

CASE OF THE ACADEMIC COUNCIL MEETING OF APRIL 3, 1970

GENERAL OPINION

As a result of evidence that occurred at the Academic Council meeting on April 3, 1970 the administration filed charges against 17 students. Several of those charged were granted delays for various reasons and the case actually proceeded against 7 students at hearings held May 27, 28, and 29, 1970. The students present were

Szebeliski Freeman  
Byron S. Georgiou  
Michael Holman  
James L. Russell  
Jeffrey Youdelman  
Marc Allan Weiss

Peter Everdell agreed in writing to be tried in absentia and treated as part of this group. Since the original charges were filed, charges against additional students are being processed. The students were charged with violating the Policy on Campus Disruption promulgated October 7, 1968. In its entirety that policy reads as follows.

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Because the rights of free speech and peaceable assembly are fundamental to the democratic process, Stanford firmly supports the rights of all members of the University community to express their views or to protest against actions and opinions with which they disagree.

All members of the University also share a concurrent obligation to maintain on the campus an atmosphere conducive to scholarly pursuits; to preserve the dignity and seriousness of University ceremonies and public exercises; and to respect the rights of all individuals.

The following regulations are intended to reconcile these objectives:

It is a violation of University policy for a member of the faculty, staff, or student body to (1) prevent or disrupt

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the effective carrying out of a University function or approved activity, such as lectures, meetings, interviews, ceremonies, the conduct of University business in a University office, and public events; (2) obstruct the legitimate movement of any person about the campus or in any University building or facility.

Members of the faculty, staff, and student body have an obligation to leave a University building or facility when asked to do so in the furtherance of the above regulations by a member of the University community acting in an official role, and identifying himself as such; members of the faculty, staff, or student body also have an obligation to identify themselves, when requested to do so by such a member of the University community who has reasonable grounds to believe that the person(s) has violated section (1) or (2) of this policy and who has so informed the person(s).

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At the hearing, evidence was introduced that the administration had reason to believe that unauthorized persons would seek entrance to the Academic Council meeting. As a result, persons were posted at every door into the Physics Tank informing those who entered that the meeting was open only to members of the "Academic Council and university staff." No effort was made to bar access to anyone. Since some apparently unauthorized persons had already entered the hall by the time the door guards had been posted, Mr. Donald Carlson went inside the hall and made the same announcement.

At about 4:20 p.m., President Pitzer approached the microphone. What took place the next few minutes forms the basis of this case. All defendants were present in the hall during this period. The Council has heard a tape-recording of this period, has seen photographs taken during the period and has had witnesses testify about what happened. The following transcript is a composite of what we have learned.

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Pitzer: The meeting of the Academic Council and Academic Staff is a closed meeting with that attendance--(interjections and sshs)-- Just a minute. I have heard what was just said. If those not members of the Academic Council and Academic Staff will wait outside until the meeting has been completed--it is anticipated that it will not be a very long meeting. I see no objections to having an informal discussion of this subject mentioned or any other that you may wish after the formal meeting has been completed. However, I must ask those who are not members of either the Academic Council or the staff to leave the room until - except for invited guests - [1 min.] to leave the room until the formal meeting has been completed.

Young Man: General Pitzer. (laughter)

Male Voice: Quiet!

Young Man: I - we would like to know why the meeting is closed - why we cannot be - We think the issues which have to be discussed here today affect all of us.

Pitzer: I have told you the rules under which the meeting operates. This campus has many mechanisms for communication of student and faculty viewpoints--(interjections)--the viewpoints of other members of the community. This meeting will need to be conducted under the existing policies. These can always be changed in the future if the faculty and other groups wish to do so. Now unless [2 min.]-- (several interjections including "How about now?" and "Let's vote on changing them now.")

Pitzer: Now unless those that are here without authorization leave, I will have to declare that there is a disruption of the meeting and that you are in violation of the University policy on disruptions.-- (Applause--followed by other group-noise and individual interjections.)-- The last elements of that demonstration clearly indicate that there is a disruption. (Many interjections) Any of those--several interjections)--The disruption appears to be continuing--(several interjections [3 min.]--I must ask that the injunction - There is an injunction against disruption--(interjection: "My name isn't on it." and laughter)--Anyone that is either named or those present in

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association with those names are in violation. Will [3-1/2 min.] the--(interjection: "There is no injunction against R.O.T.C., you understand.")--Will Mr. De Young please read the injunction.

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While Mr. De Young read the injunction, the group of students sang "We Shall Overcome" and then began chanting and clapping. It took over a minute to read the injunction and by the time it had been read some five minutes had elapsed from the beginning of President Pitzer's remarks. Either during or at the end of the reading the students began to file out. After the reading had concluded there was a period of about a minute and a half of quiet during which the last of the group filed out. (Some Teaching Assistants remained in the hall and after President Pitzer asked the few remaining unauthorized persons to leave, there was discussion about the right of these persons to remain. As this case developed, the T.A. aspect became peripheral and need not be discussed in detail.)

The administration based its case on the first part of the first operative paragraph of the Disruption Policy--that the defendants' behavior had "prevent(ed) or disrupt(ed) the effective carrying out of a University function or approved activity."

In SJC Case 4, involving the disruption of the Trustees' meeting, the Council decided that the two operative paragraphs of the Disruption Policy were independent and that violations of paragraph 1 need not always be premised on the giving of a warning. This does not mean that notice is never required under this part of the policy. Different types of behavior may have the effect of preventing or disrupting activity under the first part of the first paragraph. Sometimes this will be clear and no prior warning required--as in the case of physically breaking into a locked room in order to prevent the meeting inside from being continued. Similarly, it would appear that no prior warning is needed where a person enters an ongoing class and stands in the back screaming obscenities at the top of his lungs so as to prevent the effective carrying out of the class. This reasoning would apply whether the student is engaged in a hit-and-run attack or whether he continues to shout and makes no effort to escape. The critical factor in determining whether notice is

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required under the first part of the first paragraph is whether a person could reasonably expect that his behavior was permissible.

In the present case the Council believes that some form of notice was required before a violation could be found. The behavior in this case appears to have been an effort to petition the Academic Council to discuss the subject of R.O.T.C. on campus at this meeting and to do so in the presence of the students. Such a situation requires notice that those person unauthorized should leave. The warning at the doors did not negate the possibility that the Council might change its rules and permit students to stay.

In the context of this case four of the six voting members (Messrs. Dietz, G. Franklin, Horowitz, and Schwartz) find a disruption in the defendant's failure to leave at the end of the President's first quoted paragraph. These same four members plus the other two members (Messrs. Karowsky and Rolph) agree that at the very least there was a violation of the Disruption Policy when the students did not leave after President Pitzer's subsequent statement "now unless those that are here without authorization leave, I will have to declare that there is a disruption of the meeting and that you are in violation of the University Policy on Disruptions."

Each individual member of the Council has written his own explanation for reaching the conclusions just stated and these are appended to this general opinion.

The Judicial Council has considered and rejected several specific arguments raised by the defense. We do not believe that the question of when the meeting was actually called to order can control the question of whether there was a violation of the disruption policy. The "effective carrying out" of a meeting can be prevented or disrupted by the prevention of its beginning as well as by an interruption while it is being conducted.

The fact that the meeting was eventually held and conducted without incident and accomplished all its business does not necessarily mean that it was effectively carried out. Such an argument would mean that delay and interruption can never violate this part



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of the policy if those interfered with ultimately conduct their business at some later time or place.

The foregoing argument was also combined with the contention that the defendants did not prevent or disrupt the "effective carrying out" of an activity. We believe that in the circumstances of this case, given the conduct of the group, that the few minutes in question were adequate to constitute a disruption under the policy.

Next, the defendants argued that since there was no quorum present the meeting could not have been legally begun--so that its beginning was not being prevented. This is a matter of internal regulation of the Academic Council and generally meetings are conducted unless there is a call for a quorum.

The defendants also argued that since meetings of the Academic Council occasionally being a few minutes late, an interruption for a few minutes could not amount to a disruption. There are two responses to that argument: that it is not for the defendants to choose when and for how long to delay the beginning of another group's meeting; and that this meeting had already begun five minutes late--and at whatever time President Pitzer tried to conduct Academic Council business the foregoing episode would have occurred.

Lastly, the defense claimed that since the subject matter of the Academic Council meeting for that day was not of crucial importance the question of disruption should be viewed more leniently than if the meeting had been an important one. We reject the notion that this Council's view of the importance of an activity or meeting should have any bearing on whether it has been disrupted. The critical question here is only whether we are dealing with "a University function or approved activity." There has been no suggestion that the Academic Council meeting does not meet that test.

#### RECOMMENDATION

1. We recommend that the defendants be found guilty of violating the Policy on Campus Disruptions for their conduct on April 3, 1970 at the Academic Council meeting.

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2. That first offenders

Peter Everdell  
Szebeliski Freeman  
Byron Georgiou  
Michael Holman  
James Russell  
Jeffrey Youdelman

each be fined the sum of \$25.

3. That Marc Allan Weiss, a third offender, be fined the sum of \$150.

4. That second offenders, if any, be fined the sum of \$75.

5. That all fines be paid to the Dean of Students to provide emergency funds for needy students.

6. We recommend that all fines be paid before registration for the fall quarter of the 1970-71 academic year, except that those graduating before that time must pay their fines before receiving their degrees. The Dean of Students may postpone payment of an individual student's fine if he finds that immediate payment would cause undue financial hardship. In no event, however, should a university degree be awarded any defendant until he has paid this fine in full.

As his opinion indicates, Mr. Karowsky joins the first recommendation but dissents from the penalty recommendations.

Gene L. Franklin

W. Renton Ralsh

Leonard M. Horowitz

Is/ Frederick C. Dietz Jr.

Messrs Halliburton and Ware took no part in the decision of this case.