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Der. J, Tom Newell (Alumni) STANFORD, CALIFORNIA 94305

ADVISORY BOARD
c/o The Academic Secretary
Building 10A, Room 115
Telephone: (415) 321-2300, Ext. 4991

May 18, 1971

RECEIVED

MAY 21 1971

President Richard W. Lyman
Building 10
Stanford University
Stanford, California 94305

NEWS & PUBLICATIONS

Professor H. Bruce Franklin
1060 Ringwood Avenue
Menlo Park, California 94025

Gentlemen:

The Advisory Board now has before it written statements of position by both parties addressed to the appropriate time for commencing the hearing requested by Professor Franklin concerning charges made against him by the President of the University. The Board has made known to the parties its desire to begin the hearing on May 20, 1971. Professor Franklin requests that the hearing be postponed to some date in the fall of 1971. Counsel for the President propose May 25 as the date for beginning the hearing and oppose postponing the matter until fall.

The Board has given careful consideration to the grounds for postponement advanced by Professor Franklin's counsel. Briefly stated, they are: (1) unavailability of counsel, (2) lack of adequate time to prepare and (3) conflict between the proposed date of May 20 and the onset of deadweek and final examinations for the spring quarter. The Board is not persuaded that the first two grounds are not, at least in part, self-created. As to the third, the Board notes that deadweek does not begin until more than a week after May 20th.

The Board thus finds itself put to a painful choice. We have believed, and continue to believe, that the interests of the parties and of the University community are best served by resolution of this grave matter as quickly as reasonably possible. If we were to give dominant weight to that consideration, we would insist that the case proceed to hearing this quarter. On the other hand, we consider it of first importance that we have the benefit, in making our decision in the case, of a full and accurate record and of thorough argument of all relevant issues, and this requires adequately prepared counsel on both sides. Whether or not counsel for Professor Franklin could have been prepared for a hearing in the latter part of May, we are now informed that they are not prepared and, indeed, cannot be present. For Professor Franklin to secure other counsel for an immediate hearing can hardly be satisfactory. We recognize that delay is inherently disadvantageous to the proponent in a case - here, the University administration. On the papers before us, however, the only prejudice to which the administration points stems from the possible unavailability in the fall of some witnesses. How many of these witnesses there may be and how crucial their testimony is to the administration's case is not stated, nor is the question addressed whether their testimony might be preserved now for use at a later hearing. The Board therefore concludes that some postponement is indicated.

The charges in this case involve alleged incidents taking place on January 11th and February 10th, 1971. On February 12th President Lyman notified Professor Franklin that he would propose "that you be dismissed from your position on the Stanford faculty." Formal charges were issued by the President to the Board on March 22nd. During the next several weeks Professor Franklin was engaged in

securing his present counsel. When the Board's counsel, Professor Jan Vetter, then undertook to schedule a preliminary meeting to explore matters of timing and procedure for the hearing, it soon became clear that the calendars of both parties' counsel would preclude any hearing before the latter part of May. Accordingly, Professor Vetter wrote on April 21st to Raymond Fisher and Michael Kennedy, counsel, respectively, for the administration and for Professor Franklin, informing them of the Board's desire to set May 20th as the opening date for the hearing so as to permit the Board to conclude its role in the case by the end of the academic quarter. On April 26th Mr. Kennedy responded, stating, in part, "also please be advised that I am scheduled to be abroad from the 16th of May through the 13th of June" and concluding that, "in light of the work to be done in advance of the hearing and the conflicting schedules of counsel, it would appear to us that an attempt to have the hearing in May is essentially impossible." This was followed by a letter from Professor Vetter dated April 30th and addressed to Messrs. Fisher and Kennedy, which expressed surprise over the intervention of Mr. Kennedy's previously unannounced travel plans, called attention to the importance the Board attached to completion of the hearing in the spring and asked for formal statements of position from the parties as to why the hearing should not proceed on May 20th.

As stated above, the parties have now given their views on a hearing date, with the administration requesting a date of May 25th and Professor Franklin seeking a postponement to the fall "at a time and place to be designated by the Board as quickly as possible."

We are hereby scheduling a meeting on Wednesday, May 26th, 1971, at 1 P.M., in the office of the Chairman of the Advisory Board, Room 111, Stauffer III, Stanford University, at which the Board will consider written or oral statements as to the date for the hearing. Invited to be present are counsel for the administration and for Professor Franklin. Professor Franklin and a representative of the administration may also attend, of course, if they so desire. Although the Board realizes that it may be difficult to conduct a hearing during June or July, it wishes each party to specify dates of availability during those months. In the event a party considers a June or July hearing impracticable, he should state his position, with substantiating detail. Following the meeting, the Board will select the earliest feasible date for commencing the hearing up to some date early in the fall quarter.

The Board notes also that two preliminary meetings have been scheduled in this case, both of which were cancelled when Mr. Kennedy was unable to attend. We also note that no written reply to the charges against Professor Franklin has been filed, although Mr. Kennedy's letter of April 26th to Professor Vetter states that a reply will be "submitted forthwith." The Board hereby requests counsel for the parties to cooperate with Professor Vetter in setting a preliminary meeting as quickly as possible and requests as well the prompt filing of a reply on behalf of Professor Franklin.

David M. Mason, Chairman

Robert W. Ackerman

Lee J. Cronbach

George L. Bach

William R. Rambo

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Donald Kennedy