

Proceedings

On April 11, 1969, the President of the University, Dr. Kenneth S. Pitzer, formally notified the Stanford Judicial Council that he had concluded that certain members of the Stanford community had violated the University Policy on Campus Disruption by occupying the Applied Electronics Laboratory in such a way as to prohibit the carrying out of University business. Dr. Pitzer requested that the Council take jurisdiction over disciplinary proceedings arising from such violation. On April 15, 1969, a group of interested students, acting pursuant to Rule A.3(c) of the Council's rules, also requested that the Council take appropriate action.

Pursuant to these requests, on April 15, 1969 the Council notified the University community that it would hold hearings on April 16, 1969, to determine whether or not a violation of the Disruption Policy had occurred, and if so, the extent of such a disruption. No charges were brought against any defendants; the hearing was held solely to aid the Council in determining what further action, if any, should be taken.

To ensure that the interests of those persons involved in the occupation of the Applied Electronics Laboratory were properly represented, the Council directly requested that such persons appoint someone to act as counsel on their behalf. Upon notification that this request had been refused, the Council appointed an attorney, Richard Kuhns, to represent all members of the Stanford community interested in eliciting facts showing that no disruption had occurred or that the level of any disruption was less than it otherwise might appear.

The Council proceeded to take testimony from witnesses called both by it and by Mr. Kuhns, and to hear oral argument on various legal aspects of the case. Upon due deliberation the Council made specific findings of facts as follows:

Findings of Facts

1. The members of the Council unanimously find that the actions of those persons occupying the Applied Electronics Laboratory constitute a disruption of an "approved activity" of the University under the Policy on Campus Disruption.

2. The members of the Council unanimously find that the current case involves "extraordinary circumstances" within the meaning of Section IV of the Legislative and Judicial Charter of 1968 in that:

- a. There is imminent danger that external forces, beyond University control, in particular Federal troops, may enter the campus to deal with various aspects of the occupation.
- b. There is serious danger that the disruption will be escalated by some or all of those persons now occupying the Applied Electronics Laboratory.
- c. There is serious danger that certain individuals or groups of individuals will attempt to retaliate with force against those persons occupying the Applied Electronics Laboratory.
- d. A large number of persons has participated in the occupation.
- e. Persons engaged in the occupation have failed to cooperate with University authorities by refusing to identify themselves when properly requested to do so in accordance with the Disruption Policy.

- f. Persons engaged in the occupation have refused to cooperate with the Stanford Judicial Council by voting not to send a representative to participate in these hearings.
- g. The occupation has lasted for seven full days and the time of voluntary termination cannot be ascertained.

Holdings

1. The Council, by a vote of 5 to 2, suggests that upon publication of this decision the President take it upon himself, pursuant to Section IV of the Legislative and Judicial Charter of 1968, to take the following steps:
 - a. that the Applied Electronics Laboratory and the area immediately surrounding be declared closed as of noon Friday, April 18, 1969, until noon Friday, April 25, 1969 to all persons except to those specifically appointed by the President solely for the purpose of maintaining the security of the premises.
 - b. that the Applied Electronics Laboratory be reopened at noon Friday, April 25, 1969, to personnel and only to personnel having pertinent business therein. Pertinent business is that related to normal operation of the Applied Electronics Laboratory and precludes acts which disrupt said normal operations.
 - c. that the President of the University, upon his determination that unauthorized persons have entered the Applied Electronics Laboratory or its immediate environs in violation of (a) or (b) above, summarily impose upon such persons the following sanctions:

- (i) with respect to Faculty and staff personnel, immediate temporary suspension of salary, such suspension in no event to exceed the equivalent of 25% of the salary computed for the current academic year on a 12 month basis from September 1968 through September 1969.
 - (ii) with respect to students, (whether registered or merely eligible to register without formal application) immediate temporary suspension from the University.
- d. that the President of the University shall immediately notify any individual so disciplined.
 - e. that said notice shall inform each such individual that the sanctions so imposed are temporary in nature and shall be in effect only until such time as the Stanford Judicial Council, or other appropriate tribunal having jurisdiction, holds a hearing and renders a decision regarding the individual's violation or non-violation of the University Policy on Campus Disruptions. Such a hearing will be granted on request and is, and shall be treated in all respects, as a case brought under section A.3(b) of the Council's Rules. Priority will be given to all cases in which the person requesting a hearing appends a letter certifying that he in no way violated either provision (a) or (b).
 - f. that during the remainder of the current academic quarter the President may summarily impose sanctions under (c) above, subject to the limitations contained in (d) and (e) above,

regarding any member of the campus community who is in occupation of any other building on the Stanford campus provided all the following conditions have occurred:

- (1) the President is convinced beyond a reasonable doubt that the occupation constitutes a violation of the University Policy on Campus Disruption and takes reasonable steps so to inform those engaged in such occupation.
- (2) the President, or his representative, pursuant to the University Policy on Campus Disruption requests that those persons allegedly occupying the building unlawfully immediately vacate the building, and ten or more such persons refuse to do so.
- (d) of those persons who remain in occupation after having been requested to leave under (2) above, ten or more refuse to give their names and show identification when requested to do so by the President, or his representative, pursuant to the University Policy on Campus Disruption.

2. The Council further suggests that with respect to those persons whom the President determines have violated the University Policy on Campus Disruption, but who are not subject to the jurisdiction of the Stanford Judicial Council or to disciplinary measures by the University President or other University tribunal, the President seek a civil

injunction to prohibit such activities and, if unsuccessful, consult with the District Attorney of Santa Clara County for the purpose of instituting appropriate criminal action.

Garrett Spencer
Robert T. Spencer
Sam L. Franklin
Philip R. H. H.
P. Herbert Leidenman

Date: April 17, 1969

Professor James Rosse took no part in the hearings or decision of this case.

Dissent

We concur in the findings of the Council that:

1. There is a disruption of an "approved activity" of the University.
2. The current case involves "extraordinary circumstances" within the meaning of Section IV of the Legislative and Judicial Charter.

Under Section IV the President has primary responsibility to adjudicate violations of University Policy when there are extraordinary circumstances. Even if the Council determines that extraordinary circumstances exist, however, it may not, consistent with the Charter, make recommendations to the President to impose sanctions on individuals without a prior hearing. An important reason for the promulgation of the Charter last spring was to protect students in political cases such as this one.

In any student disciplinary case, the full extent of the Council's power is to make recommendations to the President. In effect, the Council has decided to make recommendations without either individual hearings or the guarantees of defendant rights at those hearings.

The Charter provides that in any student disciplinary case in which the Council takes part students are guaranteed the right "to be considered innocent until proven guilty beyond a reasonable doubt." (Section II.F.10). Under this decision students may be temporarily suspended from the University until they request a hearing by the Council. Temporary suspensions necessarily imply a finding of guilt.

In this case the President clearly has the power to institute summary action against individuals he deems to be violating University policy;

however, the Judicial Council does not have the power to recommend such actions to the President because such recommendations constitute Council action without the Charter requirements for due process.

We recommend that the case be returned to the President because the Council cannot take action on the substance of this case at this time.

Date: April 17, 1969

Paul S. Holding
Michael J. Amos