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FREE SPEECH AND TODAY'S CENSORS: SHUT UP, THEY EXPLAINED

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"Error of opinion may be tolerated where reason is left free to combat it," said Thomas Jefferson. But a yawning chasm separates may be and is. Before too long, the Commonwealth will learn which one applies to Charlottesville. There, the city council has approved an intriguing concept: The erection of a large chalkboard on public land that will be supplied with chalk, on which passers-by may write or draw whatever they please.

The idea - a monument to free expression - comes from the Thomas Jefferson Center for the Protection of Free Expression, which is now raising funds for it. According to the organization's president, only a few ground rules will apply. Messages and drawings may be done only in chalk. No matter what is on the monument, it will be wiped clean on a regular (probably weekly) basis. And city employees may not erase anything on the chalkboard - that would be unconstitutional - but private citizens may erase something that offends them, although the Center will try to discourage them from doing so. Far better, it says, to respond by writing a message of their own. Let us hope they write the ground rule good and stern - something along the lines of, "Anyone low enough to erase anything on this monument is an egg-sucking varlet."

It may turn out that Charlottesville residents respect those conditions, and leave all the messages intact. It also may turn out that 500-pound sumo wrestler Akebono will win the 100-meter high hurdles in the 2004 Olympics. The town already is derided as "The People's Republic of Charlottesville" (a trifle unfairly - it's a lovely place), and freedom of expression there has of late taken a drubbing.

CONSIDER the University of Virginia. Its student code of conduct borders on the Orwellian. After a brief and disingenuous statement that "this policy does not allow curtailment or censorship of constitutionally protected expression," the code goes on to forbid "conduct of any type (oral, written, graphic, or physical) directed against a person because of his or her age, citizenship, color, disability, gender (whether or not the conduct is sexual in nature), national origin, political affiliation, race, religion, sexual orientation, [or] veteran status." It then provides examples of harassment, such as "teasing or mocking someone with a disability," "ridiculing a person's religious beliefs," "persisting in requests for dates after being told they are unwelcome," and "sending unwelcome e-mail containing sexual jokes."

Well. That keeps out 99.45 percent of all stand-up comics. What is "conduct against a person" because of his political affiliation? Is it verboten to call someone a right-wing, fascist bum? If a woman says no to a date the first time, is it forbidden to ask a second time, even if she then says yes? Back in 1996 the Supreme Court handed a legal victory to Ron Rosenberger, who sued UVa because his Christian magazine *Wide Awake* was denied student activity funds (more censorship?). It seems safe to assume at

least a few students scoffed at Rosenberger but would not have if he were, say, Muslim. Did such scoffing amount to discriminatory harassment?

Sadly, UVa has plenty of company. Many Virginia schools have Draconian speech codes. Virginia Commonwealth University's takes the breath away. It forbids, among other things, "sexual innuendo, comments, and sexual remarks about clothing, body, or sexual activities," "humor and jokes about sex that denigrate women or men in general," and "sexual propositions, invitations, or other pressure for sex."

Sexual comments? On a college campus with hormone-saturated teen-agers and young adults walking about in tank tops and spandex shorts? It is to laugh. The cover-your-butt policy is violated on a daily basis, and VCU officials know it. So, like all such policies, it is enforced selectively. Those who follow this issue - such as Thor Halvorssen of the Foundation for Individual Rights in Education - know a fraternity member who talks dirty in class stands a far better chance of being hauled up on charges than a feminist lecturer who tells an anti-male joke. (If you're dubious, check out the archive at www.thefire.org .)

NOR IS THAT all. The Student Press Law Center (www.splc.org) keeps a running tab on incidents in which campus newspapers have been stolen in bulk, generally because someone took offense at an article or commentary contained therein. It goes on all over the country: California, Oregon, Texas, North Carolina, Michigan, Massachusetts, Illinois . . . and Virginia. Papers have been stolen at VCU because of a story about two track team members. Papers have gone missing at UVa because of controversial criticism of the now-defunct pep band. What's more, too often university administrators do not stand up for the newspapers - or, worse, attempt to create some sort of moral equivalence by terming the thefts a form of "expression" themselves.

Such intolerance does not confine itself to college campuses. A recent poll found seven in 10 Americans - seven in 10 - believe it is important for the government to "hold the media in check." And these offices routinely receive letters from mature adults - individuals who should know better - demanding that this or that columnist be dropped. The writers are not content merely to pass the author by; they want to deny everyone else the opportunity to read him or her as well.

So, optimism holds out the weak hope that the Thomas Jefferson Center's project will elicit a ringing endorsement of society's love for freedom of expression. Experience suggests optimism is an idiot. "Error of opinion may be tolerated"? Not these days, when the motto on so many lips is, "Don't let anyone write or say anything that could possibly challenge my preconceived notions, or that might offend me in any way."