

REMARKS TO LAW SCHOOL BOARD OF VISITORS, STANFORD UNIVERSITY
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I wasted a fair amount of time, once Bayless had asked me to talk to this distinguished audience, trying to decide which of the multitude of problems besetting universities in general and Stanford in particular I would try to discuss. I say that I wasted this time, because in a terrible way, events nowadays all but dictate what one will talk about in any given set of circumstances. Tonight's circumstances, as I see them, are these: I am a responsible University official (and also a member of the Stanford faculty), facing an audience of persons who have shown, by their willingness to serve on the Law School Board of Visitors (as well as by many other actions and expressions, variously among you) that they care about Stanford. Given that degree of interest in the institution, and given what has been happening at Stanford for the past fortnight, I would clearly be remiss if I did not try to

talk about some of the problems associated with radical protest.

These are not--heaven knows--new subjects, and any hope that I can offer new insights into them must perforce be a slender one. The main themes are by now so well-worn that a genuinely new idea in this field might well be considered a pearl beyond price. Furthermore, I, like hundreds of other people in positions of supposed leadership in higher education across the country and indeed around the world, have been so greatly occupied with the day-to-day conduct of the battle that time and energy for long-range thinking have been about as rare as the aforesaid original ideas. It is perhaps worth emphasizing this point, at risk of sounding apologetic, for it is part of the reason why the response of university administrators to radical protests has not been more effective. We are often charged with an almost masochistic abstention from the initiative; with responding only to pressure, and defensively at that. One reason for this is simply that we are kept on the run to the point where

creative response is often rendered impossible by sheer
lack of time to sit and think. It is part of the radical
strategy to keep the Establishment on the go and to goad
it into making mistakes through plain weariness and
exasperation. It is only because, contrary to widely held
belief, many of the radical revolutionaries are lazy,
undisciplined and as chaotic in their conduct of the
revolution as they are in their thinking processes that
university administrators have fared as well as they have
--which isn't very well, you'll surely agree.

How to find time to plan or to make sober judgments
is just one of many dilemmas we face in trying to cope
with campus disruptions. Some of our most profound
difficulties I shall not discuss, not because they are
unimportant, but because we have little opportunity to
resolve them close to home. I refer, of course, to the
major causes of our present discontents as a nation: the
war and fear of bigger wars, the cruel persistence of
poverty amid plenty, the ravaging of our environment, and

the inexcusable rashness with which our institutions of government have in some respects been misused of late. We can work for months in the University to persuade people that democracy works and peaceful progress is possible, and have the results undermined by a single episode such as the miraculous conversion of Lt. Duffy's conviction from premeditated murder to negligent homicide, merely because the Lieutenant's judges suddenly discovered that the penalties for murder are severe ones, even when the victim of the crime happens to be Viet Nameese.

Turning to the more humdrum and less profound, but nonetheless very real problems of the campus being disrupted, the most obvious practical problem is, of course, that of determining the most effective level of response to any particular episode or offender. We seek to respond strongly enough to constitute a deterrent, but not so strongly as to feed the ever-ready flames of martyrdom. The price of martyrdom, unlike the price of just about everything else,

less to become a martyr. This is related to the inflation
of rhetoric; in a period in which words like "genocide" and
"fascism" are thrown around as if they had never had any
genuine meaning, it is not surprising that the merest tap
on the wrist of a revolutionary nihilist can be converted
into persecution and incipient martyrdom, at least to the
satisfaction of many who are not themselves revolutionary
nihilists. Time after time, here and elsewhere, small campus
trouble has exploded into major disruption because of clever
and unscrupulous--but effective--exploitation by the radicals
of a university disciplinary action.

I'd be the first to admit that too often administrators
have used this tactical problem of the appropriate level of
response to excuse a limp failure to offer any response
whatever. But this does not alter the fact that a genuine
dilemma exists. To ask the university president of today
to act in relation to organized insurrection by the ground
rules used twenty years ago to punish participants in a
party raid is to ignore the realities of our situation.

The fact is that the universities are now the scene of a political struggle of great difficulty and intricacy, in which toughness and tenacity are just the first of a long list of qualities needed to prevail.

(2) A second dilemma, closely related to the first, is the sheer difficulty we have in identifying those guilty of carrying protest beyond the rights guaranteed by the United States Constitution, and into the field of violence and coercion of others. This is a very hard thing to get across to anyone who has not confronted the problem at firsthand, although I am sure that you as lawyers will understand it readily enough. Today's violent dissenter does not identify himself (a point I'll return to later), and in all conscience we cannot ask University students, faculty, or staff members to mingle in the running, screaming mob of campus and off-campus people that caused the damage at Stanford recently, for purposes of identifying the perpetrators of illegal acts. As for the police, they were frustrated by darkness, the fast-moving hit-and-run tactics, and the size of the mob, which, while small by some standards, nevertheless often totaled a couple

of hundred. With a very large number of police there could doubtless have been mass arrests, though whether charges would have stood up later is questionable. What is less questionable is that mass arrests almost always entail some injury, usually to both sides. And then the whole struggle may well be escalated with no compensating advantage for the cause of good order on the campus. At Harvard and Columbia and Buffalo the lessons have been unpleasant, but cannot simply be overlooked. As long as there is widespread campus sympathy for the alleged objectives of the rioters, even though there is little sympathy for their tactics, the likelihood is very great that an attempt at mass arrests, accompanied by genuine harm to individuals (however much they may, as the saying goes, "have been asking for it") will only make a bad situation worse.

3 Another dilemma we face as administrators is this: how can we bring home to our faculties and student bodies that the University is in serious danger of losing its external sources of support because of the general revulsion

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against campus uproar, and yet not play into the hands of

those who would be quick to say, "What did we tell you?"

The University is not free, but is the slave of the rich

and the military-industrial complex." You and I know that,

with rare exceptions, those who support universities are

not asking that dissent be stifled; they are only asking

that it take forms more compatible with the educational

enterprise than the hurling of bricks or the forcible

occupation of buildings. But once again, the radical intent

is to goad the supporters of universities into demanding

curbs on freedom of speech and of assembly, so that the

cadres of revolution can then be expanded by recruits from

the moderates who will be outraged at such infringements

of the hardwon freedoms of a democratic and open society.

It is, I submit, equally important for both faculty and

students on the one hand, and alumni and other supporters

of higher education on the other, to be aware of this crude

but effective strategy of polarization, aimed at dividing

them from one another, and at seeing the University

administration ground to pieces in the ensuing struggle

between them.

If the universities are to reverse the disastrous trend towards loss of the public's confidence, they will do so by a judicious combination of three vital ingredients; effective discipline, including self-discipline; institutional responsiveness; and education.

I've already commented on some of the difficulties in establishing discipline. The situation is not entirely grim, however. The use of a court injunction, while of little help in coping with midnight hit-and-run raids, has been effective in stopping the disruption of academic activities and meetings on the campus. It is easy to forget, reading the newspapers, that while these troubles are going on, thousands of students and hundreds of faculty are going about their business in peace and quiet. With the exception of a few ROTC classes--and even there, the injunction was effective eventually--classes have been held, the library and laboratories have been operating as usual, and even the

University administration has managed to do a few normal things such as approving appointments and haggling with each other over fiscal problems (of which we have a great many, and sometime I hope to have an opportunity to talk with you about them...).

Institutional responsiveness can, I know, be the fancy dress costume used to cloak surrender and appeasement to the most outrageous of demands. I, too, grow weary of reading news accounts wherein a complete yielding to pressure is accompanied by hollow administrative croakings about how intolerable were the tactics used by the rioters to produce the capitulation. If one is going to tolerate the intolerable one might at least have the self-respect not to pretend otherwise.

But it is painfully true that American universities have stood in need of substantial self-examination and reform. And if they try to undertake those tasks even under conditions of difficulty and disorder, provided they undertake them intelligently and with genuine concern for the