

EDITORS: In view of the fact that several regular News Service staff members have been called as witnesses in the Advisory Board hearings, Leonard Milliman, a retired veteran wire service reporter, has been employed to cover testimony in the Franklin case on a daily basis.

FOR IMMEDIATE RELEASE

STANFORD

The American Civil Liberties Union of Northern California laid heavy emphasis on "fair warning" in an amicus curiae brief Monday, Nov. 15, outlining civil liberties guidelines for the Stanford University Faculty Advisory Board in ruling on dismissal charges against revolutionary Associate Prof. H. Bruce Franklin.

The ACLU took no position on facts developed in a six-weeks hearing by the board. The board's decision and findings of fact will be advisory to President Richard Lyman.

"No person should be subject to discipline for having engaged in conduct, unless that conduct was proscribed by clear rules available to him at the time he engaged in it," the 17-page brief said.

Franklin insisted throughout the hearing that there were no clear rules of conduct for Stanford faculty members.

The brief expressed the view that "no sanction should be imposed on Professor Franklin unless this board can point to clear and specific rules that gave him 'fair warning,' at the time he engaged in the activities, that his conduct could have resulted in that sanction. . . .

"If the board has any reasonable doubt about what the governing standards in fact were at that time. . . then it ought not impose discipline. Not only must the board be able to point to pre-existing standards, but those standards must be relatively precise and unambiguous."

University President Richard Lyman has charged the suspended English professor with contributing to the disruption of a speech by former Ambassador Henry Cabot Lodge Jan. 11, and, on Feb. 10, of inciting occupation of the University Computation Center, a confrontation with police and nighttime violence.

Of the specific charges against the Maoist revolutionary, the brief said:

"(1) If the board concludes that Professor Franklin intentionally engaged in concerted activity designed to silence Ambassador Lodge, then he may be disciplined. The Union can conceive of no set of circumstances which would justify silencing Ambassador Lodge. If the board concludes that Professor Franklin did not intentionally engage in such conduct, then it would be improper to discipline him."

Franklin insisted his activity was limited to heckling previous speakers. But he defended the disrupters, arguing that Lodge was a "war criminal" and the program of the Hoover Institution at which Lodge was to speak was not a balanced program representing differing views. The ACLU supported "the absolute right of all speakers—no matter how obnoxious their views—to be heard."

"(2) It would be improper to discipline Professor Franklin for arguing with the police that their order to disperse was unlawful or for urging others to refuse to comply with it (unless, in the latter case, his speech constituted a clear and present danger of serious violence). This would be so even if the order were lawful and reasonable."

Sheriff's deputies charged while Franklin was arguing with a sheriff's sergeant over the legality of an order for a crowd outside the Computation Center to disperse.

"(3) It would be improper to discipline Professor Franklin for either of the speeches that he made on Feb. 10. Each of these speeches is in the view of the ACLU clearly protected by the First Amendment; indeed they do not even come close to the line—unless the board finds beyond a reasonable doubt that it was delivered in. . . a 'secret language' " giving his listeners at rallies clearly understood cues to engage in immediate violent conduct.

The ACLU view on the speeches was made from transcripts. It did not consider the context in which they were made. Hours of testimony at the hearing were devoted to context. The University tried to show that they were made in a volatile context, liable to incite violence. The defense sought to show that taken in full context they urged nonviolent action.

The brief was signed by Paul Halvonik, legal director of the ACLU-NC; Harvard Law Prof. Alan Dershowitz on leave at the Center for Advanced Study in the Behavioral Sciences at Stanford; and Prof. John Kaplan and Assistant Prof. Paul Brest, both of the Stanford Law School.