FSM NEWSLETTER

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LAST WEEK

Last week was exhaustive.

We spoke to Chancellor Strong and he neither would nor could disband the illegitimate study committee. He neither would nor could reinstate the suspended students or bring their cases to the kind of committee agreed upon in the October 2 compromise.

We tried to speak to President Kerr but got a runaround and no audience.

We spoke to Vice-President Bolton and agreed to his 7 ground rules preliminary to any discussion but then he declined to discuss the two immediate problems: the suspensions and a legitimate independ-ent study committee.

We sent a telegram to Governor Brown asking for an appointment with The Regents. We said we would have to consider alternative action if this, our last legal hope, failed. We told Mr. Bolton of this possibility of renewed demonstrations.

At midnight Wednesday, Prof. Ross, a friend of Clark Kerr, met with our Steering Committee. He came not as an administration representative but it was obvious that the threat of renewed dem-onstrations prompted his coming.

By 4 AM, Prof. Ross and the Steering Committee agreed to the following interpretation of the Oct. 2 compromise:

- Prof. Williams Study Committee on Political Freedom would be expanded from 10 to 18 members, the administration appointing two additional members for its division, the academic senate 2 additional members for the faculty division, and the FSM 4 of their members to the student division. This would bring each division to 6. Also, the FSM would be allowed to have 5 silent observers present. The voting would be by consensus, each division having one vote with a 3-0 vote necessary for agreement.
- The suspended students would immediately be brought before the newly formed Academic Senate Committee on Student Discipline.
- President Kerr will issue a statement that **he will seriously consider the** recommendations of Prof. William's study committee.

The Steering Committee agreed to give Prof. Ross until 5 PM Thursday to get an official approval of this interpretation.

Prof. Ross went to Mr. Kerr and to Prof. Williams. Mr. Kerr went to The Regents, Prof. Williams to the Chancellor. By 5 Pm all had agreed to the interpretation (although The Regents came through only after some hassling).

It was also agreed that the meetings of the discipline committee would be taped and attornies for each side would be present. Chancellor Strong verbally agreed to accept this committee's decision.

Furthermore, the two additional faculty members of the study committee will come from the statewide university system and so the resulting recommendations will now be on a statewide basis. The committee will meet 2-3 times a week for 3 weeks.

(The only sad note came in a statement from Mr. Kerr. On Thursday night, after this agreement had been reached, Mr. Kerr continued his red-baiting. He claimed that 40% of the FSM were non-students, many of whom were communists or communist sympathizers.)

(Late Thursday night, The Regents sent the FSM a telegram to the effect that they had organized a committee to properly handle the dispute and that it was not necessary for the FSM representatives to speak.)

LEGAL COUNSEL

The First Amendment to the U. S. Constitution guarantees to all the rights (among others) to freedom of speech, freedom of the press, and freedom of association. The United States Supreme Court has ruled that these rights cannot be abridged unless they unavoidably conflict with some major social interest. The Court has also held that the exercise of these rights can be reasonably regulated to protect the normal life of society. Thus the City of Berkeley cannot ban a speech or rally on a sidewalk (unless it really prevented traffic from moving) but it doesn't have to let you have that rally inside the mayor's office.

The courts have long held that the streets and parks are a traditional and essential place for the exercise of our freedom of speech. This is a function of their use, not who "owns" them. Even a town entirely owned as private property cannot ban, for example, the distribution of leaflets on its property.

As recently as August 31st of this year, in the case of Schwartz-Torrence Investment Corp. v. Bakery Workers, the California Supreme Court ruled that the owner of a private shopping center could not stop a union from picketing one of the stores within the shopping center. In this case the court went on to say that the fact that they could picket outside the shopping center was no answer:

> "Nor is the union's interest in picketing diminished because it may communicate its message at other, admittedly less advantageous locations off plaintiff's premises... 'freedom of speech entails communication; it contemplates effective communication.'"

On public property the rights guaranteed by the First Amendment must be greater, not less, than on private property. The University of California is an agency of the State of California, established by its Constitution. As such (if we are to talk of ownership) the campus is State property, no less than Telegraph Avenue is City property. The Board of Regents is empowered to act as California's agent in administering that property.

Under the "supremacy clause" of the U. S. Constitution all provisions of state constitutions, laws, and agencies are subject to the limitations placed on them by the provisions of the U. S. Constitution.

The U. S. Supreme Court has held that a state may do no act which violates the freedom of speech guaranteed by the U. S. Constitution.

Thus freedom of speech on the campus is guaranteed to all (1) because in fact this huge campus is a city within a city, (2) because as an agency of the State of California the University is barred from infringing upon freedom of speech.

Therefore the only valid restrictions on the exercise of political rights on campus streets and sidewalks are those which prevent interference with other activities, such as noise stopping classes or crowds blocking traffic. The present rules are unconstitutional because they bear no relation to any such purposes.

Peter Franck is a Bay Area attorney and legal advisor for the Free Speech Movement.

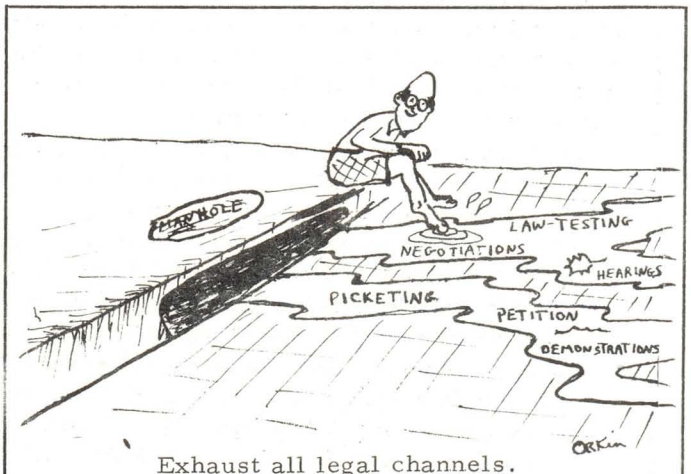
COULD IT BE TRUE?

Last Monday's FSM Newsletter contained a highly provocative article. Bill Miller test-ified that Chancellor Strong said himself that the new regulations were introduced in response to a complaint by the Oakland Tribune. The Tribune objected to the organization on University property of a picket against its al-leged racial policies. Mr. Miller gave the time and place and signed an affadavit swear-ing to what he had heard. So far we have had no denials, and no law suits from the Chancel-lor.

We of the FSM support free speech for all, students, faculty and administration. If Chan-cellor Strong personally wished to support William Knowland in this dispute let him do so as an individual or with a group. In this case, however, he is using the full powers of the University to protect or appease William Know-land.

"Every quiet method for peace hath been ineffectual. Our prayers have been rejected with disdain; and have tended to convince us that nothing flatters vanity or confirms obstinacy in kings more than repeated petitioning--and nothing hath contributed more than that very measure to make the kings of Europe absolute."

-Thomas Paine, Common Sense



Exhaust all legal channels.

U. C.'s REAL POLITICS

Hal Draper is the author of the pamphlet The Mind of Clark Kerr just published by the Independent Socialist Club. --Ed.

"The law in its majesty equally forbids both rich and poor to sleep under bridges." --With this famous thrust, Anatole France went to the heart of the question of Law and Order, that is, the relationship of law to the social order. It is also at the heart of the current struggle over free speech on campus.

This struggle, remember, was touched off by the Administration's ruling against the "mounting," on campus, of off-campus political and social action. The Administration therefore forbids students to use tables at the Bancroft & Telegraph entrance to recruit to off-campus projects like civil-rights actions, to solicit membership, or collect money on campus for causes.

Now this restriction on political activity has been rightly attacked on the fundamental ground that it is destructive of the students' civil liberties as a citizen, his academic freedom as a scholar, and his rounded development as a human being. Even if none of these strictures were justified, however, it would still be true that, on still other grounds, the Administration's ruling is a fraud. The following note is directed solely to this last consideration.

The ban is allegedly based on a general admonition in the State Constitution against political and sectarian influences on the University. It is therefore, presumably, not limited in its impact to the student body, but should apply impartially to all other parts of the University community. If the ruling is so conceived and framed as to apply only to student activities, then it is a fraudulent appeal to the principle envisioned by the Constitutional provision.

In fact, it can be argued that if any part of the University community should be enjoined from embroiling the name of the University in off-campus political issues, it should be the faculty and administration, not the students. For it is the former that are popularly regarded as responsible figures of the University, not the student groups.

Is it seriously claimed that an off-campus action by a student group "involves" the University more than off-campus action by eminent and honored professors and administrators? When Dr. Edward Teller agitates all over the nation for an adventurist and aggressive H-bomb-brandishing policy (as is his democratic right), does this "involve" the University more than when Tom, Dick and Harriet agitate all over the Bay Area against discrimination by the Oakland Tribune or the Bank of America? We are opposed to any inhibitions on off-campus activities, including Dr. Teller's; but if the logic of the Administration's position is to be carried out, it leads to a conclusion even more monstrous than the present one.

But, it may be objected, Dr. Teller does not "mount" his off-campus activity through tables at Bancroft & Telegraph; and he does not collect quarters on campus to finance his campaign for bigger bomb tests. Of course not; neither does he sleep under bridges.

He doesn't have to collect quarters or rattle a coin-box. He doesn't have to use the open street to solicit membership in the Armageddon Association. He has--well, other resources. We cannot begrudge him these resources; but then, why begrudge the student groups the only, puny, relatively miserable resource they have, namely, the opportunity to ask for small change? A few dollars can mean a great deal to a SNCC office in Mississippi which has to scrounge for mimeograph paper; but the Armageddon Association has no use for pennies.

Now the impact of the Administration's ruling is that it illegalizes the student groups' way of "mounting" political action, without interfering in the least with that type of campus-mounted political action for which we have used Dr. Teller as an example. The Administration, in its majestic even-handedness, has forbidden even Dr. Kerr from setting up a table to collect pennies for propaganda in favor of Proposition 2. But Dr. Kerr doesn't have to sleep under bridges--we mean, he doesn't have to collect pennies for Proposition 2. He has the resources of the University at his disposal. His Administration simply makes a ruling (known as Law and Order) which puts University money to work to ask for a vote for Proposition 2, and at the same time--shall we say, it does not use its money to work against Proposition 14? More than that: it makes another ruling (Law and Order) which positively prohibits students from even collecting quarters for this purpose!

Or let us take another eminent representative of the University in another type of off-campus political action. In January 1960, the Cobey Committee of the state Senate held a hearing in Fresno on the problem of farm labor in California. Now the problem of farm laborers in this great state of ours can be highlighted in a few words: they are forced to starve a part of the year, and live and work in wretchedness for another part of the year, by the wage- and working-conditions enforced by the growers in their greed for profits.

If a group of students had picketed the committee hearing with demands for human treatment of farm labor, and if this action had been "mounted" on campus, this would have been a violation of the Administration's present version of Law and Order. But in 1960 a passel of professors went to the hearing for another purpose. For example, the director of the University's Giannini Foundation, George Mehren, went there to testify, with all of his university-mounted authority, that "there is no compelling indication of exploitation of hired

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U.C.'s Real Politics (cont.)

domestic agricultural labor anywhere in any agricultural industry for any protracted period." Thus, this academic flunky of the corporate grower interests (who has now been suitably rewarded with the post of assistant secretary of agriculture in the Johnson administration) mounted this political and social action as a contribution to torpedoing the claims of farm labor for a decent life. It can hardly be denied that this off-campus action was mounted at the University!

"But this is different," we will be told. Of course it is. Dr. Mehren doesn't sleep under bridges either. The Cobey committee invited him to do this unsavory job for the growers; they never invite pickets. It follows, as the night the day, that mounting off-campus action on behalf of the growers is Law and Order, whereas mounting a CORE picket line against the Bank of America is Anarchy.

Of course, it's "different." The ruling Power Structure always legalizes the activity of its own servitors. First the Administration draws the rules so that the discrimination is built into them; then it "evenhandedly" demands observance of its Law and Order.

Law and Order should be observed. (In fact, observed very closely.) But it is also the responsibility of the Law-Makers to make such laws as can be obeyed not only by men's bodies but also by their consciences. If they fail in this, the responsibility is theirs.

MARINES, BEWARE THE DEANS!

On Tuesday, a direct violation of the University regulations barring on-campus recruitment for off-campus political or social action occured when the U.S. Marines set up a recruitment table in the Student Union Plaza.

Nine or ten students paraded in front of the illegal table. Some worried picketers, attributing the violation to ignorance, gave the Marines the following advice: "Marines, Beware the Deans!"

They pleaded with the administration, "Please Don't Arrest Them!"

Others, assuming direct support of the move ment, held signs saying, "Thank you Marines for Joining our Protest," and "Fight University Regulations, Join the Marines!"

The picketers seemed concerned for the safety of these new allies. Aware that Marine experience with civil disobedience is limited, one sign advised, "If They Arrest You, Go Limp!"

By 5P.M. Tuesday, the Marines had not been arrested. Does this mean the administration is wavering in its enforcement of the ban? Or could the most pertinent sign have been the one reading, "Behold the Consistency of the Administration!"?

In the beginning there were ideas, ideas covering the entire political spectrum. And these ideas were amplified by picketing, publication and organization. Then, suddenly, these means of amplification were denied. The ideas remained but they could not be projected.

The administration was the tool, the wrench, used to close these outlets. But the outlet of an idea doesn't fall merely because it exists. It falls because someone somewhere doesn't like the idea, doesn't want it around.

Our ideas are not innocuous. They slap at some political beliefs and at some pocketbooks and as such had to be stopped.

So phone calls are made, laws are pulled from their dusty shelves, messages are sent. The administration becomes the tool of these forces and perhaps because of pressure, perhaps because of promises, the administration finds in these dusty laws the same interpretation as the outside interests want. And finally, in the name of Law, the outlet is closed and the ideas upsetting to the outside forces are blocked.

Laws so used are not sacrosanct. Legality exists within legitimacy and morality, and corrupt legality must hide outside both.

Hey Mao, you sure this is the right place?

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