

REVIEWS

Restoring Free Speech and Liberty on Campus by Donald Alexander Downs. New York: Cambridge University Press, 2005, 317 pp., \$28.99 hardbound.

Ken I. Kersch

Many readers of this journal will recall a time in the last century when liberals were broadly understood to be the American political system's leading champions of "critical thinking," civil liberties, and the freedom of speech. Building on arguments advanced by John Stuart Mill and early twentieth-century civil libertarians like ACLU founder Roger Baldwin and Harvard Law Professor Zechariah Chafee, Jr., who cut their teeth resisting Woodrow Wilson's crack-downs on political radicals and opponents of America's entry into the First World War, liberals cut a public image across the century as crusaders against the McCarthyite excesses of anticommunism, attacks on civil rights demonstrators, and efforts to cleanse the public sphere of controversial speech.

This image was never as rounded a depiction of reality as is commonly supposed. But, with the neo-Wilsonian crackdown on the freedom of speech and other liberties on university campuses under leftist and liberal leadership (or acquiescence) from the late 1980s to the present, that public profile and legacy has long since been squandered. Today's undergraduates are as likely to associate liberalism with cliché-ridden thought and the ruthless intolerance of political dissent as they are with critical thinking and the freedom of speech.

The growing chasm between liberalism and a commitment to free inquiry, like many of the liberal dysfunctions that paved the way for the current era of Republican dominance, can be traced to the late 1960s and early 1970s, when liberalism was fatally infused by the combined forces of the New Left, radical feminism, and Black Power. The thought of many of these movements was distinguished by a sustained attack on liberalism itself, including its privileging of the private sphere and the protection of individual rights. Only a minority of liberals openly disavowed the defense of rights in favor of a critique of power. Many of those who did, however, went on to become university teachers and administrators. The liberals who joined them there, theoretical commitments to basic liberties notwithstanding, acquiesced in their projects, either by redefining rights and the public and private spheres to incorporate the left's political program, or by keeping their timorous mouths shut.

Donald Alexander Downs's *Restoring Free Speech and Liberty on Campus* is one of the many recent books that have chronicled the ways in which efforts by adherents of the liberal left within the academy to fight racism, sexism, homophobia, and other social ills "provided the tools for moral bullies to enforce an ideological orthodoxy that undermines the intellectual freedom and intellectual diversity that are the hallmarks of great universities." Downs's special contribution is in providing in-depth case studies of civil liberties crack-downs on four campuses, two of which succeeded (Columbia University and [partially] the University of California,

Berkeley), and two of which, in the face of political countermobilizations, failed (the University of Pennsylvania and the University of Wisconsin, Madison). A social scientist, Downs compares and contrasts these varied experiences, and draws conclusions about the sorts of political—as opposed to legal—strategies likely to prove most effective in opposing or reversing these noxious initiatives.

At Columbia, the trouble began when a wave of hysteria about an “epidemic” of sexual assault at the University washed over Morningside Heights. Primed by the publication of a now discredited study in the *Journal of Consulting and Clinical Psychology* in 1987, campus activists found that the number of incidents of rape reported to campus authorities was well below that reported at a local hospital. They concluded from this discrepancy that the University was engaged in a massive cover-up of sexual violence. Citing this “cover-up,” and with the hope of raising the reporting and conviction rates, the activists demanded that the University Senate enact a set of radical policy initiatives methodically eliminating a raft of procedural rights formerly afforded to those facing sexual misconduct charges.

The initiatives included the creation of disciplinary tribunals specially designed for sex cases, and staffed by judges specially trained to be sensitive to the needs and sensibilities of the complainant, along with the elimination of the rights to confront one’s accuser and to be represented by counsel (on the grounds that the hearing was “non-adversarial”). Columbia also appointed a “coordinator of sexual misconduct and

education” who would simultaneously serve as a liaison with campus activists, the supervisor of sexual assault data collection and education, and the administrator of the adjudication of cases. “Progressives” at Columbia zealously supported these proposed reforms. Columbia professors were (mostly) silent. The most vocal objections were raised by (liberal) members of the law faculty who were experts in due process rights. Columbia President George Rupp quickly solved this problem by exempting the law school from the policy’s purview, and then dismissing the objecting law professors from the relevant university committee. In the absence of countervailing pressure—or even arguments—the University enacted the full slate of student demands.

At Berkeley, the problems were different. There, other than at the law school, Downs reports, “freedom thrives in the classroom,” and “the administration has not engaged in progressive censorship.” The threat to free speech at Berkeley “takes the form of progressive social censorship in the public forum,” where speakers voicing unhelpful views are shouted down, politically incorrect publications are stolen, and students with retrograde opinions are verbally intimidated and physically threatened. While they were attentive to free speech considerations in their own classrooms, Downs found that the Berkeley faculty for the most part sat back and watched as cabals of racial and ethnic activists (striking Malcolm-manqué poses in groups like “By Any Means Necessary” (BAMN)) launched assault after assault on free speech in public forums around the University. They watched as 20,000

copies of the Berkeley student newspaper, the *Daily Cal*, were stolen when the paper editorialized in favor of Prop 209, the state ballot initiative aimed at ending the racial preferences in university admissions. They watched as speeches by Jeane Kirkpatrick, Sandra Day O'Connor, Benjamin Netanyahu, and David Horowitz were disrupted, and (in Kirkpatrick's and Horowitz's cases) the speaker driven from the stage (for his troubles Horowitz was chastised by a top administrator at Berkeley for so rudely raising the slavery reparations issue on campus—despite the fact that the pro-reparations opinion had been a key theme during Berkeley's Black History Month). The law faculty watched as announcements for events sponsored by the conservative Federalist Society were repeatedly torn down at Boalt Hall. Activist law students hissed in class when either professors or fellow students ventured any opinion that dared to question the Cause.

In the late 1980s, *Village Voice* columnist Nat Hentoff described the procedures devised for dealing with harassment charges at the University of Pennsylvania under President Sheldon Hackney's leadership as reminiscent of "a Vietnamese reeducation camp" (Hackney would later be named by Bill Clinton as the head of the National Endowment for the Humanities). Hackney's Penn, Downs reports, "was bristling with racial and gender awareness workshops, freshman orientation sensitivity sessions, official denunciations of racism and sexism, and two of the broadest speech and harassment codes in the country" (it forbade, amongst other things, "jokes" and "sexually sug-

gestive looks"). After federal courts invalidated a University of Michigan code similar to Penn's, Hackney tapped Penn law professor (and First Amendment expert) C. Edwin Baker to revise Penn's code to meet constitutional standards. Baker's salubrious changes notwithstanding, Penn's network of multiculturalist administrators carried on as if nothing had changed. They launched an investigation of the student newspaper's conservative columnist who had the temerity to question the decision to make Martin Luther King, Jr.'s birthday a national holiday, and to allege that the University hewed to racial double standards. Next came the now infamous "water buffalo incident," in which, at the behest of campus activists, Penn's administrative Furies initiated a relentless assault on an orthodox Jewish freshman for calling a raucous group of black female students, disturbing others late at night, "water buffaloes" (in Hebrew, a "water buffalo" connotes a "thoughtless and rowdy person").

The civil liberties crackdown at Wisconsin was sparked by an incident that was unambiguously racist and offensive: a Fiji Island Party at the Phi Gamma Delta fraternity that featured parties in blackface, along with a "Harlem Room" serving watermelon and fried chicken. Although this theme party had gone on for years, in the late 1980s, black student activists decided, at long last, to take action. They demanded that the university revoke the fraternity's charter, create a multicultural center, and institute mandatory instruction in race and ethnicity for all UW students. Hackney's counterpart at Wisconsin, Donna Shalala (who would also join the Clinton administra-

tion as head of the Department of Health and Human Services), while resisting some student demands (most prominently the creation of a slate of ethnic studies departments), signed on to many others. Amongst these was an initiative to impose, as part of UW's "Design for Diversity," stricter faculty and student harassment policies. With the influence of the Wisconsin law school's anti-civil libertarian critical race theorists offset somewhat by the instincts of the law faculty's civil libertarian liberals, self-conscious efforts were made in Madison to fashion an appropriately limited code. Subsequently, full-blown prosecutions were relatively rare. But Downs reports that Shalala's team of diversity administrators were extraordinarily aggressive in policing student speech through a stream of *sotto voce* warnings and threats which conveyed the clear message that they were being watched. In time, formal investigations were launched against faculty members, one of whom used an illustrative allusion to the Lone Ranger and Tonto in the classroom, and another of whom barked out "*Sieg Heil*, comrades" to a group of students who were following him around campus and repeatedly mocking him in public (he was a known conservative). Yet another was investigated for advising a female graduate student to "straighten up," "start working harder," and "stop messing around with [your] boyfriend." As at Berkeley, speeches at Madison by public figures with views so dangerous as to be considered beyond the pale—like Tommy Thompson and Ward Connerly—were commonly disrupted.

Downs chronicles the different reactions to these events by students and fac-

ulty at the different schools. And, in light of those reactions, he offers considered advice to those hoping to assert countervailing force. Columbia, in most respects, serves as Downs's anti-model. There, a few law professors aside, no organized opposition, and few objections, arose from within the University itself. Downs concludes that the "climate of mobilization" at Columbia fueled the righteousness of the activists and administrators leading them ineluctably to the ironclad conviction that no reasonable or decent person could raise any plausible objections to their initiatives. When outside groups like the Foundation for Individual Rights in Education (FIRE) sought to pierce this fantasy, their complaining letters—deemed "ridiculous"—went unanswered. When, in due course, the policies were publicly attacked in the *Wall Street Journal*, the *Chronicle of Higher Education*, and the *Village Voice* (not to mention by the ACLU and Feminists for Free Expression), Columbia's officialdom was blindsided, stunned, and humiliated. In response to the worried inquiries that followed this exposure, other universities began to pledge that the harassment policies they were developing would be nothing like Columbia's. Columbia belatedly responded to the bad publicity (rather than seriously reflecting upon the underlying issues). They rushed through some relatively minor procedural changes. To this day, Columbia remains a deeply troubled campus.

At Berkeley, by contrast, a number of students courageously stood up to the thuggery. Initially, the *Daily Cal*, which was set upon by swarms of campus activists, apologized abjectly for printing

David Horowitz's anti-reparations advertisement. But the paper's editors were immediately chastised by their spirited readers for failing to defend basic principles of free press and free speech, and paused for some serious reflection. In their next round with campus activists over the publication of politically incorrect cartoons, the *Daily Cal's* editors reversed course and stood their ground. When, after criticizing the leading Chicano activist group on campus, the offices of the campus's conservative paper, *The Patriot*, were surrounded and burglarized, and its print run stolen (its editors also received death threats), the *Daily Cal* rose to *The Patriot's* defense. This, in turn, encouraged broad segments of the Berkeley studentry to rise in defense of the freedom of speech. Free speech principles did not fare so well at the law school, however. There, when a book called *The Diversity Hoax* drew national attention to ongoing free speech problems at Boalt Hall, the faculty haughtily dismissed the charges as the handiwork of "conservatives," and the problems continued unabated.

At Penn and Wisconsin, however, by grace of resourceful and courageous leadership by faculty and students (what Downs calls the "entrepreneurial model"), the outcome was different. At both schools, faculty from across the political spectrum rallied aggressively in favor of free speech and procedural fairness. At Penn, historian Alan Kors (who would go on to found FIRE) devoted himself to the defense of the student charged in the water buffalo incident. Working full-time for months on end, Kors devised a multifaceted plan of attack, which involved both working within

the university and publicizing the case in the national media (Kors was remarkably successful on this score: soon Hackney was being satirized in *Doomesbury*, and the bad publicity put his pending NEH appointment on the ropes). Kors also sued the university. Outraged letters from parents, alumni, and other donors followed. What was once known as Penn's harassment code was newly christened its "speech code." When a new president, Judith Rodin, succeeded Hackney, she seized the opportunity to put this embarrassing debacle behind her by issuing a set of "University Life Principles" and appointing a new slate of administrators who were quietly but firmly committed to free speech and individual rights. The result, Downs concludes, was an intellectual climate radically changed for the better (Downs raises as an open question whether this improved state of affairs would continue at Penn were Kors—now a national figure—were to retire or go elsewhere).

The events at Penn had the greatest effect nationally, placing "political correctness" in academia on the national political (and cultural) map. But it was at Wisconsin, where the counter-mobilization was more broadly based, where dissenters had the greatest success in institutionalizing a culture devoted to fairness and free inquiry. Initial opposition to the codes at Wisconsin was scattered and disorganized. Conservative groups objected, of course, but their efforts were summarily dismissed on account of their politics. Wisconsin administrators aggressively lobbied student leaders to keep mum (the administrators were particularly worried about criticism from anti-PC female and minor-

ity students). In a process that Downs calls the “political countermobilization model,” however, a series of outrages and heavy-handed threats by administrators against well-established members of the Wisconsin faculty (when combined with the new sensitivity to PC initiatives that arose in the aftermath of the Penn case), turned former code supporters—including Downs himself—against it. They went on to engage the campus community in a broad-ranging, Socratic discussion of the importance of civil liberties. Downs, who had become convinced that the “criminalization” of disagreement was compromising the University’s central mission, helped found the Wisconsin faculty Committee for Academic Freedom and Rights (CAFR), a group with members from diverse political backgrounds, dedicated to championing and defending academic freedom and constitutional rights. The group soon secured a \$100,000 grant from the Milwaukee-based Bradley Foundation, and “the Wisconsin Free Speech” movement was born. CAFR publicized civil liberties outrages, both within the university and outside it. It participated consistently and effectively in the forums of university governance (at Penn, where all powers were concentrated in the President’s office, the faculty had little leverage in such forums, and were forced to fight through private confrontations, lawsuits, and the national media). And the group encouraged and supported civil libertarian actions and activism by students, setting an affirmative, and ultimately successful, agenda aimed at revising the university codes. The result was not only one of the most speech protective envi-

ronments of any major university, but a culture of free inquiry and debate sustained by a set of institutional arrangements and dynamics that promise to carry that culture reliably forward into the future.

Although Downs’s normative commitments are frankly articulated in *Restoring Free Speech and Liberty on Campus*, the book is distinguished from other attacks on campus political correctness by its empirical, social scientific tone. Downs recurs to several social scientific touchstones throughout. The first is Theodore Lowi’s critique of pluralist politics, which holds that a policy process involving bargaining amongst groups that does not give all relevant groups a place at the table will fail to advance the broader public interest. Many of Downs’s accounts demonstrate that civil libertarian outlooks were excluded from the relevant discussions, sometimes intentionally (such as at Columbia), and sometimes simply in effect, because campus civil libertarians were unorganized (such as at Berkeley). He finds that, as a consequence, policy choices were seriously skewed in ways that systematically undervalued the virtues of fair process and free discussion. Dana Villa’s understanding of “Socratic Citizenship” is a second recurring motif. Downs explains that when important ideas are excluded from the public forum, the climate is ripe for orthodoxy: the views of a subset of groups become identified unquestioningly as the voice of truth and honesty itself. In turn, opposing views are aggressively stigmatized as ill-motivated and immoral. Villa argues that some measure of self-doubt—the antithesis of orthodoxy—is indispensable to the pur-

suit of truth (and, consequently, to the achievement of justice and morality). Thus, when universities dispense with self-doubt, Downs explains, they fatally undermine the core of their mission, which is to advance the pursuit of truth. Finally, Downs recurs to Timur Kuran's book *Private Truths, Public Lies: The Social Consequences of Preference Formation*, which argues that, in social contexts that do not value dissent, people tend to keep their true beliefs to themselves out of fear of ostracism or punishment. This similarly skews the discussion, compromising the pursuit of truth.

Downs effectively explains the ways in which students, faculty, and indeed, all of us, are shortchanged when universities substitute the stifling enforcement of orthodoxy for the stimulating pursuit of truth. But the damage wrought by the campus political correctness of the last two decades has actually swept even broader, in ways that liberals and scholars (and, especially, liberal scholars) would do well to note. "A horse laugh," Mencken once observed, "is worth a thousand syllogisms." Although they seem only dimly aware of it (preferring instead to focus on "the myth of political correctness"), the campus dramas of the sort that Downs chronicles have gone a long way toward rendering liberals, professors, and universities ridiculous in the broader political culture. This tarnished public image has undercut their authority in all sorts of areas of inquiry that ostensibly have nothing to do with the campus PC wars. For many people, living off campus, looking in, it has also rendered ridiculous their vainly earnest description of themselves as principled and committed civil libertar-

ians. If they want to understand why many people understand their hyperventilation about the USA Patriot Act, or Guantanamo, or Jose Padilla (amongst other things) as little more than anti-American, pro-terrorist posturing, there may be worse places to begin than with the campus PC wars of the past two decades. Although hardly any purer than liberals in their civil libertarian commitments, it is no longer clear to many people that conservatives are less likely to defend civil liberties, in a broad sense, than liberals are. As such, the price liberals have paid for either encouraging the behaviors that Downs has chronicled, or for remaining silent in the face of them, has been dear.

Downs seems hopeful that the abiding attractiveness of commitments to open inquiry and freewheeling intellectual debate will continue to serve as a beacon, at least for a few, on American campuses. But his book suggests—somewhat worrisomely—that both are most likely to be defended in the face of attacks only within institutions (like Wisconsin) where there are multiple power centers open to broad-based democratic participation, and an already strong institutional and historical commitment to free inquiry. At other institutions, run from the top down and without such histories (like Penn), lawsuits and the public humiliation born of sensational scandals are, at the moment, the only reliable line of defense. In such a context, books like Downs's—and people like Downs—are indispensable.

Ken I. Kersch is assistant professor of politics at Princeton University, NJ 08544, where he writes on American politics and constitutional

development, legal thought, and the politics of courts; kkersch@princeton.edu. His most recent book is The Supreme Court and American Political Development, coauthored with Ronald Kahn, (University Press of Kansas, 2006).

Going Broke by Degree: Why College Costs Too Much by Richard Vedder. Washington, D.C.: The American Enterprise Institute Press, 2004, 284 pp., \$25.00 hardbound.

Lloyd Cohen

There are many important things wrong (and more than a few right) about higher education in America. As the title suggests, *Going Broke By Degree* by Professor Richard Vedder does not address the deeper pedagogical and cultural questions of how we educate the political, cultural, technical, and professional vanguard. Instead he tackles a more discrete and manageable question. Does college cost too much, and if so, why and what can be done about it?

Professor Vedder's economic analysis is sound. His answers to the big factual and policy questions are spot on. He marshals the numbers to establish that indeed "college" does cost too much. Moreover, Professor Vedder is correct that much of the problem has its root in the profligate government funding of higher education.

There is no question that a university education costs a great deal—it does. Some of the reason that it costs a great deal is that it is providing for many people an ever more complex and luxurious good. For many, university is a consumption good rather than investment

good, and this in an era when incomes have risen steadily for a century. For others it is an investment in the marriage market, and for still others it is an investment in the acquisition of ever more technical human capital.

And then there is the opportunity cost of the principal input, faculty time. In our highly advanced economy the opportunities for very academically bright people are many. Unlike 50 years ago, high quality universities can no longer hope to attract adequate faculty by paying salaries that permit them to live in genteel poverty. So it is no wonder that the real cost of higher education has risen substantially in the last half century.

But Vedder's thesis is not merely that a college education costs a lot, but that it costs too much. In making his case, the fundamental problem he faces is that it is difficult to get a handle on what is meant by the terms "college" or "higher education." These terms do not cover a single homogeneous class of institutions. Rather it is a congeries of very different establishments whose services are "consumed" by very different patrons in very different ways.

While at the mention of "college" most readers of this journal will have in mind one of the 200 or so "very selective" colleges and universities, they constitute but one peculiar province of the realm. That province is bordered by the (much larger in number and enrollment) major and satellite state universities, the great mass of excellent, mediocre, and inferior small private colleges, the sectarian religious institutions, the community colleges, the private for-profit colleges, and the growing online universities.

This is a market in which there is a wide variety of institutional types that substitute for one another at the quality, price, curricular, geographical, and cultural margins. So, while a given applicant with a 4.1 GPA and a 2200 SAT may be shooting for Princeton with The University of Virginia as a safety school, another will be shooting for UVa with Villanova as a safety, and there is someone else shooting for Villanova with the local community college as a fallback, and someone deciding whether to attend a residential college or go part-time to a for-profit institution like DeVry. And then there is Shaquille O’Neill who cannot take away time from his busy career and so obtains his MBA online from the University of Phoenix. There are many genres in this family and many species in each genus. Few generalizations about higher education will apply uniformly to all.

Who’s Minding the Store?

But when talking about the medium to large state institutions and most of the not-for-profit private institutions, there is a common problem that leads one to believe that things cost more than they ought. Why is this so? The central problem is that nobody is minding the store. For public institutions this is hardly surprising. We are used to the notion that government services are supplied inefficiently—though things are probably worse here than in other government enterprises. The private sector suffers much the same problem, and without something equivalent to UPS and FedEx in higher education, there is no ready model against which the public institutions can be compared, judged, and shamed.

Private not-for-profit colleges cannot do that job. In the United States, these institutions are nominally run by, or are under the supervision of, a board of trustees, but in reality, trustees play only the most marginal role. There is a surface similarity to corporate governance of publicly held business firms; neither corporate nor university boards are structured to manage the organization they nominally control. That said, the corporate board can and does play an important role in the structural decisions of the business and the choice of chief executive, and recognizes that the financial well-being and solvency of the institution it governs as its core concern. University boards are different. Not only do they play no role in the school’s day-to-day operation, they seldom play much of a role even in the large issues of direction and atmosphere to which they might contribute. This is also reflected in the remuneration of the board members. While corporate directors are usually handsomely compensated, university trustees are more frequently large contributors.

It was not always thus. Most of the private universities had their origin as appendages to religious denominations. It was elders of the particular church who served as trustees. They not only had a substantial influence for good or ill on the ethos, and curricular and faculty choices of the institution, but more importantly for the present discussion, they were concerned with getting value for the dollar. Because they had educational goals for the institution they were anxious to restrain costs.

Now, with a trivial few exceptions, that model is but a distant memory. Univer-

sity trustees are no longer chosen because they have a substantial stake in the product of the institution, and so boards of trustees are mere husks of what they once were. They do little more than rubber stamp the choices of the administration—that is certainly the case with regard to most financial matters.

In the corporate world, when the board of directors is captured by management, the ultimate owners of the corporation—the shareholders—can bring about a fundamental change through a hostile takeover of the corporation and a replacement of management. There is no equivalent mechanism in the world of self-perpetuating university boards of trustees. The closest we have to anything approaching a hostile takeover in the university world occurs when certain boards reserve some of the seats on the boards to elected alumni. My colleague, Todd Zywicki, and two other insurgents recently succeeding in getting themselves elected to the Dartmouth board. Their principal reason for standing for election was a concern with the political and philosophical soul of the institution rather than its financial practices. It remains to be seen whether they will have any interest in constraining costs and, if so, whether they will succeed in that—or in anything else of significance.

So, if the board of trustees does not run the institution, then who does? Applying the analogy of the commercial corporation, one might suppose that it is the current management—the administration. And that is how things work in the lower rungs of the academic world. In some cases powerful and long-serving presidents simply run roughshod

over all corners of the institution. These are the places where, in economic terms, the faculty have very low opportunity costs. Individually and collectively they are grateful to have any university job at all and are in no position to make waves. But at the higher level academic institutions that most readers will be familiar with, the faculty and senior administrators are in a symbiotic relationship. While individually the faculty are politically inferior to the administration, collectively they are superior—or at least equal. The administrators serve in large part for the benefit of the faculty.

In effect, universities have taken on many of the attributes of worker-owned firms in the former Yugoslavia. Because the workers (faculty) cannot take their share of the capital value of the firm when they leave, and because their retirement wealth is usually held by such third parties as TIAA-CREF, they have little or no interest in constraining costs and accumulating a surplus. As far as the faculty are concerned, the single most important attribute of senior administration is their ability to raise money—and the second is that they dole it out to the workers. The joke about the job description of the chief executive of Harvard goes like this: our president lives in a mansion and begs for a living. Speaking of Harvard, a colleague recently sent me the following e-mail:

I was up at Harvard this week for my brother-in-law's graduation from Harvard Law School. The last time I was up at Harvard was five years ago—the biggest change is that Harvard just seems to be oozing cash. Fifty million smackers for diversity? It's amazing that Summers is spending so

little. The Harvard Law School student center (the Harkness Commons) was, when I was there in the early 90s, a perfectly respectable cozy place, with somewhat ratty sofas and a place you could buy coffee and a bagel. It now looks like a super-chic Starbucks. My wife rushed back to me at one point and said, "You've got to see the bathrooms!" It was the nicest bathroom I've ever seen in a large institution. I half-expected some guy to be handing out towels. (BTW, the condom machine that used to decorate one wall has been stripped out.)

All over Harvard there are flat-screen TVs, for no particular reason. Also, there are all these flat-screen computer terminals scattered around every five or ten feet. I gather this is so students don't have to walk 20 yards to get to their dorm rooms to check their e-mail. Come to think of it, don't all Harvard students have laptops or blackberries or whatever? Remember the Greenhouse Cafe in the Science Center, where you could get lukewarm coffee and bad burgers? There's a super snazzy food court there. Money. Money. Money. Pretty funny to think this started as a small school to educate ministers.

That's the heart of it. No one is minding the store in the flagship private universities. And, without the discipline of a competing cost-minimizing private sector, the four-year public universities follow suit.

Cost versus Price

This brings us to the problem of a remedy. Economists say that there is no free lunch. The corollary, however, is

that there are certainly very delicious lunches that other people pay for. It is generally easier and more straightforward to get someone else to pay for lunch than to figure out how to reduce the cost of producing a tuna fish sandwich.

The public does not have in its mind a clear distinction between cost and price. College costs too much, and so the public must pay too much in tuition and fees. As far as the consumer is concerned, it is all one. The obvious remedy then appears to be to lower the price of a college education—the cost to the consumer. The state can do this with more direct subsidies to colleges or to students.

These subsidies are justified by some putative positive externalities of university education. Vedder does a particularly nice job of showing that these externalities are little more than a mythic fantasy. He marshals data comparing states that provide varying amounts of subsidy to higher education. It turns out that those states that subsidize the least experience the fastest economic growth.

But, aside from not being justified by any external benefit, lowering the price through increased subsidies is closer to the problem than the solution. Lunch doesn't become less costly, rather it is paid for by someone else—the taxpayer—someone who is less well placed to discipline the university by his individual choices.

And it is worse than that. It is not merely that the universities do not suffer the discipline of the consumer market. It is also that in the political arena, they gain by spending all that they have. Much like many of us who work for large

organizations, they learn that the best way to have your budget increased for next year is to overspend this year.

To the extent that universities can raise money in the political market, they have no reason to try to constrain costs. So, odd as it may seem to some, the “answer” to the problem of the high cost of a college education is to wean the university from third-party support in general and from the state in particular. Vedder suggests that competition from the for-profit sector might generate salutary changes. But as things stand, those institutions, though growing rapidly, offer services to a niche. They compete most directly with community colleges rather than universities. And the community colleges are probably the most efficient of the higher education institutions. They keep costs low with low salaries, high teaching loads, and sparse facilities.

It is all a bit of a mystery how all this is going to shake out. Playing around with trend lines can get one into a great deal of trouble. I can recall from my own college days learning, if certain demographic trends continued as they were, that by 2050 the population of the United States would fall to 100,000,000, and 130 percent of those people would be Native Americans and Hutterites! Clearly, current trends of increasing costs are unsustainable, but how the correction will manifest itself still remains largely a mystery.

Lloyd Cohen is professor of law at George Mason University, Arlington, VA 22201; <lcohen2@gmu.edu>. His comprehensive “Study of Invidious Racial Discrimination in Admissions at Thomas Jefferson High School for Science and Technology,” appeared in 2002 in the Albany Law Review.