first speaker is Yale Historian Paul Kennedy. This is part 2 of our upcoming four-part history on WW2. I want to take you back to 1942 when nobody knew who would win the war. The Nazis had just conquered France after a few weeks of fighting, and the Americans had been humiliated at Pearl Harbor. U-Boats were everywhere in the Atlantic and were torpedoing America's Merchant Marine. Paul will explain how the Allies successfully beat back the U-Boat threat in the Atlantic and why we fought Germany first.

Our second speaker will be Ilya Shapiro who recently resigned from Georgetown Law School after he was cancelled. Ilya did not support Biden's decision to limit his Supreme Court nominee to exclusively African American women and he had to go.

Buckle up.

I am trying something new on today's podcast. I decided to raid the What Happens Next archives and replay portions of our best discussions on tolerance for speech on campus. I have included snippets from the six-minute presentations of Alan Charles Kors who co-founded FIRE, Mary Anne Franks at the University of Miami Law School, Michael McConnell at Stanford Law School, and Emory historian Patrick Allitt. This is then followed by a discussion between University of London Professor Eric Kaufmann and David Weil who is a Dean at Brandeis about discrimination against conservative faculty members.

I think you're going to love hearing our greatest hits.

If you missed last week's podcast of What Happens Next, check it out.

Our first speaker was Sean Berkowitz who successfully defended Michael Sussmann of felony charges that he lied to the FBI about the Trump investigation. Sean gave us the inside look from the defendant's perspective.

We then moved onto a review of the new Top Gun movie Maverick!

My friend Robert Young who is a retired air force pilot aka Farmer discussed how Top Gun influenced the last generation of fighter pilots.

Our final speaker was Darren Schwartz who is one of my golfing buddies. Darren is the new What Happens Next movie critic, and he offered a humorous take on Top Gun Maverick.

Let's begin with our first speaker Yale Historian Paul Kennedy.

Paul, we left off in our first installment of Paul Kennedy's Analysis of WW2 with a discussion of the War in the Pacific from Pearl Harbor to Midway. This second installment will cover the Battle of the Atlantic and the War in the Mediterranean before Operation Torch.

Paul, let's begin the discussion with an overview of the European and African theater and the ongoing conflict with the Axis powers in the months immediately following Pearl Harbor.

Paul Kennedy:

This is early June 1942. The British are reeling in North Africa because they're worried about what Rommel is doing, possibly advancing towards Egypt, frightening there. Their earlier convoys towards Malta have been so badly devastated, the British cabinet is discussing whether Malta should be abandoned. June 1942 sees the cresting point of one of the greatest land battles in the war, Stalingrad. In the North Atlantic, Dönitz U-Boat forces are growing day by day, week by week. So, when you try to step back as, say, a Martian observer looking down on this dynamic, four to five area conflict which we call the Second World War, it is a decisive change in this Pacific campaign area which is going to give the Americans more of an advantage after a long breathing space. But the war is being fought elsewhere in many ways where the allies are not so successful. The war does not suddenly change in the easy advantage of the Anglo-American forces just because four Japanese carriers were taken out at Midway. This is a false reading of the narrative of the Second World War.

Larry Bernstein:

Why did FDR decide to focus the war against Germany first instead of against Japan?

Paul Kennedy:

For Roosevelt, in the struggle against fascism, the number one enemy being Nazi Germany, not Japan, because Germany has so much more in the way of industrial, scientific and technological resources that the United States has to make sure that it cannot just concentrate on the Pacific. In the Battle of the Atlantic, the United States, even as a neutral, has a major interest. It is important for it that the British continues the war. When France falls and there is a fear that Britain might also fall as well, Roosevelt sends a whole number of emissaries plus military Naval Attachés in London to figure out what are the chances of the Britain surviving? How do we help them out?

Larry Bernstein:

Before the war, FDR faced isolationism at home. What changed after France surrendered in June 1940?

Paul Kennedy:

The irony is the fall of France at last causes the U.S. Congress to get so frightened that it's willing to give appropriations in June and July, 1940, for the doubling of the U.S. Navy. It will take two years for those appropriations to turn into real warships. And at the time, you still look with alarm, at the great struggle in the Atlantic as occasional German surface raiders like the Bismarck, but more singularly, the, U-boat concentrated wolf pack attacks under Admiral Dönitz may throttle this daily and weekly flow of convoys carrying war materials to the British so they can carry on the war, defend their home islands, and advance themselves in North Africa and in the campaign against Italy.

Larry Bernstein:

The Battle of the Atlantic was a matter of life and death for Britain because they were desperate for food. Why are the convoys critical for the American strategy and how does this result in the Lend-Lease deal with Britain?

Paul Kennedy:

The Battle of the Atlantic is strategically important to the United States, even in the two years of neutrality, which is why that clever guy, Roosevelt, allows a significant number of clandestine operations and patrols by the U.S. navy to look after the convoys in the first thousand miles of their sailing, while he negotiates with the British and the destroyers for bases deal to give Churchill's navy a large number of older American destroyers, but to get possession of critically strategic bases in the Caribbean.

And then through the Lend-Lease legislation, agreed with by Congress in a nifty way to give an incredibly and most significant flow of goods without the British needing to pay for it to keep them going in the war against the European fascist states. My goodness is this a strategic juggling act led by Roosevelt himself. And the navies allocation of resources in the Atlantic and in the Pacific are part of the overall jigsaw puzzle of American grand strategy.

Larry Bernstein:

I think it is difficult for the modern American listener to appreciate how scared the American leadership was of the loss of Britain and potentially the risk that the Nazis could take control of the Atlantic. Because the Germans could then disrupt American trade routes and potentially invade South America and the Caribbean.

Paul Kennedy:

This comes back to that determinant of long-range geography. The Atlantic is a long, long way from one side to the other. And the Pacific is even more double that. So whichever nation is going to defeat the big obstacle of long-range oceans, and conquer the challenge of geography is gonna be successful. And if you don't do it, you aren't going to win. The allies have advantages, but they also have challenges.

On the other side, the Japanese and the Germans have to get over geographical disadvantages, the disadvantages of the British Isles being in the way of Hitler and his navy and other forces moving into the Atlantic. And the greater advantage of our still retaining the Hawaiian Islands. Let's put the counterfactual for just half a minute, Larry, to see what I mean.

Supposing Yamamoto had been bold and successful enough to conquer the Hawaiian Islands in 1942. How difficult it would've been for us to do the comeback? All the miles from the Western Pacific coast to Hawaii protected like an enormous giant bunker in the hands of the other side. Supposing, and this was the other great strategic fear, supposing the British had collapsed, or supposing there had been a political coup d'état somewhere, because the Battle of Britain was going the wrong way and the British negotiate a Vichy France type of deal with Hitler. What then?

Even then, there is difficulty for the Germans to get down to the Caribbean, just as a difficulty for the Japanese to think of invading all of California. But it doesn't mean that we didn't have fears or apprehensions about that. Therefore, holding onto Hawaii and building it up, and holding and giving supplies to MacArthur, claiming that he can win the war from the Southwest Pacific, both of those make strategic sense in the Pacific Zone of fighting. Just as finding ways to keep Churchill's Britain going in all sorts of ways from 1940, '41 onwards also make strategic good sense.

You are protecting the United States and its large insular continental position by making sure the fight is over there in the, (laughs) on the other side of the Atlantic or in the Central Atlantic and over there in the Southwest and Central Pacific. It doesn't come to America despite a lot of the alarmism about subversion from within or the Germans being able to get Bermuda and then even Florida. Lord help us. What a thought.

Larry Bernstein:

War is much more destructive when the battlefield is fought in your country. Millions of civilians would die, the housing and industrial base would be destroyed. It is a total catastrophe, and that is exactly what happened to Russia and Germany. But the United States was spared. The fighting is not on our shores. America can take full advantage of its unscathed industrial production to win the war.

Paul Kennedy:

So, here's the number one principle of successfully fighting a war. On the whole, try to make sure that the fighting is over there (laughs) and it's not with you. This of course was Hitler's initial success where fighting was either way into the east striking towards Stalingrad, by taking France and Western Europe and giving support to the Italians in the Mediterranean. It's going to take about five years of fighting in Europe before the war comes to be here in the German case. It's going to take a long time in the Pacific War before it gets close to Japan.

So yes, indeed. If you can put out your armed resources, naval, air force, and army to hold bases, to maintain lines of communication, to get domination of the air and to conduct the war a long distance over there is a very successful long-range overall military grand strategy.

Larry Bernstein:

The Battle of the Atlantic is most famous for the U-Boat Wolf Packs, but there were also German battleships. Tell us about the breakout of the German cruiser the Graf Spee and the chaos that ensued.

Paul Kennedy:

The great writer Mahan in an essay called the disposition of navies in like 1902 said that this is a great advantage that the British have against European naval powers that they prescribe the access and the egress to the Atlantic, which can only be overcome if the Germans would build a fleet larger than the Royal Navy itself and extended out to the north and to the south of a British Isles.

This never happens. So that the German naval leadership coming up late because of the constraints of the naval limitation treaties can only send out these lone wolf raiders, these long-range Panzerschiffe or pocket battleships like the Graf Spee. Later on, the Scharnhorst battle cruisers, later on the Bismarck itself. And hope to disrupt the convoys and the trade.

In the case of a most interesting example here, the one you mentioned, the heavy cruiser pocket battleship Graf Spee, is sent out in a clandestine way to patrol in the Central and Southern Atlantic, even before the war comes in September, 1939.

When the war comes and long-range radio signals tell a Captain Langsdorff, the ill-fated captain of the Graf Spee, to go raiding, and attacking, and to disrupt British and French trades in the Central Atlantic and in the South Atlantic, and even further into the Indian Ocean, the Graf Spee has a number of months, a field day. From time to time, it spots a British merchant ship. Destroys it. Takes on the crew because it's trying to observe the rules of war and the Geneva Conventions and causing such disruption that by about November, 1939, so the third months of the war, the British and the French have about nine or 11 large-scale hunting groups all over the North, Central, and South Atlantic and in the Indian Ocean, searching for this single disruptive raider is an enormously successful operational strategy.

If you think about it, Larry, supposing that there had been, not just the Graf Spee, but three or four of its sister ships capable of being ready and behind it, they're about six months too late, the two even larger German battle cruisers, the Scharnhorst and the Gneisenau, they would've paralyzed allied overseas trade. And would've taken the Royal Navy and the French Navy a lot of good luck to get them.

So, the very fact that you have a single successful long-range raider in the South Atlantic, this is a story of a Graf Spee, is something that has to be given as a tribute to the German Navy. It isn't

much, but my word, it carries out an enormous disruptive campaign. And the British find it difficult to counter it.

Larry Bernstein:

Why was the German Navy unprepared for the war, after all they were the aggressors?

Paul Kennedy:

I think we have to introduce two points here, Larry. First of all, Admiral Raeder, the head of the German Navy, rebuilding frantically in the late-1930s had been assured by Adolf Hitler that Germany was not going to war against the Western Maritime powers, especially against the British, until about 1944.

Therefore, the plans for the German Navy for much, much bigger surface navy could then be realized, including perhaps even one or two of the first German aircraft carriers, but a much, much bigger battle fleet. So, when the war comes because Hitler deciding that he cannot wait to take out, Poland in September, 1939, provoking the British and the French because they have given guarantees to Poland. When that war comes, the German surface navy is so much smaller than Raeder hoped it to be. It was going to be those expeditions by raiding warships.

The second thing is that the German campaign to take over Norway in the spring of 1940, although it ended up in the result of the German land occupation and takeover of the whole of Norway, as well as Denmark, it led to enormous casualties on this relatively small German surface navy of Raeder's. Most of his big fleet destroyers were eliminated in the second Battle of Narvik. Many of his larger surface warships, one heavy cruiser was sunk. Some of the other ones were damaged in the battle. By June, 1940, when France falls, there's hardly any effective surface combatant vessel left in Raeder's navy.

Supposing the radical submarine arm strategists in the German Navy had said, forget about the heavy investments in large-scale, fast battle cruises like the Scharnhorst and Gneisenau. Forget the even larger investments in the super battleships like the Bismarck and the Tirpitz.

If you had invested all of those resources, including the trained man, the iron and the steel and the ball bearings and everything else to quadruple or quintuple, a much larger U-boat fleet on its own, after we had conquered the Norwegian and French forward bases, would we not, with hundreds of submarines, Larry, been able to totally paralyze and get control of the Atlantic, the entry to the Mediterranean, and all the way after, all to Brazil and to the Caribbean? Should we not have invested in one single new arm of naval warfare, the submarines?

Had we done so, would we have not found ourselves in a position, from 1941 to 1942 to 1943, where we have limited U-boat resources to throw against the allied convoys? And in that campaign which was leading to considerable successes and sinkings, nonetheless provoking the British, especially, but also the Americans through a vast array of counter-submarine resources.

Larry Bernstein:

I think one of the problems with limited historical counterfactuals is that you must consider the antagonist's response. If the Germans were investing vast resources in U-Boats and not battleships, then the Americans and the Brits would have invested in new weapon systems to counter the submarines.

Let's move the discussion to the U-Boat wolf packs and their attacks against the convoys.

Paul Kennedy:

Let's reflect on the fact that this ancient form of naval commercial warfare, the convoy, is something hardly known in the Battle of Pacific. At the late stages of the war that the Japanese try to convoy their merchant ships and their oil tankers because by that stage, American submarine arm has got past its defects and is attacking successfully. But whereas there's hardly any convoy war in the Pacific, convoys are particularly important in reinforcing the British Isles, and in reinforcing British imperial and fighting positions in the Mediterranean.

Convoy is a form of warfare which was pretty well established by the closing years of the great British struggle against Napoleon. French surface raiders, heavily armed frigates could go out and reek an enormous amount of damage upon unprotected merchant fleets. If the merchant fleets were clustered to get in numbers of 10, 20, 50, and protected by two or three British fighting frigates to come from across the Atlantic, or to come up from West Africa to, to beat off the French frigate attacks, then you would successfully convoy the material resources to the position you wanted to the British Isles.

So, the British were ready for convoy warfare in 1939. This is not an unknown form of warfare contestation, either on the German side or on the British side. And the British have a whole array of small surface competence, an intelligence system, a command-and-control system to protect merchant ship convoys when the war comes.

They're not very good in understanding that the Germans are going to attack, not from underneath the surface where you can detect them with ASDIC, but they're going to come chiefly at night on the surface. This is Donitz's wonderful way, strategically, tactically, of ordering his wolf packs forward. And they, therefore have this enormous challenge, Larry, of how, at any given day in the war, and it intensifies by 1941, '42, any given day of the war, there are literally thousands of allied merchant ships on the seas, across the Indian Ocean, coming round the Cape, the great grain trades and beef trades out of Argentina.

The vital oil supplies coming from Venezuela, which have to be protected. The British have to protect about 15 to 20 merchant ship convoys, clusters of merchant ships, in any given day. So, the Germans have a choice here, where should you attack to be the most effective when you have a limited number of submarines? This is like Admiral Donitz's chess game from 1940 onwards, was a limited number of attacking pawns and dangerous forces behind, where would you go to attack and throttle?

There's one consideration that you might go and attack distant areas, because those merchant ships are still on way to United Kingdom. If trying to attack well-armed convoys around Britain, an island, is a tough challenge, why not send out your U-boat groups to attack the oil tankers in the Caribbean, which are totally unprotected? Why not attack, when United States comes into the war, the unprotected flow of merchant ships coming up the East Coast of the United States, that happy hour where the Americans do not put the coastal lights out so you can actually see the profiles of these unprotected merchant ships and sink them in dozens, rather than the highly contested convoy battles of Iceland?

You've got choices here, Larry. And Donitz, despite his limited number of U-boats, has choices. The other side also has choices. Where would you put your ships and long-range aircraft for convoy protection. Where do you put your limited resources to get the best effect in this gigantic struggle of the Battle of the Atlantic?

Larry Bernstein:

In 1943 the U-Boats devastate the American, British, and Canadian Merchant Marine. You mention one specific convoy lost 30% of its merchant ships in a single trip. This is incredible and unsustainable. And then suddenly, the Americans and the British started to beat back the U-Boats, what happened?

Paul Kennedy:

In the struggle between the German U-boats on the one hand and the defense of the British and then allied convoys on the other, it's worth remembering that this pace of the convoy battles at sea, generally diminishes over the winter months (laughs) because it's so difficult to get submarine attacks on the surface when you've got 50-foot waves sweeping around or ice flows going around. So generally, the U-boat warfare against the convoys intensifies each year from springtime onwards. And this is no different when the window of 1942, '43 is over, the convoy flow to the United Kingdom is growing and growing because you're trying to build up a large American Air Force in Europe for strategic bombing, because you're trying to build up a large American Army would be quartered, and because you still have to keep supplying the United Kingdom and all of its needs.

So, when the bigger convoys resume coming out of New York and Newfoundland and Baltimore in March and April of 1943, to go across the Atlantic, Donitz and his wolf packs are waiting for them. And a small number of convoys in March, April of 1943 are really badly battered by these U-boat attacks. The 30% loss of the number of merchant ships in one convoy operation on its own, means that every time if you're doing worst case scenarios, the next convoy loses 30% of its merchant ships and the next one and the next one, you'll hardly have sufficient Merchant Marine sailors to help you, even if you're building a large number of liberty ships in your home bases, and you won't have a number of established commodores and captains, and you might be deficient in a number of oil tankers.

So, the success of the German U-boat campaign against the Atlantic convoys in March and April 1943 is one where Churchill and the British admiralty fear that even a convoy system might not

be working. The convoys attract the U-boats to them, like hornets or bees going after honey. Why not dismiss the convoys and just cross fingers and hope and send all of these ships individually across the Atlantic? Like an active hope, but maybe they would be picked off successfully by three or four waves of increasing numbers of U-boats.

By 1943, Donitz is having something like 60, 70, 80 U-boats operational. And others, of course, refueling in the ports. And then comes the decisive turnaround, Larry, that we've talked about, in May of 1943, a number of new technologies are being developed on the Anglo-American side. And it has to be emphasized that in this struggle between the Anglo-American forces and the fascist forces, the existence of in-depth technology and science and creative development, and echelon strength that the British and the Americans have means that they, even though they get defeats and lose large numbers of merchant ships in 1942, you can think out the Battle of the Atlantic in the winter months and come forward in the spring with even newer technologies, ever long-range patrol aircraft, more successful command and control of convoys, maybe better interception of Donitz's messengers, more ocean protection from newer forms of frigates and corvettes with miniaturized radar, with depth charges, with forward firing hedgehogs.

All of this, you can bring into the fray in May and June of 1943 to counter the wily Donitz with all of his German technology and increased U-boat numbers to try to win from his side onwards. This is a struggle of productive warfare as well as men fighting against each other in the mist and the blackness of the mid-Atlantic.

Larry Bernstein:

In their book *A War to be Won: Fighting the Second World War* by Williamson Murray and Allan Millett in their analysis of the Battle of the Atlantic, they focused on the rule of 80/20. 20 percent of the German U-Boats were responsible for 80% of the sinkings of the allied merchant ships. The British and the Americans had broken the German naval codes. And they knew where the U-Boats were going to surface to refuel. And the allies decided to attack the top 20% most destructive U-Boats. How important was it that the allies destroyed the Germans most productive U-Boats?

Paul Kennedy:

A lot of British code breakers had been partly successful in the First World War, becomes the first war in which each side has the chance, through reading the radio signals. If they can break the messages which are being sent on the radio waves, to the commanders in the sea or to the U-boats, has the chance interpreting those messages to reposition their own armed forces to destroy the other side.

On the other hand, if you can read those instructions and you can get to know what the other side is doing, you can reposition your own resources. And remember, also, that there is a struggle of rival decrypters and encrypters, not just in naval intelligence and naval codes, Air Force codes and German Wehrmacht Army codes. The British code breakers are all concentrated at a place called Bletchley Park, were not only reading Italian as well as German

codes, but they were finding that German Army codes and Air Force and Italian codes were easy to break. German Navy codes were very difficult to break, and from time to time you lost insight into them until you figured out the new and advanced sophisticated way the Germans were making their more invulnerable.

And the Germans, on the other side, were trying to break the codes giving disposition of where the convoys would set out from, and Donitz, once he sent his U-boats out into the wider world, wanted them to pop up at certain locations, either to be refueled or to get instruction by long-range radio as to what they had to do next. So, if you could determine the position of where those German U-boats were surfacing, to get their messages or the get their refueling, and you put either long-range aircraft or anti-submarine corvettes in that position, you could take them out.

So, this is a battle of intelligence, of technology, of positioning, of trying to understand where the other side's U-boats are, and try to understand where your convoys are going. Are they jiggling north or jiggling south across the Atlantic routes? This is a battle of intelligence in an applied form across the Atlantic. It's one of the most interesting parts of the war. And sometimes, the British and American code breakers and forces are on top of this and in control, sometimes they lose control where the German Navy changes its codes, and you're back in the dark again.

Larry Bernstein:

The military historian John Keegan in his fabulous book *Intelligence at War* tells the story of the Battle of Crete. In May 1941, the British control Crete but they fear a German invasion. A New Zealander Major General Bernard Freyberg commands an allied force made up of Brits, Kiwis, Australians and Greeks. The British intercept German orders from their stolen Enigma machine that the Germans will invade Crete using a parachutist attack at a specific landing spot with the purpose of taking the Herakleion airport to land thousands of German troops. Freyberg is ordered to move his soldiers off the beaches to eliminate the German parachutists at specific locations. Freyberg is unwilling to follow the orders fully because he does not know the source or quality of the intelligence. Frankly, he thinks he knows better and is unwilling to risk an invasion by sea. Sure enough, the Enigma based intelligence was accurate and the Germans do attack at the specified locations, the parachutists are picked off easily as they float down, sitting ducks, as the allied forces fire machine gun at them. But enough parachutists do get through and the airport is insufficiently defended. The Germans take the airport, fly in thousands of soldiers, and eventually win the battle for Crete. This is an example that even with the best intelligence, you can still lose the battle.

Paul Kennedy:

It has to be recalled that the suppliers of intelligence on each side are kind of terrified that their own generals and their own leaders will blow to the enemy the fact that you're reading their codes. So, in many cases, you only say, "We have intelligence information about this or that or the other." You're not really going to trust your general in the field and say, "We have a way of reading the enemy's codes, and we know where they are coming," because the enemy might

understand that and might take countermeasures, like deciding no longer to use radio signals. God help us if, if one side invented not using radio signals or just using land wire or undersea cable communications. Then the story would be quite different. So, many older-fashioned generals are not told at all about the new forms of decryption and intelligence. You're suggesting that you have a spy in Berlin or among the German Armed Forces, and that the parachutists are going to come down in a certain part in land because they want to seize the inland air bases.

As you say, even when the really professional German paratroops are dropped on these bases in Crete, they meet considerable resistance. There are some New Zealand troops, as well as the usual local Cretans, who come out to try to kill as many Germans as possible. But the Germans do manage by the surprise attack to seize the airfields. Hitler's conclusion that he has lost so many of his favorite parachute battalions that he doesn't want to trust paratroop operations for the rest of the war is a serious, serious mistake. The allied planners draw the conclusion that parachute operations to seize an advanced base, though risky, are worthwhile practicing for, worthwhile attaining, so they do develop Anglo-American considerable parachute resources to use to seize beyond the landing bases when you attack Normandy in June 1944. But it is one of the riskiest operations in the world, because paratroopers sailing down onto a hostile-held position are completely vulnerable.

Can be shot out of the sky like partridges. It's a risky thing. If you can put the paratroops way further inland and to begin to occupy a position without being attacked in the vulnerable flying down, then parachute operations might well work.

Larry Bernstein:

Thanks Paul, we will hear the next installment Part 3 in your ongoing history of World War 2 in a couple of weeks. Now let's move onto our second speaker who is Ilya Shapiro. Ilya recently left the Cato Institute to join Georgetown Law School. You are going to hear about what it is like to get cancelled. Go ahead Ilya.

Ilya Shapiro:

My name is Ilya Shapiro, and I've just lived a surreal experience. It started back in January 26th, when news of Justice Breyer's retirement leaked. My phone was blowing up because I'm a Supreme Court expert, so people wanted my statement. So, throughout the day I was thinking about this particular confirmation and getting more and more upset about President Biden's restricting his pool of candidates by race and sex. He famously repeated his campaign pledge that he would be appointing a Black woman.

Now, there's nothing wrong with appointing a Black woman, but restricting it at the outset rubbed me the wrong way. That night having come back from a friend's celebratory dinner, I was feeling festive and feisty and not a best practice, I was doom scrolling through my Twitter feed, before going to bed in my hotel room. And in this kind of upset mood, and tweeted out my criticism of President Biden's posture. And I said, "You know, if I were a Democratic president I would pick Judge, Sri Srinivasan," who's the chief judge of the DC circuit, he happens

to be an Indian American immigrant, very smart, very well reputed, was on the short list for the nomination that ended up going to Merrick Garland.

But, I said, given the current hierarchy of intersectionality, he's out and we'll end up with a "lesser Black woman." And it's those three words that got me into trouble. I, of course, meant a less qualified Black woman in the sense that if I'm determining that, this particular person, Judge Srinivasan, is the best, then everybody in the entire universe is less qualified or a worse choice. That's what I meant, given Biden's race and sex restrictions. And then I Tweeted that out, went to bed, and all hell broke loose overnight. I woke up, I saw that the Twitter mob, instigated by several of the usual suspects, was going after me. I thought, "This is not good. People are willfully misconstruing what I'm saying to make political points."

I took it down, I said, "If anyone's offended, I'm sorry, it was inartfully worded." But that was not the end of the matter. Things quickly moved from online to offline. The Dean of Georgetown Law School, Bill Treanor, where I had just taken a new job after nearly 15 years at the Cato Institute, the nation's foremost libertarian think tank. I was about to start a new job as executive director of the Georgetown Center for the Constitution, but that was February first, and I tweeted a few days before then. I had four days of hell, I thought I'd blown up my career, I thought I'd hurt my family. I mean, the dean came down on me, said I was appalling, and that what I said was antithetical to the work of the law school, et cetera.

Eventually, after a huge national public outcry, pro and against me, the dean determined that I would indeed be onboarded but would immediately be placed on paid administrative leave pending investigation into whether my social media commentary violated the university's policies on harassment and antidiscrimination.

It took them four months to conduct this investigation, which quickly became clear was a farce. They were just waiting for students to get off campus to quietly reinstate me. The dean said that, "we finally looked at a calendar and determined you were not an employee, so these policies didn't apply." But no vindication under the university's vaunted speech and expression policy. Nevertheless, I took the technical victory, I celebrated it in the pages of the Wall Street Journal, as one does, and I thought, "Okay, let's get to work."

But then the report from the Orwellian named Office of Inclusion, Diversity, Equity, and Affirmative Action, their 10-page report hit my email inbox. I spent some time with my lawyer, with my wife, who's a better lawyer than all of us, digesting this. And it became clear that the university was setting me up for a fall. What this report said and what the dean implied, was that had I been an employee I would not have been reinstated or exonerated in any way. And indeed, going forward any similar statement that caused someone offense or caused someone discomfort leading to a complaint would indeed subject me to discipline. And I can't work that way. I could not fulfill the duties I was hired to do. Some comment about a Supreme Court opinion, some analysis of a sensitive case or exercise I was conducting, in class would subject me to punishment.

That was an untenable situation, and I resigned, again, taking to the pages of the Wall Street Journal and releasing a four-page resignation letter. And then the next day I announced my career move on Tucker Carlson, as one does, that I'm moving to the Manhattan Institute, a think tank in New York to head up their Constitutional studies program.

So, in addition to my expertise in Constitutional law and the Supreme Court, has added this lived experience regarding cancel culture. Not exactly the way I planned my career transition, but man plans and God laughs.

Larry Bernstein:
What happened to acceptable academic discourse?

Ilya Shapiro:
What I've experienced is not the decades-old complaint that law schools, colleges, campuses have a left-wing bias. I graduated college nearly 25 years ago, graduated law school nearly 20 years ago. I doubt the ratio of progressive to conservative students or faculty members has changed all that much in that time. What has changed is permissible policy views to discuss, and administrators becoming spineless and placating, a radical, woke mob. There's the enforcement of a political orthodoxy that makes it very hard, if not impossible, to dissent from that narrow lefty skewed campus discourse.

Larry Bernstein:
Do you feel that controversial statements made by conservatives are treated differently by academic administrators than similar comments by progressives?

Ilya Shapiro:
So, in the broader culture, our public discourse, there's cancel culture, political correctness, shrill attacks from all over the place. In academia the left wing is dominant. And no, professors who say outrageous, inflammatory things from a progressive perspective are rarely if ever punished. In my resignation letter, I noted the tweets just in the last few years of several professors, saying outrageous things. If my tweet can be perceived as ambiguous, and ill-worded to be misconstrued as being racist, and I don't think one reasonably can do that, but if you kind of squint and approach it with bad faith that could happen.

But these other tweets, going after supporters of Justice Kavanaugh during his confirmation hearing or supporting the mobs that are demonstrating and trying to intimidate justices after the leak of the recent Supreme Court opinion in the Dobbs abortion case. Or saying, Republicans are not a legitimate party. In none of these cases were these professors investigated, suspended, punished. And that was the right call by the university, I'm not saying they should have been. But it was compared to my circumstance, a case of free speech for thee, but not for me.

Larry Bernstein:

Do you think there is something unusual about the actions of Georgetown law school's academic leadership based on your recent experience?

Ilya Shapiro:

I'm sure it might have been worse maybe at Yale, hard to imagine many others where it could have been worse. It could have been better in many. My own Alma mater, the University of Chicago has long been known for its commitment to the freedom of speech, its speech policy has been held up as the gold standard nationwide. The Kalven Report in the late 60s, during the tumult of Vietnam, put in an official university policy of neutrality on political issues. So, administrators don't have to explain why they're not taking a position to support or oppose any particular political controversy.

There still have been some controversies in recent years as COVID and George Floyd has inflamed certain institutions. But I discovered, to my chagrin, Georgetown is one of the worst for this tendency of empowering the lefty illiberal mob.

Larry Bernstein:

Last week on our podcast, Northwestern law professor John McGinnis spoke about the increasing wokeness in the legal academy. He wrote an article on the topic in the Manhattan Institute's magazine the City Journal, do you know it?

Ilya Shapiro:

I read that piece by John. I think unfortunately he's right. Again, this is not a complaint that too many professors are left wing. Although there is a problem in hiring practices, discrimination by faculty committees, that it's much harder if you're a conservative. But what I've been talking about is not hiring practices in the faculty, it's administrators.

We've seen when deans, presidents, department heads stand up for the rights of the faculty members, even when they disagree at the outset, that generally dissipates the outrage mobs and these things clear up. It's when they feed the alligator, when they try to placate the mob that they get into trouble. And there are very few administrators and deans who are willing to show that kind of backbone and commitment to the free exchange of ideas or the grace to say, "Look, we're all fallible and occasionally we misspeak." And you have to accept people's apologies or that occasionally people say things that they wish they would've rephrased.

Larry Bernstein:

Georgetown Law School knew that you were a conservative when you came from the Cato Institute. Why did they hire you?

Ilya Shapiro:

The Dean celebrated my hiring in a community wide email just five days before he condemned me. Because he's taken some heat from some alumni who have criticized him for Georgetown's being so skewed to the left. There are three and a half faculty members on the faculty of about

150 who are not progressive. I would make it four and a half. But my inartful phrasing gave a tool to my political enemies to seize on something and foment the outrage.

And the dean despite having celebrated me and knowing full well what my views were did not stand up to that.

Larry Bernstein:

In the scheme of things, why would it matter to have one more conservative in Georgetown's law school faculty?

Ilya Shapiro:

Most students go through Georgetown without having one of these professors, so if they go away, it wouldn't make a difference to them. Other than through the existence of the center that I was supposed to lead, the Center for the Constitution, which Randy Barnett, one of the storied classical liberal legal scholars of our time founded 10 years ago. If the center went away, that's a place that generates originalist scholarship that has seminars for students, for judges, public lectures and other programming that punches way above its weight. I think Georgetown as an institution would be harmed without that center there.

You have to be that much better as a non-progressive to be hired by one of the elite law schools like Georgetown. So those three and a half professors really are superstars and, again the average student, maybe wouldn't have had the class anyway, but for Georgetown as an institution, it would take a hit.

And that's why I'm using this platform that I've been given to shine a light on the rot at the heart of Georgetown and academia more broadly. It's not good if people go to the very best places and they don't learn what half the federal judiciary thinks about how to approach constitutional and statutory interpretation.

Larry Bernstein:

You are going to reemerge in a different institution articulating the same ideas to the public. You did it at Cato, and you're going to do it at the Manhattan Institute. Aren't think tanks the best platform to explore conservative ideas?

Ilya Shapiro:

That's certainly what's been happening in think tanks, like the American Enterprise Institute, the Heritage Foundation, Cato, they arose as opposition to the dominant political philosophy of academia. Leading scholars could not get jobs at universities and so they went to these other places. So, it's not that this is some new development. I was hoping for a new challenge, to have an opportunity to have an impact in a different way by being associated with the university rather than an ideologically identified think tank. But being affiliated with a university is effectively the same as being affiliated with an ideological institution.

Larry Bernstein:

Is free speech a problem outside of academia as well?

Ilya Shapiro:

Georgetown is a private institution, so this is not a matter of violating the First Amendment or the government censoring me or anybody else. Universities don't have to have any sort of protections for speech and expression, at least private ones. In the 21st century, challenges to speech and expression aren't necessarily coming from government. They're coming from private forces; they're coming from cultural forces. I'm seeing pushback in the broader culture, the pendulum may be swinging back, in terms of enforcing a woke orthodoxy. But in academia, I don't know, it might be irredeemable, I'm not sure.

Larry Bernstein:

Let's go back to what got you into the hot seat to begin with, why do you think it was a poor choice by Biden to limit his search for Supreme Court Justices to African American women only?

Ilya Shapiro:

He would've been better off if he wanted to appoint a black woman to say, I'm going to do a full search and find the best candidate and then stick with Ketanji Brown Jackson or whoever else. That would've been much more effective, that would've removed any possible asterisk from Justice-designate Jackson that would've prevented criticism, not just from me, but from a lot of people and indeed 76% of the American people in a survey conducted by ABC news, that he should have not limited his pool that way. Just as Chief Justice Roberts wrote in a school busing case 15 years ago, there's something sorted about this dividing us up by race. And I think the more you racialize things, especially hiring practices at the highest levels of government, it's not exactly something that helps social tensions.

Larry Bernstein:

Affirmative action cases will come before the Supreme Court in the near future. Will the court overturn the use of race preferences?

Ilya Shapiro:

The Supreme Court's taking up challenges to both Harvard and the University of North Carolina's use of racial preferences in admissions. And likelier than not, the court will invalidate the use of race. How broadly it goes in doing that, will it remove the idea of diversity as a compelling state interest that allows it to consider race, or will it simply say that the way that affirmative action is practiced in college settings is unconstitutional because race becomes the dispositive factor and much greater than any other qualification, that remains to be seen, but almost certainly that's the way it will end up.

I think that decision will be accepted quite well by American society where affirmative action is two to one against now. It won't seem that way because the elite is much more closely split and certainly Twitter will be aflame, but I think American society would accept and celebrate that decision.

Larry Bernstein:

Why do you think Biden would've been better off if he had been disingenuous about his Supreme Court hiring process?

Ilya Shapiro:

Well, political considerations have always been part of the nomination process, either to satisfy certain constituencies, or regional interests. Providing representation to the African American community has been thrown into that hopper. It's never been the case that pure merit was the only criterion for nominating justices.

President Biden could very well go through a proper process and then ultimately decide that Ketanji Jackson is the one he wants to go with, and that would be fine. And then celebrate African American woman. That's the nature of politics.

Larry Bernstein:

What is your assessment of these academic kangaroo courts, investigating speech, sexual impropriety, or other alleged student or faculty misbehavior?

Ilya Shapiro:

This comes up in lots of different contexts, with allegations of sexual impropriety by students where they're not allowed to confront their accuser or often even see any reports or have an advisor or lawyer present, these diversity equity inclusion officers, which have become a power unto themselves on a lot of campuses that don't allow for due process considerations. Universities are not well positioned to be courts. They're not the ones who should be investigating crimes and punishing people.

And so, when they engage in or levy severe punishments, they better have provided due process and had applied rules that were clear and applying them evenly. Otherwise, they open themselves up to all claims for a breach of contract and discrimination.

Larry Bernstein:

Were the attacks against you coordinated? And to what extent does this reflect the power of the woke in these institutions?

Ilya Shapiro:

The Twitter mob was instigated by a writer at Slate named Mark Joseph Stern. He's long not liked what I've had to say in terms of constitutional analysis. And screen capped my tweets before I deleted them, and what's known as snitch-tagged Georgetown Law. Racked up tens of thousands of likes, and away we went. The Black Law Students Association took the lead in preparing a letter. In some ways, it's a form letter, they kind of had their standard demands that they always want. And they plug them into whatever the facts of a given controversy might be. And I think ultimately, something like a thousand people signed that letter between students and staff and others.

I've heard that students were pressured to sign. Various organizations assigned that institutionally, and there were complaints from officers within those organizations that they didn't want to be held to join that. But there was also a counter letter for that matter, led by the Conservative and Libertarian Students Association and various alumni groups. But there was definitely coordination by students, by faculty members, by various constituencies.

Larry Bernstein:

Do you expect the use of academic kangaroo courts to spread in society, whether that be corporate HR departments, the government, or otherwise?

Ilya Shapiro:

When you get into the public sphere when government is involved it really can't, unless courts are corrupted. So far, courts are holding. In corporate America you see similar dynamics in HR offices with the explosion of diversity officials. So that similar dynamic as we see in academia. Because college students are younger, more emotional, and have more free time.

They are after all, learning and debating constantly. If you're making widgets, it's probably improper to be criticized for something you say. But it's not something that happens a whole lot. Although there are chilling effects against diversion from orthodoxy there too. So, there are lawsuits that arise when you get out into the real world, outside of academia even more than you do in lawsuits suing educational institutions.

So, we do have some legal protections, I don't know if kangaroo courts really exist to the same extent anywhere outside academia.

Larry Bernstein:

What advice would you give a young conservative who wishes to be a law professor at a top 10 law school?

Ilya Shapiro:

Don't write in the areas of race and sex, those are the most conducive to inflammation. Bend over backwards to be respectful and kind to people, do very good scholarship, because you're going to have to be that much better than those who agree with the prevailing orthodoxy. Seek out good mentors, senior scholars who you agree with or whose career path you'd like to emulate. Don't tweet, there's no value in tweeting for academics anyway, as I see it. To the extent you write op-eds before you get tenure, be very judicious and only on dry subjects that can never be in the center of political controversy.

Larry Bernstein:

So, young scholars should shy away from engaging with culture war issues?

Ilya Shapiro:

Each time you do something like that, you make it that much harder for yourself. It's much easier for you to succeed if you're studying anti-trust or securities regulation or something like that. Now sometimes it's hard to avoid these fights because there are votes in faculty on things that could be a wedge issue that separates you from your progressive peers. At that point though, the wise course might be to skip that faculty meeting.

Larry Bernstein:

What have you taken away from this experience, and what should my audience take away from it? This audience is wealthier than most and gives a lot to universities. Is this a good way for them to target their philanthropy?

Ilya Shapiro:

Yeah, don't do that. (laughs) that's my advice.

Be strategic about your philanthropy. Make sure that the targets of your philanthropy really do match your goals. We've seen many examples of people endowing things and once they're gone, that funding goes to support things that are completely antithetical to what the donor wanted. So, think hard about what you want to accomplish. Most of the time, you won't be able to accomplish that within a university institution.

My favorite with my soon to be employer Manhattan Institute, is the FIRE, the Foundation for Individual Rights and Expression, now. They just rebranded last week, to broaden their mission beyond education. It used to be Foundation for Individual Rights in Education, but they're going beyond that to cancel culture more broadly. And this organization has filled the shoes of the ACLU, which has become just another progressive activist group.

FIRE supports faculty, students, and others in educational settings, regardless of where they come from ideologically. Even in cases that have nothing to do with ideology, where people are persecuted for their speech. They're just a wonderful group, Greg Lukianoff is the president, and his organization supported me with crisis management and public relations help, and finding me a lawyer and paying for that lawyer through their Academic Freedom Legal Funds, just invaluable to me personally. They do fantastic work. But in any event, really think about what it is you want to accomplish with your money.

Princeton, my undergraduate alma mater, had the James Madison Program. Robby George who founded and directed it can tell you that there are ways of making sure that you're funding in perpetuity only goes to the program not to the University general fund or even any University account. They set up separate funding mechanisms. So, you have to be savvy to make sure that you don't end up funding things that are antithetical to what you believe in.

Larry Bernstein:

Alan Charles Kors spoke on a free speech panel on What Happens Next in September 2020 and I've included an edited portion of his original six-minute presentation. Kors is a former professor of history at the University of Pennsylvania and is one of the founders of the organization FIRE: the Foundation for Individual Rights and Expression.

Alan Charles Kors:

College campuses should be among the freest places in America in terms of the expression and testing of ideas and of mutual forbearance on matters of conflicting beliefs. They are now the enemies of that freedom having largely embraced in practices, not in principle, Herbert Marcuse's 1969 Appeal for an end of what he termed repressive tolerance. In its place he called for "intolerance against movement from the right and toleration of movements from the left, to the stage of action as well as of discussion, of deed as well as word."

It would not be difficult, Marcuse wrote, to determine "the question of who is to decide on the distinction between liberating and oppressing, between human and inhuman, teachings and practices." The goal is "the reduction of suffering, misery, and suppression." So, he explicitly did not care about the requisite double standards. I think that the administration, faculties and a growing number of students on our campuses believe this now and have put it into practice. It's where we are and the question is what will happen next.

Take a look at the current cases on the website of the Foundation for Individual Rights and Education, www.thefire.org, before you accept or reject that view. If you want to know how it appears to conservative students, take a look at campusreform.org. Our colleges and universities on the whole have become, in this year 2020, the enemies of a free society. What happens next?

We face on our campuses the convergence of Marcusean liberating versus repressive tolerance, the COVID-induced spread of remote learning and social distancing, the resurgence of Black Lives Matter and its self-proclaimed allies, and a darkly bitter election year, all of which has created an unpredictable mix. In response to limited budgets and the resurgence of Black Lives Matter's agenda, most campuses have committed themselves to what will become a bidding war for increased diversity. But they specifically mean diversity by politicized intersectional notions of race and gender. And given the contempt for, indeed often hatred of conservative and libertarian Blacks, women, gays, and [transgender men or women, that will not mean intellectual or ideological diversity increases on campus, or any occasions for challenging prevailing campus orthodoxies.

But perhaps what will happen is that the new inquisitorial passions on our campuses to root out what they define as racism, what they define as sexism, what they define as injustice, deprived of daily interactions to police, will more and more respond to what is posted on blogs and social media, both in terms of faculty and in terms of students. The woke will be able to say what they wish in what comes next. Dissidents better watch what they say and you all should watch for that. Thank you very much.

Larry Bernstein

Next up is Mary Anne Franks from the University of Miami Law School. Her six-minute presentation was made in September 2020 on What Happens Next. She challenges Alan Charles Kors that the conservatives are being attacked on campus and that if anything that we should support the protestors. Mary Anne will be followed by Stanford Law Professor Michael McConnell and Emory Professor of History Patrick Allitt.

Mary Anne Franks:

Fifty years ago, soon-to-be Supreme Court Justice Lewis Powell lamented that, quote, "Frightening progress has been made towards radicalizing the campus. The movement has engulfed many of the most prestigious universities, and is a recognized influence on almost every campus. Colleges have been shut down, buildings burned, freedom speech has been denied. Reasonable discourse repudiated, and academic freedom endangered," end quote. A year later, , he claimed that, "It is common practice, especially on the campus, for leftists to shout down with obscenities any moderate or conservative speaker or physically to deny such speaker the rostrum."

Powell was not alone in his view about the dire state of campuses across America. In a speech to the Pentagon on May 1st, 1970, President Nixon said, "You see these bums, blowing up the campuses. The luckiest people in the world going to the greatest universities, and here they are burning up the books, storming around about this issue."

In Powell and Nixon's view, and those of many other leading conservative voices at the time, the real threat to America in the early 1970s was not endless war, or environmental destruction or economic inequality, police brutality, or the violence and discrimination fueled by racism and sexism. No, the real threat was college students protesting about those issues. In the parlance of paranoid conservatives, campuses around the country had fallen prey to radical leftist indoctrination. According to this view, feminists, critics of racial injustice, advocates for same-sex rights, opponents of war and police brutality were all colluding to violently suppress the reasoned, enlightened views of conservatives, and impose ideological conformity upon the nation. A campus free speech crisis that threatened to erode the very fabric of American society.

Well, everything old is new again. Fifty years later, well-funded efforts by conservative groups to strategically highlight a tiny number of cherry-picked sensationalist campus controversies, aided by uncritical, self-styled civil libertarians and a gullible public, have led us down the same path. Never mind the fact that compared to the 1970s, there's no coordinated sweeping student protest movement today, and the protests that do take place are milder by many orders of magnitude. Never mind that there is no evidence to support the conclusion that college campuses have been seized by some set of ideological intolerance, and actually not evidence to suggest that conservatives are being disproportionately targeted.

Never mind the fact that only the tiniest fraction of the over 4,500 institutions of higher education in the United States have experienced any substantial disruption over controversial figures or ideas, or that despite the outsized attention given by both conservative and mainstream media to anecdotes involving conservative figures, the majority of disruptions have been directed at progressive individuals and ideology. And never mind that college campuses remain some of the most physically safe and intellectually open in the country.

Never mind, most importantly, that protest is a quintessential form of free speech, and that to criticize protests in the name of free speech is another way of saying that free speech is threatened by free speech. And that is what the campus free speech crisis is truly about, the attempt to de-legitimize the free speech of some groups in order to maintain the free speech dominance of other groups.

What was true in the 1970s and is true today is that when the powerful claim that free speech is in crisis, what they really mean is that free speech is no longer in their exclusive domain. Now, as then, students who dissent from institutional and political authority are portrayed as threats to public order and must be brought in line, with force if necessary. In the name of protecting free speech, the powerful will use increasingly aggressive measures to ensure that historically marginalized groups stay silent.

It is not as if we are starting in the classroom or anywhere else, with a kind of blank slate. Every single major sector of society and government is dominated by white, wealthy men. That is simply the world we live in.

Even at the top 25 universities, 18 out of 25 are headed up by men, and I think there are maybe one or two, people of color in that list. So, it's important to realize what the context is, that the people who most need to listen to dissent and disagreement probably are the people in power at any given point in history.

And it is interesting to note how the words and the emotions about people's feelings change according to who you're sympathetic with. What we kept hearing by the premise of that narrative is that, "Oh, these students are so wrapped up in their feelings. They don't care about the discipline or the facts all they care about is their feelings." And now we're told that the really important thing that shows us that we're in some kind of crisis of censorship on campus is that conservative students feel really bad and that they're nervous all that time and that they're scared to talk.

If we talk about domination in marketplaces, if we talk about people who are scared to talk, we have to at least entertain the possibility that one of the reasons they're scared to talk is because they're ideas aren't very good. And if they're really worried about people judging them or thinking that they're racist, maybe they ought to worry about that, because maybe their ideas aren't good.

What the campus free speech hand wringers have right is that the existing order is indeed being threatened. Longstanding authority is being questioned, mocked, criticized, challenged. Where they go wrong is in failing to see that the attempt to secure civil liberties to all, and not just powerful elites, to give truth more power, to call for a reckoning of foundational racist and sexist legacies, to dissent against totalitarianism, to oppose fascism in all of its forms, is not a crisis of free speech but the exercise of it. Thank you.

Larry Bernstein:

Let's let now get the perspective of Stanford Law Professor Michael McConnell on whether conservative students are being threatened on campus.

Michael McConnell:

Students tell me is that when they express a view in class, they get a torrent of social media abuse. This is not a matter of their having fragile ... And a lot of that abuse by the way includes various threats of retaliation. It is a serious problem. I'm not for using the authority of the university against their critics. What I am for though is for the university to stand up for its own values of diversity and inclusion, but to value political diversity and inclusiveness of all students and not just those who queue the line of the prevailing, political orthodoxy.

Larry Bernstein:

Patrick Allitt, you have been teaching history at Emory University for decades, how have you dealt with the current generation of students who attack the morals and values of our predecessors?

Patrick Allitt:

My job as a history professor is to teach students some history, and to teach them how to think historically, and then to learn how to write and talk about historical issues.

They've got to learn, the importance of understanding that in different times through the nation's history, very different sets of values have applied. So that if we were to be discussing something like the Dred Scott decision, I'd insist that they leave behind completely the views they happen to hold today. And I often think it's a useful exercise to say to a class, "Think about the values you hold most dear today, and remember that 100 years from now people will look back on us and be revolted and horrified by the knowledge that we once held those ideas."

But we do hold them, and we hold them in good faith. And therefore, we need to take seriously that other people in other times have held their ideas, which now to us are abhorrent, in good faith also. So then of course the student says to me, "Ah, but which ones of our ideas that we hold now will later seem abhorrent?" To which of course my answer is, "I don't know." But nevertheless, it's a very useful mental exercise to go through. It conduces a kind of historical modesty and discourages the students from being too granitic in holding onto the opinions which they feel so forcefully at the moment.

Larry Bernstein:

Our next guest is Eric Kaufmann who is a Professor of Politics at Birbeck College at University of London. Eric spoke on What Happens Next in March 2021 about academic freedom. Go ahead Eric.

Eric Kaufmann:

I'm going to be speaking about academic freedom and the report that I've recently issued with the Center for the Study of Partisanship and Ideology. So I want to begin with two key concepts within universities and amongst the professoriate. The first is punishment. And the second is political discrimination. By punishment I refer to administrative penalties from being fired from your job all the way down to being removed from administrative roles, such as department head or given fewer resources for research, for example, or being told to teach courses you don't want to teach. That's an administrative punishment.

What we find in my reports is that one in three conservative American academics have experienced either a direct discipline from some layer of the administration or threats of discipline. One in three. So, when people say that academic freedom is a right-wing moral panic, I think it's important to remind them that in fact, we have a very pervasive problem in the Academy.

The second arm of coercion is political discrimination. In my work on Britain, I find that one in three British academics would not hire a known leave supporter. That is who supported the leave side in the European referendum. I find that over 40% of American and Canadian academics would not hire a known Trump supporter. Now these are political positions that command either close to or over a majority of the population. And so is absolutely astounding that we have this level of discrimination going on in hiring.

These two prongs of coercion, punishment and discrimination, produce profound chilling effects. And in fact, no platforming is not the biggest problem, although it is a symptom and it is a problem, it is not the most important threat to academic freedom. The greatest threat is in fact the chill effect produced by punishment and discrimination at the everyday level. For example, three quarters of British and American social science and humanities academics who are conservative report that their departments are hostile rather than supportive environments for their political beliefs. In the US, fewer than 10% of Trump supporting academics report that they would be comfortable revealing their views to colleagues, and 85% of those who did not vote Trump, that is mainly Democrats supporting academics, agree that a Trump supporter would not be comfortable sharing their views.

So between the deterrent effects, the discrimination and the ambience that is produced in academia, we get the emergence of a monoculture. In my data, I find there are 14:1 on the left vs everyone on the right in the social sciences and humanities in Canada and in the US, and it's 9:1 in Britain.

And as this becomes more monocultural, you get worse discrimination. You also get a larger

pool of activists. The only way to break the cycle, we need something like has occurred in Britain where the government actually proactively enforces the law on academic freedom against universities, including the implementation of fines for violations and actively, not just passively, ensures that academic freedom is promoted, because it's not enough to wait for people to sue. You need the government to be proactively enforcing the law.

I would argue that you need to de-politicize administrative layers of the university. No university should be actively supporting a political view. The academics can do that but not officials within universities.

Larry Bernstein:

Do you think tolerance for academic speech will improve or worsen over time?

Eric Kaufmann:

Speech codes were instituted in the late 1980s. We're now on into almost four decades of people writing books complaining about this problem. It's not going to fix itself. It's only getting worse.

My data suggest the younger generation of academics, under age 35 are twice as intolerant, twice as supportive of moves to sort of dismiss controversial professors, as those over 50. So, we've got a growing and not a fading problem. And there are people who think, "Oh, no, the marketplace will solve this problem." It won't, not in a sector like the university sector, which has strong network effects and legacy effects.

Larry Bernstein:

David Weil, as the Dean of the Heller School of Social Policy and Management at Brandeis. Do you agree with Eric Kaufmann's analysis?

David Weil:

Well, I have a very different view. We've had an exclusion of many other voices for long periods of time in the history of this country in academic forums and others. And academia is trying to become more inclusive of multiple voices, not just one set of voices that have dominated, not only academics but business and government. That's what this is a much longer-term evolution of in my view.

Eric Kaufmann:

I think it's fair to look at your race and gender representation as long as it's done in a liberal way. What really sort of jumps out, however, there was no effort being made actually to try and politically diversify the university professoriate. In fact, a lot of universities are leaning into an explicitly and overtly progressive ideology and agenda, which is actually chilling things even more.

You can try and pursue diversity in one realm. That's fine. But I think just sort of referencing history as a way of sort of dismissing the problem of political diversity is a bit of a diversionary

tactic, really. If we're serious about diversity, we've got to be serious about political diversity as well. And it's just not consistent to pursue one form of diversity and close your eyes to two other forms that are not being addressed. And actually, if you want to look at the professoriate, I mean, the political lack of representation is much more glaring now than for example, the racial or gender. And yet there is absolutely no interest in this problem.

Larry Bernstein:

Thanks to Paul Kennedy and Ilya Shapiro for speaking. That ends today's session. I would like to make a plug for next week's show.

Our first speaker will be Michele Margolis who is an Associate Professor of Political Science at the University of Pennsylvania. Michele has a new book entitled From Politics to the Pews: How Partisanship and the Political Environment Shape Religious Identity.

I hope to learn from Michele about the relationship between partisanship and religiosity. This is a chicken and egg like problem. Do voters become more religious because they vote Republican or do religious people choose to be Republicans? Let's find out.

Our second speaker is Deyan Sudjic who is the former Director of The Design Museum in London. Deyan has written the book The Language of Cities about the complex evolution of cities.

I find the dynamics of urban life fascinating and I am going to raid the What Happens Next archive again to hear from Ed Glaeser, Howard Husock, and Mitchell Schwarzer to compare their insights with Deyan.

You can find all of our previous episodes and transcripts on our website Whathappensnextin6minutes.com. Replays are also available on Apple Podcast, Podbean and Spotify.

Thanks to our audience for your continued engagement with these important issues, good-bye.