

A free and democratic society recognizes that justice begins with the rule of law. Laws insure that individuals receive respect and protection. Without that protection the public becomes subject to the unrestrained power of state officials and employees. Moreover, rational self-government becomes impossible when disrespect for the law prevails.

Lawyers play a unique role in the preservation of society. That role requires them to have an understanding of how to relate with and function within a legal system. They must maintain the highest ethical standards by following mandatory rules of professional conduct.¹ When state lawyers and administrators agree on policies of willful blindness then their consensus does not have validity.

In a consort, they try to coerce thinking people not to think to further their totalitarian regime; they serve themselves not the public; they have low ethical standards; they obstruct justice; they deny due process and judicial hearings; and they convene or condone kangaroo courts. This fairly describes the totalitarianism and conflict of interest that exists in the Office of the Attorney General, State of Washington and at the University of Washington (UW).

Frequently, Washington State lawyers pragmatically overrule equitable values. They accept the lowest common denominator of ethics as a standard. They assume that if administrators push ethical limits then that justifies them to do the same. Orwell's response, "so is the jungle," to an assertion on neutrality probably describes this ethical turpitude.

Ethics describe ideal individual and organizational behavior while law defines the minimum practical standards permitted by an ethical society. Ethics do not equate with morals but more with professional standards and law. Moreover, one expects higher ethical standards from state attorneys than the lowest common denominator that legal dialectic provides. Unethical behavior by lawyers classifies as illegal behavior despite the disparity between ethical constraints and legal rules.

A case in point: Thornton A. Wilson, Assistant Attorney General, University of Washington Division, State of Washington, wrote that several persons at UW had received an email. In fact, they received an email with an attached facsimile copy of the tables from a *Contra Cabal* article. The article exposes Suzanne D. Lebsock (wife of Richard L. McCormick, President, UW) who has survived academically by practicing self-plagiarism and by using income from grants and fellowships. She now holds a full professorship in the History Department, UW, at an annualized salary of \$114,240.00 plus the taxpayer-financed fringe benefits that accrue to her husband.

Wilson demanded that he should receive all such communications in future. He then warned that the university will consider further correspondence with any university employee as purposeful harassment. This admonition and restriction exemplifies prior restraint: issuing an administrative

order that forbids particular communications in advance of publication. Generally, injunctions that forbid transmission of an entire message construe as prior restraint. Moreover, the First Amendment to the US Constitution prohibits them.² Wilson has a history of openly censoring mail sent to the UW campus.

The First Amendment to the US Constitution prohibits government officials and lawyers from imposing restraints upon expression.³ The term “prior restraint” describes unlawful schemes that public officials use to deny use of a medium before actual publication.⁴ This limit on free speech ranks as the most egregious and least tolerable infringement of rights.⁵ Consequently, the law requires any official who wishes to practice prior restraint to obtain a judicial determination before imposing restraints. That decision must decree that the material does not qualify for First Amendment protection.⁶ To obtain such a finding, officials must justify their proposed action by proving a heavy presumption against constitutional validity.⁷ Nothing less suffices.

Another example shows a pattern and practice of prior restraint at UW. Carol S. Niccolls, then an assistant attorney general, colluded with Ronald A. Johnson (vice president, computing and communications), to falsify evidence that supported arbitrarily destruction of email, also publishing and academic databases. They also removed computer access without due process of law to effect that prior restraint. William P. Gerberding (formerly president) and Steven G. Olswang (vice provost and a university lawyer known among Department of Education officials as “Dr. Bait and Switch”) also denied due process after receiving a formal complaint that requested a hearing. Then Niccolls, the organizer of the frame-up, politically manipulated an American Civil Liberties Union (ACLU) finding of reasonable and probable cause. She unlawfully arranged for the ACLU to drop the case thereby covering up university malfeasance.

Niccolls left the attorney general staff four years ago to become executive assistant to McCormick (and unofficially Lebsock). Her salary has leaped from \$43,200.00 to \$120,000.00, a 177.78% increase. Johnson’s salary rocketed during the same period from \$125,004.00 to \$231,000.00, an 84.79% increase. In contrast, the salary of a full professor increased from \$60,156.00 to \$74,187.00 (annualized \$80,208.00 to \$98,916.00), a 23.32% increase. A professor has the disadvantage of finding grants or alternative employment during the summer in order to realize the annualized income.

Powerfully, Wilson and Niccolls have spoken for thousands of state employees, professors, and administrators, at UW, whether they wish to have their mail censored by them or not. They have arbitrarily removed their right to know about unlawful behavior. They have undermined the trust granted to them by the public whom they serve as lawyers. They have ignored the legislative admonishment that they must honor and respect the principles and spirit of representative democracy.⁸ They have acted as apologists for totalitarianism.

Wilson provides a reason for distinguishing between remedial injunctions and constitutional prior restraints. For centuries, injunctions against free speech have served as a powerful means to suppress truth, in this case, information about alleged academic and scientific fraud. If one accepts Wilson's premise then he will, like Joseph Goebbels,⁹ quash later speech, or not quash it, at his sole discretion. Then the only course available to the enjoined party becomes compliance with the injunction instead of the Constitution.¹⁰

Wilson's letter undermines the whole reason for the First Amendment to the Constitution. Ironically, his purpose loses momentum when he tries to intimidate an accredited journalist: especially when he cites statutes that primarily cover bodily injury harassment, stalking, emotional distress, and the well-being of children. Besides, nothing warms the cockles of an investigative journalist's heart more than pursuit by an asinine lawyer, particularly when that lawyer works for the attorney general. Wilson should probably follow his frequent admonition to others: seek legal advice from an attorney familiar with the laws of the State of Washington.

In a democracy, reasonable people concur with First Amendment rights when misrepresentation of law controls executive action. Prior and future speech do not constitute a crime or common law tort particularly when the only basis for the injunction emanates from lawyers misusing power. Interference before publication enjoins speech that the state would not punish after the fact. Moreover, prior restraint encroaches upon a journalist's constitutional privilege to report facts without interference.

Wilson's narrow policy amounts to nothing more than the suppression of lawful speech and, by extension, conspiracy to cover up alleged crimes.¹¹ He has attempted to suppress a factual report about self-plagiarism, presumably because it involves the UW president's wife. He conveniently overlooks another fact: that the self-plagiarism brings into question whether McCormick and Lebsock lawfully hold their tenured professorships in the UW history department.

The chair of that department, Robert C. Stacey (aided and abetted by assistant attorney general Karin L. Nyrop) has repeatedly and unlawfully concealed public records (and continues to do so). Apparently, Stacey wishes to help cover up the pattern of dubious practices that relate to the appointments held by McCormick and Lebsock.

1. Washington Court Rules, Rules of Professional Conduct (RPC), Preamble and Preliminary Statement.
2. Murray v. Lawson 136 N.J. 206, 642 A.2d 1253 (1994).
3. Near v. Minnesota, 283 U.S. 697, 51 S.Ct. 625, 75 L.Ed. 1357.
4. Sixteenth of September Planning Committee, Inc. v. City and County of Denver, Colo., 474 F.Supp. 1333, 1338.
5. Nebraska Press Association v. Stuart, 427 U.S. 539, 559, 96 S.Ct. 2791, 2803, 49 L.Ed.2D 683.
6. State. v. I, A Woman-Part II, 53 Wis.2d 102, 191 N.W.2d 897, 902, 903.
7. New York Times Co. v. U.S., 403 U.S. 713, 91 S.Ct 2140, 29 L.Ed.2d 822.
8. RCW 42.52.900. Legislative declaration.
9. Joseph Paul Goebbels (1897-1945). Goebbels, as Nazi propaganda minister (1933-1945), used prior restraint to gain control of German radio, press, cinema, and theater. Then he launched a propaganda campaign against Jews and other groups using those media.
10. In re Felmeister, 95 N.J. 431, 445, 471 A.2d 775, 782 (1984).
In re Carton, 48 N.J. 9, 16, 222 A.2d 92, 96 (1966).
11. Murray v. Lawson 136 N.J. 32, 642 A.2d 338 (1994).

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