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The Daily Cardinal

University of Wisconsin, Madison, Wisconsin 53706, Thursday, April 25, 1968
VOL. LXXVIII, No. 124 5 CENTS A COPY

U Student Strike Planned In Protest of War and Racism

By RENA STEINZOR
Day Editor

A series of forums, workshops, picketing and leafleting of all major classroom buildings, a rally at the Stock Pavilion featuring Muhummad Ali, and General Hugh Hester, and a march to State Capitol grounds are the major events planned for the National Student Strike on the Madison campus April 25 to 27.

The strike is designed to protest the racism of the United States at home and abroad, and to express opposition to American violation of the right to self-determination of the people of Asia, Africa, and Latin America.

Nationally, marches are planned in New York, Chicago, Philadelphia, San Francisco and Los Angeles. Internationally, students will coordinate activities in sympathy with American demonstration in Britain, Japan, Mexico, Africa, Canada, Italy, and Germany.

Billed by Madison's chapter of the Committee to End the War in Vietnam as a "political strike," the three days of activities will culminate with a march from the University's Library Mall to State Capitol grounds beginning at 1:00 p.m. Saturday. The twenty anti-war organizations sponsoring the march have announced that the following speakers will be present at the rally scheduled at the Capitol grounds: Prof. Maurice Zeitlin, (sociology), Alderman Paul Soglin (history grad. student), Mrs. Betty Boardman (recently returned from North Vietnam), Larry Saunders (editor of the Madison Sun), and several clergymen from the Madison community.

The march will be dedicated to Dr. Martin Luther King, Jr.

The rally Friday at the Stock Pavilion will feature Muhammad Ali, General Hugh Hester, and a live performance by the Milwaukee Commandos Drum Group. Tickets

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Faculty Splits on Regents' Decision

By DENNIS REIS
Cardinal Staff Writer

The latest meeting of the Board of Regents has produced among students and faculty various reactions whose significance slowly arises from the somnolence of spring break. Student discipline and student housing regulations—neither was approved—are of immediate concern since both have been recommended for adoption by the faculty.

When he was questioned why the Regents had not approved the interrim disciplinary policy, Law Professor Walter Raushenbush, who is most directly responsible for the Crow report, responded, "Basically there are three factors affecting the Regents' vote. The first is the personal prejudices of the individuals. Every man has them; they cannot be tossed aside. The second concerns a need for the Regents to assert their role in the University. That is, they are the ultimate on-campus authority and may consider this the proper time to remind the faculty of this. The last factor, however, is most important. The Regents are directly responsible to the people of the state and to the state legislature. That same legislature came close at the end of last year's session to passing a bill detrimental to the progress of the University, obviously in connection with the Dow incident. The Regents must take into account the attitudes of the same body which passes the University budget in some detail. Still, it is unfortunate that the interrim disciplinary policy was not enacted. However, I feel that the speed with which the measures have passed the faculty has caused some of the Regents to more carefully examine them. It

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MERMIN REPORT
PART II
ON INSIDE

Second Man Fined In 'Mustache Case'

By PETER ABBOTT
Cardinal Staff Writer

University graduate student Robert Stark pleaded guilty today to a battery charge stemming from an accusation that he and bartender Gerald McKnight beat and forced two University students at gunpoint to shave off their mustaches.

County Judge Russell Mittelstadt fined Stark $207 plus $200 court costs, and will sentence McKnight May 6. McKnight pleaded guilty Monday to assault and reckless use of firearms.

Detective Lt. Roy Holtzman told the Wisconsin State Journal Tuesday that the 6 foot 5 inch Stark had turned himself in voluntarily that day.

Stark told Judge Mittelstadt that Hoffmaster "made a disparaging remark about my country" when the judge asked him why he had hit Hoffmaster. Hoffmaster is now wearing 30 external and internal stitches. "He said he was a communist and a socialist. I just got mad and I hit him."

Hoffmaster told The Daily Cardinal: "The statements by Bob Stark in defense of Bob Stark are lies. His versions of what I said are lies. That's all I can say."

Sommerville added that Stark's account contradicted an earlier statement he had made to Sommerville's and Hoffmaster's lawyer. "He said then that he had been too drunk at the time to remember now what had happened. The attorney, Floyd Brynelson, agreed that Stark had indicated he was "hazy" about what had happened and that he had been drinking.

The incident began when Stark and McKnight entered Sommerville's apartment Sunday at 1 a.m. They did not leave until 4:30 a.m., Sommerville said.

Stark told Mittelstadt that they had gone to Sommerville's apartment because they had heard there was a party there. Sommerville was alone in the apartment, Stark said, and then an argument over politics began. Hoffmaster was called to the apartment during the argument.

Sommerville maintained, however, that it was unlikely that they had come in looking for a party because, before they had entered, they had peered into the window where they could see him alone watching television.

"Only one or two sentences were exchanged," Sommerville said, "before they beat me up." Sommerville was treated for stomach and face bruises at the University Hospital.

"Hoffmaster was called in because they forced me at gunpoint to do so," Sommerville added. The gun was Sommerville's 12 gauge shotgun.

"As soon as Dick (Hoffmaster) came, I told him to cool it. Dick did nothing but agree with everything Stark said until Stark punched him and kneed him above the right eye, knocking him clear across the room."

Knight Is Named Basketball Coach

By STEVE KLEIN
Sports Editor

Robert M. Knight, head basketball coach of the United States Military Academy at West Point, Tuesday was named head basketball coach at the University of Wisconsin.

Knight, 27, was appointed by the executive board of the University of Wisconsin Board of Regents, according to a spokesman for Pres. Fred Harvey Harrington.

A graduate of Ohio State University in 1962, Knight played varsity ball for three years on Buckeye teams that won 78 and lost 5 in 1959-60, 1960-61 and 1961-62. The Buckeyes were NCAA champions in 1960 and runners-up in 1961 and 1962.

Knight became assistant basketball coach at Cuyahoga Falls, Ohio High School in 1962 and came to Army as an assistant basketball coach in 1963. In his two years as an assistant coach at Army, the Cadets had a combined record of 40-15 and finished third in the National Invitational Tournament twice.

As head coach at West Point the past three seasons, Knight had records of 18-8, 13-8 and 20-5. Army was invited to play in both the NCAA and NIT tournaments this past season, accepting the NIT bid. The NCAA bid was the first ever for the Academy.

Army finished in the Top 20 in both the AP and UPI wire service polls, another first at West Point.

News of Knight's appointment came in mid-afternoon, Tuesday, before the announcement was made public.

"We didn't plan to make the release until Coach Knight reached West Point," Wisconsin Athletic Director Ivan B. Williamson said, "so he could notify officials there. He has signed no contract at Army for next year and will sign a three year contract here."

ROBERT M. KNIGHT

John Erickson, who created the opening when he resigned as of May 1 to become general manager of the Milwaukee NBA franchise, felt the Athletic Board had been faced with a very difficult decision in choosing a new coach.

"It was a tremendously difficult decision for the Board to make," Erickson said Tuesday. "Of course, a coach feels a strong feeling in his heart for his assistant coaches, and feels disappointed for them when they don't get the position.

"Bob Knight is an outstanding young coach and young man," Erickson continued, "and I have the highest personal regard for him."

Junior forward Jim Johnson seemed pleased, although a little stunned by the suddenness of the decision.

"Coach Erickson said Coach Knight is a very fine young man," Johnson said. "He's only 27 and should make a real wonderful coach for the players. We thought the job would be kept here at Wisconsin because Coaches Brown and Powless had recruited us, coached us and had always been so honest with us.

"People here are basketball fanatics," Johnson added, "and want a good team. I think he will be a good coach, and we will do all we can to have a good team at Wisconsin.'

Knight's style of play resembles that of Ohio State, where he played under Fred Taylor.

"You can't argue with Taylor," Knight commented on Taylor's coaching. "Six championships show for it. Taylor's ideas are pretty much a foundation for me."

Knight's teams at Army have been very strong defensively. The Cadets finished third in team defense in 1967 and lead the nation in defense last year, allowing only an average of 59.9 points against them a game.

Obstructive Sit-in Halts Columbia

By ROB GORDON
Ass't News Editor

Ardent racial protest and obstructive sit-ins which involved administration building takeovers struck four major east coast universities and colleges Tuesday and Wednesday.

The scenes were: Columbia University, New York; University of Maryland, College Park; Trinity College, Hartford, Conn.; and Boston University.

At Columbia students who barricaded the office of Dean Harry Coleman to protest the construction of a gymnasium and a national defense program that Columbia participates in escalated their activities in the second day of demonstrations.

The gym, they say, being built in Morningside Park in west Harlem, would take needed park area away from the black community. The defense program, the Institute for Defense Analysis, is charged with supporting the United States war effort in Vietnam.

At 2 p.m. Tuesday some 300 students—both black and white—took over Coleman's office in Hamilton Hall. There they held the dean as hostage.

The student demands included the following:

* that the people (students and other members of the city community) who were arrested in the last few weeks for obstructing the gym's construction be aided by university intervention in the civil offenses;
* that probation sentence of six students, who were disciplined last week for their protest against IDA, be lifted;
* that a ban placed on demonstrations inside university buildings be lifted;
* that construction of the new gym cease; and
* that the university sever its ties with the IDA.

The sit-in continued into the night and next morning. At 5:30 a.m. the black students in the office requested all whites present to leave on grounds that it was first and foremost a local-racial issue which they faced alone. At this point it was reported that many of the black people present were from the local community and Harlem.

The white students, led predominantly by Students for a Democratic Society, marched to Low Library, the main administration building on campus, office of Columbia Pres. Grayson Kirk and Vice-Pres. David Truman. Kirk, a former Wisconsin professor, is on a business trip in Latin America, the College Press Service reported.

The students, some 100 in number, took over five rooms of the building including the president's office. As dawn broke city policemen guarded the building and prevented more students from entering, although some reportedly were let in through open windows. There were no attempts to disperse any students already inside, sources disclosed.

At Hamilton Hall, black protestors continued to hold Coleman for a twenty-four hours stretch until shortly after 2 p.m. Wednesday when they released him, maintaining their grasp of the building.

Students at Low Library were said to have "wrecked" Kirk's office. A Rembrandt painting valued at over $100,000 was smuggled out of the office by university officials.

Some 500 counter-demonstrators stood in the spring rain to heckle protestors at Low.

All evening classes at Columbia were cancelled and buildings were locked. Sources at the university say that school may be called off today in fear of further demonstrations from the near-by Harlem area. The gates to the campus at 116th Street and Broadway may be locked to all but students and faculty with identification cards.

At the University of Maryland, about 80 black students interrupted a convocation service speech Wednesday afternoon by the school's president, Wilson Elkins. He was reportedly speaking on civil rights. Twenty students, who initially rushed the stage as the president addressed over 7,000 students were met by about a dozen policemen.

Following the speech the student government at Maryland revoked the registration of SDS.

At Trinity College more than 200 students took over the administration building Tuesday night, they locked the doors and refused exit to Pres. Albert Jacobs and the board of trustees, who were meeting at the time. Their chief demand was the implementation of a program for disadvantaged students. The students released the officials shortly after 1 a.m., after administrators guaranteed 15 new scholarships a year.

At Boston University black students took over the administration building Wednesday morning protesting the dismissal of a physics instructor, Steven Newman. It was reported that an agreement was reached that night. No further information was available.

The Daily Cardinal

A Page of Opinion

Support the Strike

Tomorrow and continuing through Saturday student anti-war groups here and around the world are having mass demonstrations to protest the War and racism.

Foremost on the agenda of activities is a mass student-faculty strike planned for tomorrow. The Daily Cardinal supports this strike and the other educational and protest activities.

As with most student demonstrations of this sort, the whole show will have little immediate concrete effect on the course of world politics.

This demonstration, though, can be very important as a gesture and symbol of worldwide student consciousness and identity. Students in Madison, Berkeley, New York, and Boston must become aware of their common problems and goals. These students must also show the outside world and the current establishment that there is a growing common identity among students who are determined to radically change the attitudes dominant in their society.

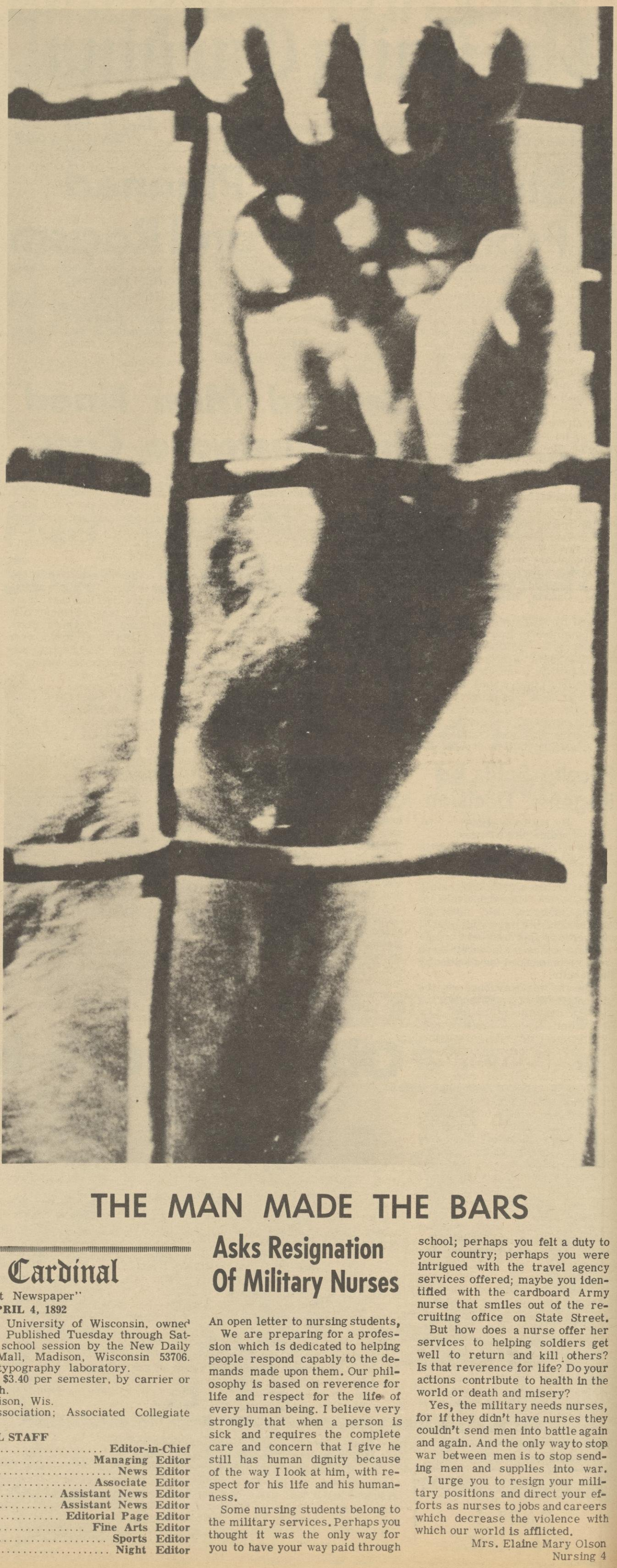
That the college press has become highly concerned and aware of this identity trend is obvious. Through news wire services, active newspaper exchange programs, other inter-campus communication, and a national student press association, the college press has greatly expedited the dissemination of information among students across the country. In the future, college papers will devote more coverage to international student activities.

Aside from its impact and significance for the student movement, this weekend's activities are very important in terms of the total peace movement in this country.

Despite Johnson's non-candidacy and the administration's "peace overtures" to Hanoi, happy, harmonious, and draft-free days are not likely elements of the American diet in the near future.

In the days and weeks preceding any peace talks both sides will make an all-out military effort to gain the best possible bargaining position once talks begin. Such brinkmanship politics could easily lead to an unprecedented escalation of the war and could scuttle any hope for peace.

Consequently, the vitality of the movement which precipitated Johnson's withdrawal must now be used to sustain the movement and promote anti-war candidates in national, state, and local elections.



Keeping Our House in Order

To the Editor:

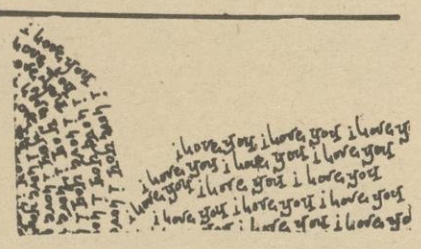
In this period of tragedy we find rioting, looting, arson, killing and, paradoxically, introspection to be the order of the day. The unconscious, unconcerned and unfeeling among us are taking the above physical actions, while the conscious, concerned, perceptive men are reexamining themselves, the world, life. Senator Frank Church (D–Idaho) called it the "good guys" versus the "bad guys." This unfortunately is not good enough, yet tragically it represents a classic American forte: over-simplification and unreality. In these days following the Rev. Dr. Martin Luther King's assassination, the scisms and divisions in today's American society are surfacing amid the most insane, fanatic events in our history. Where else could firemen be sniped at while fighting fires? It is incredible, anarchistic and devoid of any possible justification.

Almost 107 years ago, the United States of America underwent the greatest national catastrophe imaginable. . .The greatest, that is, until today. The domestic war today is far more dangerous, frightening and destructive than the Civil War. Whereas the latter had boundaries drawn, sides chosen, war declared, an identifiable enemy and a distinct purpose, only a semblance of a purpose remains today. . .and that is merely representative of the many factions present in today's Great Society, in that its aims and purposes cannot be consistently discerned over any length of time. Today one knows there are no boundaries, no sides to be taken, no "declared" war, no consistent enemy (a white youth allegedly shot a negro Nobel Peace Prize winner). It is a hapless affair to have to look again at what the song says: the worst of men will live and the best of men must die, but it is something we are increasingly cognizant of.

The America which was to keep the world free and purported to preserve the existence of democracy has most assuredly turned into the poorest example of a superpower unable to keep its own house in order.

There can be no question that the American psyche is undergoing a definitive rearrangement, but one that is beyond, or outside, our ken at the present time. We are indeed on the brink of a monumental precipice—may God help us if we fall off into the abyss of anarchy.

Name Withheld



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THE MAN MADE THE BARS

Asks Resignation Of Military Nurses

An open letter to nursing students,

We are preparing for a profession which is dedicated to helping people respond capably to the demands made upon them. Our philosophy is based on reverence for life and respect for the life of every human being. I believe very strongly that when a person is sick and requires the complete care and concern that I give he still has human dignity because of the way I look at him, with respect for his life and his humanness.

Some nursing students belong to the military services. Perhaps you thought it was the only way for you to have your way paid through school; perhaps you felt a duty to your country; perhaps you were intrigued with the travel agency services offered; maybe you identified with the cardboard Army nurse that smiles out of the recruiting office on State Street.

But how does a nurse offer her services to helping soldiers get well to return and kill others? Is that reverence for life? Do your actions contribute to health in the world or death and misery?

Yes, the military needs nurses, for if they didn't have nurses they couldn't send men into battle again and again. And the only way to stop war between men is to stop sending men and supplies into war.

I urge you to resign your military positions and direct your efforts as nurses to jobs and careers which decrease the violence with which our world is afflicted.

Mrs. Elaine Mary Olson
Nursing 4

Clay Shaw Conspiracy Trial To Remain In New Orleans

By STEVEN J. BURTON
LIBERATION News Service

New Orleans—Judge Edward A. Haggerty, Jr. denied a defense motion to move the trial of accused presidential assassination conspirator, Clay L. Shaw, out of New Orleans because of pre-trial publicity.

Attorneys for Shaw contended during the hearing that publicity in New Orleans makes it impossible for Shaw to get a fair trial here. They asked that the trial be moved at least 100 miles away from the city to as remote an area as possible. They charged that District Attorney Jim Garrison's public statements were designed to prejudice prospective jurors against Shaw and that Garrison had participated in a conspiracy with authors Mark Lane, Harold Weisbert, and William Turner to mold public opinion against the defendant.

Early in the hearing, Judge Haggerty made it clear that statements about the Warren Report or the Kennedy assassination in Dallas would not be considered prejudicial. "You could have had 50 conspiracies throughout the United States that had nothing to do with what happened in Dallas," he said. "As long as there was an overt act connected with each, the law has been broken."

Haggerty went on to say that the defense must prove that public opinion is "overwhelmingly against the defendant," and that it is impossible to find an impartial jury in New Orleans.

In an attempt to prove that this is the case, the defense entered into evidence the January, 1968 issue of Ramparts Magazine, the January 22, 1968 issue of the National Observer, several television interviews, and the November 17, 1967 issue of the Los Angeles Free Press (in which Garrison's speech before Southern California newsmen is reproduced).

Jim Garrison was called to the witness stand and questioned about the interviews. He acknowledged them and said, "If you read them, you'll see that I refused to comment on the case of Mr. Shaw."

Defeated in this round, the defense called a procession of witnesses that included author Mark Lane, comedian Mort Sahl, witness Perry R. Russo, a number of television newsmen and engineers and the editors of the two New Orleans newspapers (both of which are owned by Samuel Newhouse). While a great deal was learned abut the method and extent of news dissemination in New Orleans, little was established pertaining to the immediate purpose of the trial. The testimonies were heavily peppered with state objections to defense questions that were judged to be irrelevant or improper.

Having established nothing tangible so far, Shaw's attorneys charged that Garrison's statements violated the publicity guidelines set down by Judge Haggerty last year. Haggerty replied that the question currently before the court is whether or not Shaw can get a fair trial in New Orleans. He said that the question of the guidelines would come up at a later time." (Previously, he had warned that he may cite several principles for contempt of court at the conclusion of the trial for violating the guidelines.)

Defeated again, the defense asked Judge Haggerty to subpoena all 1300 names that comprise the jury panel to determine if the jurors can give Shaw a fair trial. Haggerty said that it would take weeks to question so many people and decided to question a sample of 80 prospective jurors.

Ten witnesses were chosen by each of the eight criminal district judges from their jury panels. Each was dismissed from any possible jury duty after being questioned. At the conclusion of two days of questioning, only 13 out of the eighty people questioned said that they had a fixed opinion as to the guilt or innocence of Clay Shaw. They were not allowed to say what their opinions were.

The defense was defeated on all sides. Judge Haggerty refused to grant a change of venue. It is the

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campus news briefs

Interna'l Talent Show Today

The annual International Festival Talent Show will be held today at 8 p.m. in the Union Theater. Folk dancing, drama and music will be performed by students from eight nations. Tickets on sale at the box office and the door are 75¢ for Internatonal Club members and $1.00 for non-members.

* * *

CORRECTION

"The Dimension of Sound" a lecture by Peter Yates, will be given today at 8 p.m., in the Wisconsin Center Auditorium. Admission is free.

* * *

DESIGNER–CRAFTSMAN LECTURE

Earl Krentzin, an artist whose silver sculptures incorporate characteristic moon-faced little men, will speak on the craftsman's point of view of his art today at 8:30 p.m. in the Union's Tripp Commons.

Krentzin, a member of the UW Art Dept. from 1956-60, now works in his studio in Detroit. His work was featured early this year at the Kennedy Galleries in New York. A special display of 12 of his silver scuptures are on display in the Union Main Lounge display case until April 25.

* * *

INNER CORE

A weekend in Milwaukee's Inner Core will be held Friday to Sunday. Led by the Rev. David Owen of Milwaukee, the trip will cost $10.00 for food and transportation. Students will leave from the Methodist University Center at 1127 University Ave. at 5:30 p.m. Friday. Bring a sleeping bag. Make reservations by today by calling 255-7267.

* * *

AQUAPHILES

There will be a meeting for all interested in forming an aquarium club on campus today at 7 p.m., in 110 Birge.

* * *

SUMMER OUTLOOK

A summer outlook meeting will be sponsored by the Employment Section of the Office of Student Financial Aids. The meeting will be held at the Memorial Union in the Plaza Room from 3 to 4 p.m. today.

Several employment counselors will be available to answer questions pertaining both to full and part-time summer employment. While attempts will be made to answer questions, no specific job listings will be available at the meeting. Future Summer Outlook meetings will be held in the Plaza Room from 3 to 4 p.m. on the following dates: May 1; May 7; and May 16.

* * *

SPANISH CLUB

The Spanish Club will hold its April meeting today at 7:30 p.m., in the Twelfth Night Room of the Union. Mr. Cedomil Goic will speak in Spanish on the topic: "My Experiences in the Chilean Theater." All are welcome.

* * *

"RABELAIS" TALK

Norman B. Spector, professor of French at Oberlin College, will lecture on "Rabelais" at 4:30 p.m. today, in 104 Van Hise under the sponsorship of the UW department of French.

(continued on page 8)

TAA Members Urged to Take Part in Strike

By MARY JANE SPLETTER
Cardinal Staff Writer

In a newsletter released to some 2000 TAs today, the Teaching Assistants' Association asked members to take an active role in this weekend's International Movement against the War, Racial Oppression and the Draft.

The letter, discussed at the TAA executive meeting Wednesday evening, suggests TAs participate in the Friday and Saturday movement by cancelling classes, turning them over to relevant discussions or participating in a teach-in. Other suggested activities include recognizing the rally at which Muhammed Ali will speak, inviting speakers from the Draft Resistance Union or showing films. TAA is sponsoring three films during the strike.

Our getting involved will be good if it only lets the campus know the TAA exists, Secretary Jean Turner of the English Department said.

One reason the association feels it may not get full participation is that two Friday classes have already been cancelled this month because of Martin Luther King's memorial service and spring vacation.

The newsletter also announced that letters have been sent to department chairmen asking them to define in letters of appointment the academic freedom and responsibilities expected from TAs. Wording has been left to the individual departments.

Two motions mentioned in the newsletter that were passed at the April 8 meeting include the association's support of a national organization of TAs and a continued stress on education problems and improvements at the graduate and undergraduate level.

A Matter of Conscience: Part Two

(continued from page 12)

are caused by lack of tact and an abundance of stupidity on the part of the coaches.

Last season during the spring football conditioning drills held beginning each February a coach told his group to run wind springs inside the Camp Randall Memorial Building. Several players asked if they could loosen-up first since the coach wanted them to run their hardest. The coach denied the request, and as a result five or six players pulled muscles because their "teacher," a man who allegedly knows techniques of football and physical conditioning, didn't have sense enough to realize muscles can be damaged if not treated properly.

Another incident of stupidity occurred when Coatta and his staff decided to hold their spring scrimmages in various sections of the state. The purpose of the venture was to increase season football ticket sales and to do public relations for Wisconsin's athletic department.

Almost every Saturday during spring practice the Wisconsin players awoke early in the morning to make trips to places like Eau Claire and West Allis. They rode on busses, and by the time they reached their destinations, many were exhausted from the traveling and also from their hard weeks of practice before the scrimmage. They played poorly every Saturday, mainly because they were too tired to do well. By the time of the annual spring game in Camp Randall Stadium, many players were glad they were finished with football and really didn't care about the meaningless contest between the Cardinals and White teams.

Such attitudes aren't conductive to winning football, but if the coaches would have realized their stringent practices and weekend scrimmages were mentally effecting the players, perhaps the ambitions of the team members might have changed.

There are other incidents which have angered the players, but one of the most glaring concerns a squad member who walked into the Brathaus with a person who was wearing long hair. A prominent Madison alumnus happened to see the football player and made an unnecessary comment to him. Later in the week, the alumnus saw the football coaches and told them he saw a team member associating with people who have long hair. In turn, the coaches spoke to the player and told him they didn't want him seen with people who didn't conform to the "All-American Boy" image.

A coach has no right telling players with whom they should make their friends. A coach must accept an athlete for what he is and shouldn't try to tell him how to run his life off the field. If he does so, it's easy for an athlete to lose respect for his coach—an immediate forewarning of a losing season. A player will find it hard to work for a man for whom he has no regard.

There is a great lack of respect between the players and coaches on the Wisconsin football team. Many athletes stay on the squad only because they need the money to continue their educations. Several say that if they could afford to pay their own tuitions, they'd give up their athletic scholarships. These players, who could be made into winners with proper teaching and psychological handling, have little respect for the Wisconsin football staff.

Until the coaches realize every player must be treated differently so they can perform their best on the field, there will be no championship football teams at Wisconsin. The coaches must be aware of the players' feelings and have to know when to use specific psychological coaching techniques. New innovations in coaching policies or perhaps even changes in personnel are desperately needed at Wisconsin.

Lectures Honor Retiring Curti

By PHILLIDA SPINGARN and TIM GREENE

Prof. John Higham, a former student of retiring Prof. Emeritus Merle Curti, history, emphasized the need for a new moral approach to history which will reconcile the scientific versus the humanistic view.

Higham discussed the historian's dilemma with the new perspective gained since he published his book "History" three and a half years ago. When writing the book, Higham said, "I could not escape from being hopeful." He admitted that he had failed to predict the new radicalism which has erupted since President Kennedy's assassination.

"The Kennedy administration," he said, "seemed to establish a reconciliation" between past and present. The recent protesting verifies there was no stabilizing. Yet if students "erupt in passion. . .we ourselves are to blame." The "Mandarin" class of historians has failed to reconcile" mind with passion," he said.

History stands between the "convergent mode of science" and the "divergent mode of art and the humanities."

Dr. Howard Jones, Pulitzer-prize winning Prof. Emeritus of humanities at Harvard, claimed that the Genteel Tradition in America, spanning the period between the Civil War and World War I, has been falsely categorized as "decaying idealism and false optimism."

Today's cynical scholar might find the unabashed loyalty of the Genteel Tradition rather "naive" considering the capitalist exploitation, political corruption, and imperialism practiced by the U.S. during this period. However, today's protest movements also might be considered "naive" in their devotion to Jeffersonian democracy, Jones argued.

Jones described the Genteel Era to be the Golden Age in American Arts, when it fused the lofty idealism of romanticism with technical perfection. The rapid growth of American Universities during this period also influenced the demand for "scholarly expertise" which today, according to Jones, is going out of style.

Campus News Briefs

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AGRICULTURE IN INDIA

Kusum Nair of New Delhi, India, currently a member of the Asian Study Center at Michigan State University, will discuss "The Agricultural Situation in India Today" at 4 p.m. today in 114 Van Hise.

* * *

HOOFERS SAILING

The Hoofers Sailing Club general membership meeting for new and prospective members will be held today at 7:30 p.m., in the Union.

* * *

GERMAN MOVIE

There will be a German movie in the Historical Society Auditorium at 7:30 p.m. today. It will be the film version of Faust starring Gustaf Grundgens and Will Quadflieg with no sub-titles. The film is in color and is free.

* * *

AUSTRALIA EXPERT

Prof. Noel Butlin, authority on the economic development of Australia, will discuss that development in a public lecture today.

His title is "How to Become Wealthy Without a Growth Rate," and he will discuss it at 4 p.m. in room 5231 Soc. Sci. The UW department of economics is sponsoring his visit.

* * *

LHA MOVIE

The LHA Film Committee will show "The War Lover," starring Steve McQueen today at 7:30 p.m. and Friday at 7 and 9:30 p.m., in B-10 Commerce. Admission by LHA card only.

* * *

PUBLIC RELATIONS

There will be a Public Relations meeting today at 7:30 p.m. in the Union. All members are urged to attend.

* * *

WSA

The Wisconsin Student Association change-over banquet will be held today at 6:30 p.m., in the Old Madison Room of the Union. The Student Senate will meet afterwards.

* * *

TRYOUTS AND CREW CALL

Tryouts and crew call for "Volpone" will be held today at 3:30 and 7 p.m., in the Union.

* * *

ART CRITIC SPEAKS

The Departments of Art, Art History, and Comparative Literature will sponsor a lecture by N.Y. art critic, Max Kozloff Friday at 7:30 p.m., in the Historical Society Auditorium.

The lecture is entitled, "The Art of Jasper Johns." Kozloff is presently teaching at the American Federation of Arts in N.Y.C. He has contributed to The Nation, Commentary, Art News, and Art Forum magazines.

* * *

AWARENESS IN DEMOCRATIC SOCIETY

Polygon Board and Engineers and Scientists for Social Responsibility are presenting a lecture on "The Social Awareness Required of all Men in a Democratic Society" by Prof. E. F. Obert, Mech. Eng., Friday at noon, in 1227 Eng.

MEMBERS OF THE TAA

If you would like to participate in an evening's brainstorming session on educational objectives during the week of April 29-May 3, please call Margaret Blanchard, 255-3488, before Sunday.

* * *

HOUSTON SYMPHONY

Tickets are currently on sale at the Union box office for a concert Friday at 8 p.m., at the Union Theater by the Houston Symphony Orchestra, conducted by Andre Previn.

The orchestra will play Rachmaninoff's "Symphony No. 2 in E Minor," Benjamin Britten's "Sinfonia da Requiem" and William Walton's "Suite from 'The Wise Virgins.'"

Campus Carnival to Give Unity, Enjoyment, to All

By DEBBIE BUCHANAN
Cardinal Staff Writer

In the guise of Blue Beard the Pirate and various madcap characters, the Campus Carnival is attempting to blow down the Walls of Jericho which separate the University from Madison and which divide the campus into quarreling factions.

Beginning Friday evening the Carnival will launch its two-day happening, which is a charity fund raising project as well as an experiment in campus participation.

"We are trying," said Bob Otto, Publicity Chairman, "to make this the biggest thing on campus this year." Unfortunately this University is pretty well divided. We hope to promote greater unity among its various organizations by getting people to talk to one another while they're involved in a common task of raising money for charity."

By providing entertainment and closer contact with students they also hope to remedy some of misunderstanding and fear which now characterize university-community relations.

To initiate this involvement and fund raising the Campus Carnival Committee, headed by Jon Otto, has coerced, cajoled, and otherwise persuaded campus organizations into sponsoring forty-nine booths for the Carnival.

Set up all over campus, these booths will cater to practically every whim of its customers. A fifty cent general admission fee and a ten cent charge at each booth will allow indulgence in palm reading, car smashing, ferris wheel rides, and a burlesque show among others.

All the money raised from the Carnival will be deposited into a general fund and then divided equally among the booths. Each will then be able to designate what charity to which the money will go.

SLEEP-IN

A student sleep-in will be held on Bascom Hill Thursday nite from 10 p.m. until dawn. The sleep-in is being held for the dual purpose of commencing Friday's International Student Strike and simply releasing tension piled up during a week of 12-week exams. Prominent campus folksingers are promising to be present. A spokesman for the group organizing the sleep-in said it would hopefully be analogous to the Tent-In which will be held in Washington by the SCLC Poor People's March in May. Students participating are encouraged to bring either sleeping bags or blankets, food, guitars, tambourines, harmonicas and kazoos.

HILLEL INSTITUTE

"Jewish Power: Real or Imagined?" will be the theme of the Midwest Hillel Institute, Friday to Sunday. More than 100 students from 15 Midwest Universities will join Madison students at the University Hillel Foundation for three days of study and discussion. UW students who want to participate in the programs and attend the meals are asked to register immediately.

Clay Shaw Trial

Liberation News Service

(continued from page 3)

opinion of most observers, including this reporter, that Shaw's attorneys never expected to win the change of venue motion, but were only interested in a further delay. It has now been almost 13 months since Shaw was indicted by both the Grand Jury and a 3 judge panel. Every delay has been due to defense motions. When trial was scheduled for last September, the defense asked for a six month delay or a change of venue.

They received a shorter delay, and trial was scheduled for mid-February. They then filed a motion for a change of venue, which had just been denied.

Haggerty gave the defense 15 days to appeal his decision to the Louisiana State Supreme Court. After that, they can appeal to the federal courts and even to the United States Supreme Court.

It is now up to the District Attorney's office to set a tentative trial date. Garrison will probably name a date in mid May although more delays may come.

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'58 RAMBLER Sedan Red & black. Cheap. Call Eric 255-4779. 5x30

SIAMESE Kitten — Sealpoint. 1 male. 8 wks. old. $15. Call 244-1647 after 5. 4x27

BUICK Convertible '62 Invicta. 8 cyl. automatic, pwr. steering, brakes, acces, ex. cond. $950. Ted 233-7571. 4x27

'65 HONDA 150cc. $295. call 257-6621 or 255-3784 aft. 10. Can be seen at 224-W. Gorham. 5x30

HONDA 150 Call Pat 256-8214. 3x26

FARFISA Combo Organ. Fender Tremolux Amp., Shure PE 54 mike, must sell. 262-8570. 3x26

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'60 VW $100. 238-6028 Eve. 2x27

ZEISS-IKON 120 Twlens. 238-6028 Eve. $140. 2x27

200 WATT / SEC. Photo Flash strobes. Color Organs. Audio Control Cubes. 251-0801. 10x8

1 MO. old Sony 350 Tape Deck w/mikes & splicer. Sound on sound, sound with sound. 251-0808. 10x8

'65 MG Midget. Black w/red interior. Low mi. 249-6505 aft 5. 3x27

'67 HONDA CB160. Like new. $475. helmet, rack, mirrors incl. 244-4895. 3x27

BUICK Special V-6. Standard shift '65. Must sell. 256-3672. 10x8

GOING Abroad. Must sell contract at Surfside for fall. 2 bdrm. apt. for 4 girls. Top floor, lakeview. 257-8881, ext. 240. 5x1

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606 UNIV. AVE. Apt. for women for sum. Special rates. Call George Colletti aft. 7 p.m. 836-5767. 20x11

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SUMMER Sublet. Lge. furn. 2 bdrm. On campus. Util. incl. Will take loss. 256-2133/256-1689. 3x27

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- **Extra bonuses.**
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2 GIRLS to share w/1 for summer. Air-cond. $47. 257-7549. 10x30

1 MALE to share w/2. Own bdrm. $52./util. incl. 255-2410. 5x30

GIRL to share lge. apt. w/2 for fall. Own bdrm. Washer-dryer. Near Kroger's. 257-8740. 7x27

3 GIRLS to share 3 bdrm. apt. w/1. summer and/or fall. Ideal loc. 255-7858. 4x26

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GIRL to share Apt. w/grd. Summer and or fall. B. Jones. Days 262-3238, Eves. 256-9986. 5x30

FALL 2 girls to share 2 bdrm. apt. Near stadium. $60/mo. 262-5272/262-5274. 4x30

3 GIRLS to share apt. w/1, for fall. Call Sue 257-3467. 509-W. Dayton. 5x5

LOST

MAN'S black trench coat. Label: Hirmer. Reward. 244-6028. 5x27

WHITE 10 Spd. Boys Bike Mon. Front of Union. It is not a UW Bike, it is mine! Please return to Union or 256-7388. 3x26

MISCELLANEOUS

AIR FRANCE. N.Y. — Paris — N.Y. Plus Lisbon—Madrid. June 12-Sept. 11. Jet $280. She and Ski Club. 251-1079, 257-7231. 23x21

BADGER STUDENT FLIGHTS EUROPE PASSENGERS. Remember if you're on the BOAC flight, your balance is due by this Wednesday. If you're on the PAN AM flight it's due by Monday. 5x27

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ANY Students interested in participating in a Psych. Exp. 4. Please contact Arthur Kuppersmith 255-8069 after 9:30 p.m. $1.00 per session. 5x1

PERSONALS

HEY SSO: The 7 Santini Bros. will crack up "The Hole in the Wall" this weekend. Are you going to be there? 1x25

Faculty

(continued from page 1)

cannot be concluded that the bills will be rejected."

Although Chancellor Sewell was unavailable for comment, Dean of Student Affairs Joseph Kauffman commented on the Regents' decision. Concerning the new laws to regulate obstruction, he said, "The Board of Regents has an obligation to govern this University. If they do not accept this responsibility, higher authorities such as the legislature will step in. The measures that were passed are quite reasonable and geared to have this institution remain self-governing. The Board must be responsive to the challenges made to it, or superior authority will ultimately prevail. The senate investigating committee, set up after the Dow incident, has made clear the desire of the legislature to act if the Regents do not."

Much of the present concern centers about the lack of action on residence hall policy. Admittedly, in Regent James Nellen's opinion, he would vote for the measure "if there was some reason for the change. But this looks like another way of going along with student power." Students have expressed distrust with such an attitude, for they do not consider student power a game. They reason they have their own lives at stake.

The University housing proposale, including women's hours, evoked a similar response. In defense of the Regents' action, Kauffman said, "The requested changes could have been defeated. Deferring will help understanding. There are two meetings of the Board's education committee before the next meeting on May 17. AWS is planning a full presentation of the proposals. Then the Regents may consider the bill with a better understanding of all the issues involved."

Strike Planned

(continued from page 1)

for the 12:30 event are available at the Union and Bascom.

The strike on classes called for Friday is patterned after similar protests successfully held at Columbia and the University of Buffalo earlier this year. Strike organizers Bob Wilkinson, chairman of the Committee to End the War in Vietnam, has estimated that several hundred professors will call off classes on the Madison campus. Four thousand letters were sent to the Wisconsin faculty requesting that they cooperate with the strike. Response as yet has been limited.

Campus groups listed as sponsors of the strike are the YWCA, Greeks for Peace, Committee to End the War in Vietnam, Young Socialist Alliance, and University Community Action Party.

Several other groups are participating in events planned over the three day period, including a literature bazaar scheduled for Friday morning on Library Mall. They include the American Friends Service Committee, Faculty for Peace, Engineers and Scientists for Social Responsibility, Young Democrats, Wisconsin Draft Resistance Union, Students for a Democratic Society, Quixote, Connections, Young Democrats, and Veterans for Peace.

The coalitions which have been formed to build the strike on American campuses are the broadest yet assembled for anti-war activity. The coordinating organization in the nation is the Student Mobilization Committee which is based in New York where a major march and rally are planned.

A full schedule of strike activities will be published in tomorrow's Cardinal.

A Matter of Conscience: Part Two

(Editor's Note: This is the first of a three part series written by former Associate Sports Editor Mike Goldman. Goldman has covered Wisconsin sports for the Daily Cardinal for four years and has been an outspoken critic of the Wisconsin Athletic Department. This series expresses Goldman's opinions of Wisconsin's intercollegiate athletic system.)

By MIKE GOLDMAN
Copyright c David Mann 1968

April is a significant month for the Wisconsin football staff. During this time, scholarship tenders are mailed to the high school prospects whom the Wisconsin coaches want on next fall's freshman team. There are some impressive names on the list. All-state players from Wisconsin, Indiana, Illinois, Ohio, and Texas have visited Madison since the 1967 season ended.

Such recruits aren't hard to notice on campus. It's a common sight to see a coach escorting the athlete around Bascom Hill and the lakeshore area, showing him various points of interest. The hustling process can be amusing sometimes.

The Brathaus, for example, is often the site of such comedies. A coach, wearing his emblemed blue blazer and sporting a rather nervous grin, frequently will take a recruit there on a Friday or Saturday night. It's the coach who does most of the talking. He and his prospects sit together and eat their brats or steaks, watch students enter and leave, and the coach tries to impress his prospect.

On Saturday afternoon the recruits go to one of the winter athletic events. At track meets the coaches and high school athletes sit together in a special section next to the press section. The coaches still smile and try to make the prospect feel at home.

Yet, the athlete seems rather tense as he watches the meet and listens to the words of the blue-blazered man next to him. The prospects often have bewildered looks on their faces. When the coach puts his arm around him and says he's wanted at Wisconsin, the athlete wonders if he's really going to be happy if he decides to play football in Madison.

My word of advice to any high school football player thinking of coming here: stay away from Wisconsin if you want to be treated fairly as a player and a person.

The main problem with the Wisconsin football coaches is that most of them do not have the abilities to handle players and gain their respect on the practice field. Again, I wish I could be more specific when discussing this subject, but it isn't fair to a player to include his name without his permission, and none of the athletes involved wish to publically use themselves as examples.

Since I came here in 1964 as a freshman, incidents have happened on the Wisconsin football team which have hurt athletes mentally. Some were used and mistreated to the point where they left Madison very bitterly and transferred to other schools. Such incidents happened under Milt Bruhn, and they are still occurring under John Coatta. Many players who quit felt that the coaches had no concern for them as human beings or students but cared only about their abilities on the football field.

The football coaches lack the psychological techniques used by men as Rut Walter, Norm Sonju, or John Powless. Coatta's staff does not know how to psychologically handle a player to make him feel wanted or happy. Instead of focusing their attention on an individual player and his personality, they attempt to make an athlete conform to a system or pre-set behavior pattern.

It seems Coatta's staff is trying to model their team after Bear Bryant's squad at Alabama. A football player at Wisconsin has his life controlled by his coaches. He is judged according to his political attitudes, by the people with whom he associates, and by his personal interests. Bryant can do this successfully at Alabama because his players are from Southern backgrounds and basically have the same political, religious, and social views. There are also no Negroes on Bryant's team, and thus, he has no worries of interracial conflict.

However, the environment is completely different in Madison, Wisconsin than in Tuscaloosa, Alabama, and I honestly feel that Bear Bryant could not use his Southern coaching techniques were he at Wisconsin rather than Alabama. Athletes on the Wisconsin team come from small, rural towns in Wisconsin, from cities in the Midwest, from ghettos in Chicago and in the South, and from large, northern, suburban communities. Wisconsin athletes are a diverse group politically and socially. One can find all types—radicals, conservatives, extroverts, introverts, and the other labels used to view society.

The situation is the same at other Big Ten schools, but the coaches are men who can put their players together as a unit and make them perform their best on the field. A coach like Duffy Daugherty at Michigan State doesn't use a Bryant system of football. A good coach isn't concerned about the image of his players and doesn't try to regulate their lives. Naturally a player must obey certain training standards, but Wisconsin's Walter, for example, will not try to tell an athlete with whom he can or can't associate. Walter could care less about the political attitudes on his team. His only concerns are for the athlete, and he wants his team to be happy on and off the field.

Unfortunately, the football coaches do not think the same way as a man like Rut Walter. Their influence over the football players is cruel, and the most disheartening aspect of the system is that they don't show concern for a player when he is not at Camp Randall Stadium. They think of him only in terms of his appearance in a football uniform.

Football players have been hospitalized and after their operations were completed, needed to spend time on crutches or in hospital beds. The Wisconsin coaches display an amazing lack of concern for a disabled player, and it's rare when they'll visit him in the hospital. At other schools, whenever a player needs surgery he'll always have one of his coaches by his bed trying to give him comfort or bring him items like books or magazines to ease the misery he's undergoing. This doesn't happen at Wisconsin.

Another sad fate is that of the athletes who don't play regularly. The football coaches concentrate their attentions solely on their first and second strings, and if a player is on the lower units, he's ignored. It's a common lament of a player to say, "The coaches don't give a damn about me. They hardly know I exist."

I have often noticed a tense attitude on the practice field among the players. As a result, many are not mentally prepared to play their best and this is mainly the fault of the coaches. I have seen players yelled at during warm-up drills for doing the wrong kind of push-up. Many have a fear of their coaches, and instead of respecting them, members of the football team hate or laugh at the men who are supposedly their instructors. Such situations

(continued on page 7)

on the spot

● by steve klein

Of Boycotts and Things

Wisconsin's track team competed in an invitational track meet at the University of Texas-El Paso last week. The meet, scheduled for Tuesday, April 16, had to be postponed a day when student black power advocates flooded the track.

On the day of the meet, two events, the 440-yard relay and the 120-yard high hurdles were interrupted when Negro students blocked the track. The meet was able to continue only under the protection of uniformed El Paso police.

The incidents at the UTEP track were used in order to force track and school officials at UTEP to re-instate nine Negro athletes on the Texas squad who left the team in protest of a meet at Provo, Utah, with Brigham Young University. The athletes refused to compete, because they had been told that BYU, a predominantly Mormon school, considered Negroes inferior and "Disciples of the Devil."

The source of this information was Harry Edwards, 25, leader of the Olympic Project for Human Rights. Edwards, a Negro, is a sociology professor at San Jose State College. He spends his off-campus hours advocating the boycott by Negro athletes of the summer Olympic Games to be held in Mexico City this October.

Edwards, a speaker for hire at $1,000 to $2,000 an appearance plus expenses, is making quite a personal killing making speeches advocating the Olympic boycott and black power.

Earlier this year, he called for a Negro boycott of the New York Athletic Club's 100th Anniversary track meet at the new Madison Square Garden. He set up a picket line outside the Garden, challenging any Negro who had not already pulled out of the meet not to cross the line. He threatened that any black athlete who crossed the line would "be in trouble."

"What value is it to a black man to win a medal if he returns to the hell of Harlem?" Edwards says. "They are only being used to further the racist attitudes of the U.S.A. We're not trying to lose the Olympics for the Americans. What happens to them is immaterial."

Two years ago the NCAA track championships were held at UTEP. Negro athletes who competed in that meet remember El Paso as a pleasant place where they experienced no discrimination.

There had been no reports of racial unrest at UTEP until Edwards' appearance and remarks. Then, seven Negro athletes, instead of first discussing the situation with their coach or school administration, bluntly stated that they would not compete against BYU.

The situation at UTEP is indeed unfortunate. The seven athletes have been joined by two others, and are no longer associated with the team, despite their efforts in the meet against Wisconsin. With those nine athletes, UTEP possesses what Wisconsin track coach Rut Walter considers the finest dual meet team in the country.

Wisconsin's track team is a tightly knit group. Any problems, Coach Walter states, are talked about among the group. There is no lack of communication that was evident in the situation at UTEP.

The tragedy, of course, is not UTEP's lost track status. Sports, especially collegiate sports, offer the Negro an equal opportunity in competition, an opportunity many feel is not present to Negroes in other fields. The nine UTEP athletes should have given their school an opportunity to solve the dispute. Instead, they chose a meaningless and damaging publicity splash.

Proposed Stadium Astroturf Shown To Cut Grid Injuries

A Monsanto Co. physician reported this week that his studies indicated it is safer to play football on artificial turf than on natural turf.

Dr. R. Emmet Kelly, Director of Monsanto's medical department, said a survey of 185 colleges and universities showed there were only 1.6 serious ankle and knee injuries per school where artificial turf is used compared with 9.6 per school on natural turf fields.

Wisconsin's athletic board recently voted to examine the possibilities of using Astroturf in the Camp Randall Memorial Stadium.

Dr. Kelly said his survey indicated that more than 50 per cent of all serious knee and ankle injuries are either definitely turf related or possibly due to the turf.

The physician said there were no surface-related ankle and knee injuries on three fields covered with Monsanto's Astroturf during 1967.

The fields studied are in the Houston Astrodome, the Seattle, Wash., Municipal Stadium, and at Indiana State University.

Kelly said on the basis of the 1967 experience with Astroturf, he calculated that had the three stadiums with artificial turf been covered with natural turf, there would have been about 30 injuries instead of the five reported.

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April 25, 1968

Report of AD HOC Committee on Mode of Response to Obstruction, Interview Policy, and Related Matters

Part Two:

University Discipline as a Mode of Response to Obstruction

I. Changes in the Structure and Procedure for Disciplining Students

II. Sanction Policy

A. Suspension, Yes; Expulsion, No
B. When are University Sanctions Justified?

1. Majority Statement

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In the course of our deliberations on the mode of response to obstruction, we have given considerable attention to the subject of disciplining students, a problem to which the Crow Committee devoted two subsections of its report, viz., Section III, Subsection 1, University Power to Discipline Individual Students, and Subsection 2, Structure and Procedure for Disciplining Students. In this, Part Two of our Report, we are concerned with those same issues, and in some respects recommend amendment of the Crow Committee proposals.

I. CHANGES IN THE STRUCTURE AND PROCEDURE FOR DISCIPLINING STUDENTS

Under this heading we have three changes to suggest in the Crow Committee proposals:

A. Faculty Election, Rather Than Administration Appointment, of Four Faculty Members of the Committee for Student Conduct Hearings

The Crow Committee has recommended that "there be established a Committee for Student Conduct Hearings to replace the present Administrative Division of the Committee on Student Conduct and Appeals. The membership is four faculty and four students, plus a chairman from the Law Faculty who votes only in case of a tie".

A new appeals body, called Committee for Student Conduct Appeals (CSCA) would "assume the present appellate functions of the Committee on Student Conduct and Appeals".

The Crow Committee recommends that the four faculty members of CSCH, as well as the chairman, be appointed by the Chancellor. This replaces a system in which administration personnel made up the trial body. We strongly support the principle that at least as long as the administration plays a "prosecutor" role, its role as adjudicator should be minimized. But we think the principle is better served by having the four faculty members elected by the faculty rather than appointed by the Chancellor. That is, the rule guiding the selection of the CSCA ought to govern the selection of the four faculty members on the CSCH. Four of the five faculty members of the CSCA are to be elected by the faculty from among nominees provided by the Faculty Nominations Committee. We recommend that the four faculty members of the CSCH (exclusive of the chairman) be chosen in the same manner. We suggest that the Wisconsin Student Association consider a comparable procedure of nomination and election in the choice of its four members for the trial body.

B. No Option to Have the Case Heard by Faculty Members Only

The Crow Committee has proposed that "In any case referred to CSCH, if the student whose case is to be heard so requests in writing at least 24 hours before the time set for hearing, the case will be heard and decided by only the faculty members of CSCH, with three faculty members required to constitute a committee quorum." (p. 27). We question the wisdom and justice of any proposal like this which provides the opportunity for the defendent to choose the panel of judges to hear his case. We know of no reason to permit it in obstruction cases, nor have any reasons been supplied for permitting it in other cases.

C. Limited Scope of an Administration Appeal to CSCA

The Crow Committee has indicated, on pp. 28-29, that either the administration or the student may appeal a decision of CSCH, and that CSCA has "authority to review the matter as completely as seems necessary, change the findings of fact, make its own judgment as to the seriousness of the conduct, and change or disapprove the penalty, and, on an appeal by the administration, may increase the penalty."

Perhaps the introduction of student representation at the trial hearing level prompted a desire for some counterpoise through this provision for an administration appeal. Nevertheless, bearing in mind that the possible sanctions can have a heavy impact indeed on the future of the person involved, we recommend (following one facet of the philosophy of Wisconsin criminal cases) that the only appeal by the administration should be on certain questions of "law", i.e., alleged deviations from any applicable requirements of constitution, statute, regulation, or committee rules. In particular, CSCA should have no power to increase a disciplinary penalty.

II. SANCTION POLICY

A. Suspension, Yes; Expulsion, No

The Crow Committee, on page 22, page 23, page 24 (twice) and page 25 (twice), refers to the sanctions of "suspension or expulsion". They present no argument on behalf of these sanctions, but understandably take them for granted as, in a sense, a time-honored formula. Since this University's mode of response to obstruction has specifically included the sanction of expulsion, we have given careful consideration to the question of the desirability of this sanction as a way of coping with the problems with which our own committee is concerned. More generally, we do not consider that the sanction of expulsion (as distinguished from suspension) is an appropriate response for any disciplinary problems which confront an educational institution. We have come to the unanimous conclusion that no argument justifies the employment of this academic equivalent of banishment, and we recommend that the University relinquish this power.

1. In our consideration of the question of mode of response to obstruction, we have examined carefully the proposition, advanced by many in the surrounding community, and even by some within the University, that the best way to cope with a crisis like that of October 18 last, is to single out the ringleaders, bring them before the bar of justice, and eliminate them from the scene by expulsion. The theory behind this, in the minds of many, is that social problems are caused largely or solely by evil individuals, that these individuals are hopelessly evil, and that the problems can be solved by permanently rooting out such individuals. We believe this approach to social problems has been completely discredited.

2. We are impressed by the fact that in the larger community, banishment is no longer acceptable. It is a relic of the days when such "cruel and unusual" punishment characterized many aspects of social life. Its disappearance as a method of solving social problems is a mark of progress toward a humane existence.

3. If expulsion is improper for society as a whole, it is much more so for an educational institution. The academic sanction formula of "suspension or expulsion" is essentially an anachronism, long overdue for reconsideration. Rather than create a repressive atmosphere in the relationships between the University and the student, we should strive for understanding and respect, without which our proper business cannot be conducted. We have no wish to pamper the lawbreaker; on the contrary we urge that University policy be consistently directed toward instilling in its membership a proper respect for the law. But we insist that such respect must be separable from fear. We are inclined to believe that the ultimate legitimation of institutional authority can be measured by the sanctions it believes it requires for its preservation.

4. We note that expulsion has been rarely used at this University--in large part, we suspect, because it is so offensive to us all. In our judgment it is even offensive to have such a repressive symbol in our regulations, even if we never use it. Yet so long as we retain it, there will be those who will exert pressure on us to use it, and we may not always be able to resist.

5. Any justification for the retention of expulsion as a sanction would seem to rest on a premise of human incorrigibility which is rejected in modern penology. Even a willful murderer, sentenced to life imprisonment, may become eligible for parole within a decade. It would seem especially incompatible with the nature and spirit of any educational enterprise to hold a view of incorrigibility which society rejects. We are indeed committed as an institution to the corrigibility of young persons; to expel is to admit complete failure.

6. What then is the case for suspension, as distinct from expulsion? Two important points may be made. In the first place, it is obviously possible for the institution to make a mistake in a particular case, especially in light of the strong passions associated with occasions calling for extreme sanctions, and the possible pressures from outside to impose the ultimate discipline. If we confine our sanctioning power to suspension, on the other hand, we are provided with the saving grace of a systematic review, in a more objective context, and for redress if appropriate. In the second place, the employment of suspension, as a period within which rehabilitation may occur, provides an incentive for good behavior during the interim, on the part of the offender. With expulsion there would be no such incentive, and indeed the expelled student could continue, in the capacity of non-student, to threaten the operations of the institution.

7. We anticipate the point that abandonment of expulsion as an ultimate sanction would represent loss of a deterrent to further misbehavior. We share the concern for the consequences of crimes against the university, and recognize the importance of sufficient, albeit humane, deterrents. But it is our considered opinion that this function would be fulfilled more than adequately by a sanction of suspension for a maximum of three years. Such a sanction would represent ample protection of institutional interests. Moreover, we remind the faculty that serious offenses remain punishable under criminal law, and by heavy sanctions, quite independently of the University system of justice.

* * *

Accordingly, we recommend that the possibility of imposing the sanction of expulsion be removed from our regulations, and that the maximum period of suspension be specified as three years. Furthermore, we propose that, whenever the sanction is suspension for more than one year, the student shall have the right, after the lapse of one year, to petition the CSCA for reinstatement, on the ground that his future conduct can be expected to be free of those aspects of his earlier behavior which gave rise to the suspension. We suggest that procedures to this end be established by the CSCP, (Committee on Student Conduct Policy).

We are confident that this will be widely viewed as a progressive and inspiriting step, and a reinforcement of our image as a university which has always been in the forefront of academic and social reform.

B. When are University Sanctions Justified?

1. MAJORITY STATEMENT

a. Modes of response to obstruction

Our committee has been charged with consideration of modes of response to obstruction. In the aftermath of October 18, 1967, there were many responses, and virtually all of them concerned the appropriate kinds of punishment to be meted out, and the tightening of regulations to ensure that there would remain no legal loopholes for offenders to slip through. The threat or actuality of punishment, verging on vengeance, was by no means confined to those who participated in the debacle at the Commerce Building; it cast a pall over almost all constituent parts of the University--over the students and faculty who protested the actions of the police by a one-day strike; over the non-resident students, who were identified unhesitatingly as the true source of the trouble-makers; over the Chancellor, especially when he exercised

discretion in deferring the return of Dow until the faculty had debated the interview policy; over the Regents, charged by the legislature with relinquishing too much of their power to the faculty; and over the University as a whole, through a comprehensive punitive threat to reduce the budget.

Thus the predominant reaction was that somebody--perhaps everybody--had to be punished. In considering the scope of our responsibility, we have given much time to the question of academic sanctions, because we believe that the quality of an institution is judged in part by the spirit and temper of its system of justice, and we find our faith in the liberalism of that system rudely shaken by the way it has operated at our University during this year of crisis. And yet we have been unable to devote the time it deserves to the question of a reconstitution of the relationships between the University and the student membership, even in the judicial area, because our attention has continually been diverted by the possibility of the passage of repressive legislation.

We regret most deeply that circumstances have impelled us to consider the problems of our campus so much from the standpoint of the university and the student as adversaries, and particularly the question of how to regulate and restrict the expression of moral outrage. In our judgment, the entire academic community, and this committee as a reflection of it, has been forced into a massive distraction from its reason for existence. It is most unlikely that the moral dilemmas of our nation which were the root cause of our campus crisis are soon to be resolved, and we find intolerable the prospect of any choice by the University to retreat from its proper responsibilities in the struggle for a just resolution of those problems. Somehow we must learn to commit ourselves to these challenges, and grow as a consequence of the encounters, rather than find ourselves shaken and demoralized by each new issue, pitted against one another, and forced to compromise the principles of our existence merely to ensure material survival.

The primary function of a University is to provide the physical and spiritual basis necessary for significant participation in a meaningful educational process. Any intelligent discussion of the proper modes of response to obstruction of University functions must be informed by the overriding consideration of the nature of the educational process whose furtherance the University is designed to protect and encourage. Rather than attempt to anticipate all possible kinds of obstruction that could conceivably arise, rather than strive to articulate a detailed list of punishments fitted to a table of crimes of diverse degrees and magnitudes, rather than treat the concept of obstruction as if it were separable from the moral needs that underlie its employment as a political tactic, rather than attempt to pinpoint the very meaning of obstruction by means of sterile definitions that ignore the reasons why men sometimes feel the ethical imperative to engage in illegal acts, we think it far more constructive to formulate basic principles that may serve to delineate that mode of response which is proper to a University. Perhaps the most important principle is this: A University that loses the confidence of a significant proportion of its student and faculty members has lost its reason for being, the protection and encouragement of a meaningful educational enterprise.

During the course of our deliberations, we have reviewed numerous reports dealing with these problems, prepared at the University of Wisconsin and at other major educational institutions across the country. We found many of these efforts disappointing. In most we detected such concern for the protection of institutional interests that academic questions were neglected. Little attention was devoted to individual growth, maturation, and development or to ways of encouraging responsible social action on the part of members of an educational community. And we found little discussion of the fact that universities--their students and faculties--are asked to assume a role of leadership in our society, an omission which is especially striking in this time of increased access to higher education and of pervasive social and political turmoil. Protection of the interests of the university at the cost of stifling the forceful challenge and response, the committed and critical interchange that are so important to an educational institution, is no protection at all. To destroy what we value in the name of protecting it is to fail as professors, as students, and as citizens. Our response to the dilemmas of our campus must not be the short-sighted one of safeguarding the institution whatever the cost and whatever the means, but rather the reestablishment of a shared sense of values and goals, the restoration of understanding and trust, and the reaffirmation of the cooperative nature of our endeavor.

We are firmly convinced that the University should not rely primarily upon the imposition of academic sanctions as a response to demonstrations, even when those are obstructive. We note with regret that the problems at the root of obstructive demonstrations so often seem to be evaded and ignored by most of the faculty, the students and the administration as long as the efforts to bring them out in the open for discussion take a respectable and peaceful form. The first preventive response to an issue which may provoke obstruction is confrontation of the issue itself, rather than confrontation of the persons raising the issue.

Another response to demonstrations should be provision of a meaningful role in its decision-making processes for all members of the academic community. In this regard, we support the statement in the recent report of the Ad Hoc Committee on the Role of Students in the Government of the University (Crow Committee), favoring "an increasing student participation in policy discussion and decisions." And we concur, in this regard, with the Wisconsin Student Power Report, which moves further in the same direction.

A third response should be the reinforcement, both in principle and in structure, of continuing consultation within the educational community on matters of community-wide significance. The Crow Committee report includes several useful recommendations in this regard. We view with considerable concern the continuing evidence of failure on the part of the Regents and the administration to consult with representatives of the faculty and the student body on matters of such importance for the entire academic community as rules governing the conduct of political activity on the campus. If consultation among all members of the educational community is to have a convincing meaning, it must continue during crises as well as if not more than in normal times. And never should the University allow itself to lose contact with dissidents regardless of the provocation.

Furthermore we need flexibility in the University's response to demonstrations and obstruction. We have been too prone to operate as if the sole available response to obstruction is force. In hindsight it is clear that massive confrontations do great harm to the University. We must remind ourselves that a great university must be a resilient institution. The consequences of a delay in some particular scheduled activity, or its relocation, are far less serious than those produced by forceful confrontation. The spectacle of the University set against a substantial segment of its faculty and students is an ugly and unnecessary one, and we must be more zealous and energetic in avoiding it in the future.

We have spoken only in general terms of several kinds of response to obstructive demonstrations. It would not be possible to list all possible responses, nor would such a list be consistent with the flexibility that is important to the University. Surely the University does not suffer from a shortage of the resources of ingenuity or inventiveness. Our concern is not to list alternative responses, but to emphasize that the use of University sanctions is at best an extreme response, and one that should be employed infrequently indeed.

Another way of responding to the problems of student membership in the academic community is to establish the position of University Ombudsman. Mingled among the more substantial issues involved in campus demonstrations are discontent and frustration stemming from the administrative complexity and bureaucratic impersonality that are associated with the modern multiversity. Although we recognize that there are already various channels of communication through which problems of this sort can be treated, and various University officers who have attempted to ameliorate some of the unfortunate situations that have arisen in the past, we believe that the entire University community would benefit from the appointment of a University Ombudsman.

The University Ombudsman, an office that might best be shared among several faculty members, provided with student assistance and secretarial resources, would be charged with the investigation of alleged unfair treatment, acting upon complaints brought by any member of the educational community. This office, which might be established for an experimental period, would require from the administration the authority commensurate with its responsibilities, but in order to function effectively it should remain separate and distinct from the University administration. The focus of its attentions would be very inclusive, but problems more appropriate to the Faculty Advising Service, or to the University Residence Halls, or to some other particular agency would normally be referred to the agency involved. The major function of the Ombudsman would be investigative, but his powers would be sufficient to intervene on behalf of an individual entrapped unjustly within the bureaucratic thicket.

Although further study is needed to establish the detailed structure of the Office of the University Ombudsman, to delimit its powers and responsibilities, and to determine the composition of its staff, we believe that the creation of a University Ombudsman would be a major positive response to some of the student and faculty discontent and frustration rife on the campus of the University of Wisconsin.
Accordingly,

Recommendation 1: We recommend that there be created a University Ombudsman, and that the University Administration, in consultation with the University community, take immediate steps leading to the establishment of the structure, the delimitation of the power and responsibilities, and the determination of the composition of the University Ombudsman.

b. <u>University sanction policy</u>

After the events of October 18, a great deal of the attention of the educational community was directed toward debate over the legitimacy and appropriateness of the imposition of University academic sanctions (probation, suspension, expulsion, and refusal to readmit), and it was to this matter, sanction policy at the University of Wisconsin, that the Committee devoted a large part of its attention. Although our primary consideration was the imposition of University academic sanctions in cases of obstructive demonstrations, our deliberations have led us to recommend a policy that has wider-reaching implications. Accordingly, the discussion that follows, is not strictly confined to situations of obstruction

The events of the past several semesters have made it bluntly obvious to the University, and to the public at large, that current University sanction policy is, at best, confused. The very nature and sources of authority are in dispute. Even within the University there is continuing discord over the standards for acceptable behavior, over the formulating body for such standards, and over the interpreting body for such standards. This imbroglio has increased the strain on the University's relations with the Wisconsin Legislature, the Federal Courts, Madison administrative and police officials, and the general public.

The standards and enforcement procedures currently in use were designed for a much more limited range of violations than that for which they are being employed. They were formulated to

provide a firm-but-gentle paternal guiding hand for students involved in antisocial behavior. The presumption was that in most cases the unacceptability of the behavior will not be in dispute, that the student involved by and large prefers to cooperate with the University or can be coerced to do so, and that all interests are best served, including those of the student involved, when the matter is handled within the University and when both the University and the student involved are shielded from sanctioning agencies external to the University. They involve a confusion of the role of counselor with that of investigator-prosecutor, and the confusion of both of those roles with that of the judge-enforcer. The underlying sense of these rules is to treat the student-citizen in all cases first as a student and only second as a citizen. In addition, it has become apparent to the Committee that several of the improvements recommended in the Remington Report, a document with not insignificant influence on sanction policies on other campuses throughout the country, have not been implemented on own own campus.

It is perhaps pertinent to mention here several of the more outstanding difficulties of our current sanctions policy. The limited variety of sanctions available make it difficult to deal with situations in which a slap on the wrist (probation) is ineffective and banishment (expulsion) is inappropriate and overly harsh. The increasing importance of higher education and the trend toward much freer access to it render even temporary banishment less desirable. When harsh sanctions are available to the University, there will in times of crisis be strong pressures, both from within and without, to employ them. On occasion, this indeed puts the University into the position of acting as an agent of social control for the larger community. When students engage in political action on the University campus, situations of exposure to double jurisdictions with duplicate sets of sanctions become more frequent and political expression is consequently inhibited.

Our present sanction policy is one of the many contributing factors leading to the current turmoil in which the University finds itself; its application after the events of October 18, 1967, has exacerbated the tension, the lack of communication, and the risk of recurring crises, felt at the University.

The current period in our history, is not only one of sharp division over national policy and university policy, but also one of testing and experimentation, of challenges to traditions and norms. Increasingly, universities, especially large public institutions, cannot afford and are not willing to segregate themselves from the larger community. They are both encouraging and becoming centers for commitment and social action. No one any longer defends an in loco parentis posture for a modern university; nevertheless there is a residual paternalism in many responses of this university.

In this period of challenge to traditions and norms, individuals seeking to challenge authority structures have rendered civil disobedience commonplace, and they have begun to make extensive use of the legal machinery available in our society. Litigants have already successfully challenged the lack of due process and the imposition of unconstitutional conditions in university sanction policies. It is likely that the behavior of inquiring and critical students will be aggressive and occasionally intransigent.

Clearly, a university committed to the encouragement of responsible criticism and decision-making as a fundamental part of the educational process and to the promotion of social and civil responsibility, must face squarely the problems resulting from the political action in which some members of the educational community are engaged, and must do so with something better than a system of sanctions created to deal with panty-raids, boisterous pranks, and minor theft.

c. Recent discussions of University sanction policy

Recently at this University, the Crow Committee, in response to the initiative of the WSA Student Power Report, has sought to deal with some of these problems. Since the report of the Crow Committee has been distributed to the University community, we have thought it appropriate to comment on some of its findings. We were unanimous as a committee in suggesting several amendments to the Crow Committee Report (see I above), including the unanimous recommendation that the sanction of expulsion, based on a notion of incorrigibility wholly inappropriate in an educational setting, be eliminated in favor of suspension for a maximum period of three years.

We comment here on Section III, Subsection 1, of the Crow Committee Report, dealing with University power to discipline individual students. The conclusion of that report, a conclusion essentially supported by the minority of this Committee, was that

> University discipline should be imposed only for intentional conduct which (1) seriously damages or destroys University property, (2) indicates a serious continuing danger to the personal safety of other members of the University community, or (3) clearly and seriously obstructs or impairs a significant University function or process. Individual behavior that does not come under these restrictions is not a matter for University discipline.

In defining those situations appropriate for the imposition of University sanctions, the Crow Report emphasizes the interests of the institution to the point of neglecting the interests of the student involved. In recognizing the interests of the institution, the Crow Report fails to give adequate attention to the availability of alternative means for protecting those interests.

The wording of this recommendation in the Crow Report would seem to create problems for administration of the sanctions policy, and for defense of it in court, because of its broad and vague character. "University function or process" would seem to encompass all activities to which a University label might be attached. The formulation "seriously obstructs" is also troublesome, in that it may be taken to mean merely obstruct in the sense of definitive prevention, or to mean that there were serious acts associated with the obstruction, or to mean that the obstruction was considered serious because of the character of the activity being obstructed. The addition of the category "impairs" would seem to create even more difficulties; even the presence of a legal demonstration might be considered by some to impair an activity.

The Crow Committee Report differs from the Remington Report, the source of the recommendation cited, in one important regard: the scope of the activities to be protected from obstruction by academic sanctions is enlarged from "the educational process" to "a significant University function or process". The minority of our Committee, in discussing this point, leave the impression that, had the Remington Committee addressed themselves to the problem, they would have recommended likewise. On the basis of a careful reading of the Remington Report itself, we doubt it. Problems of violations of the law in connection with political activity are specifically discussed in a subsection of the Remington Report separate from that dealing with offenses for which academic sanctions are permitted. Indeed they specifically state that such violations, on or off campus, ought to be dealt with "by public authorities", and again "by duly appointed investigation, prosecution, and judicial agencies which are equipped and competent to deal with the very complex issues which may be involved". It is quite clear from their text (as well as from the events of this past academic year) that the University is not considered to possess such agencies.

The reason for discussing the Remington Report here is that Chancellor Fleming, in the spring prelude to the incident of October 18, declared that Report to be the basis for administration of academic discipline. In our opinion, the imposition of academic sanctions on obstructors of the Dow interviews has not been defended on the grounds that they interfered with "the educational process". Here we have a case in point of an improper response. The Crow Committee has appeared to be responding favorably to the WSA insistence on abondonment of the in loco parentis posture, but in fact it has introduced a specific change which would move the University back toward such a posture, in the sense that it would restore the all-pervasive character of the University's relationship with its students. In specific response to the problem of obstruction, the minority of our Committee has chosen to support the Crow Committee amendment, and enlarge the scope of academic discipline to cover all political activity on the campus which is obstructive. We regard such responses as regressive and repressive, and urge that they be reconsidered.

All of the documents which we have examined concerning the direction the University should adopt in this area have purported to abandon the in loco parentis posture. Thus the minority of our Committee proposes that we think of the University not as a family but as a community. Appealing though this sounds, the particular community turns out on reflection to resemble a family in several crucial regards. Our University community is in fact an authoritarian structure, like the family, whether or not the authorities choose to act in a benevolent manner. Legislation is the responsibility of one part of the community; the object of the legislation is another part. The minority advocate the "community" model "for all the reasons that responsible self-government and relative freedom from outside interference...are desirable in an educational institution." We assert that responsible self-government for all citizens of our community does not exist, and we offer the evidence of the past academic year for the further assertion that our freedom from outside interference is quite inadequate.

We find the following statement from the Report of the Study Commission on University Governance, University of California, Berkeley, to be compelling: "When students bow to the qualitative judgments of their instructors...the premise which induces and justifies such submission is a scholarly one which rests upon the subject-matter expertise of the evaluator... Such natural authority does not extend beyond the limits of the scholar's specialty.. We think students today distinguish, intuitively at least, between the natural authority which stems from scholarship and the misuse of that authority which stems from status. One cannot expect academic status of administrators or the claims of academic or administrative expertise to provide legitimacy for decisions in such areas as lock-out hours for a dormitory, the penalty for stealing a book from the library, or the size of a political poster allowed to be displayed on a plaza or bulletin board.

"If the authority derived from academic or intellectual relationships cannot be used to justify authority imposed upon students in these auxiliary areas, the only other possible source of moral authority stems from the fact that students are younger than faculty members and deans, and that administrators may therefore stand in loco parentis for these not-quite-adults whose capacity for responsible judgment is not fully developed. We believe that such paternalism is anachronistic and should be forthrightly disavowed...We find it strange that college students as a class are treated as if they require a longer period of maturation in a protected environment than do non-students of the same age.

"A Canadian commission has declared that 'University students ask to be treated as adults, and it is fitting and fortunate that this should be so.' We agree with this statement and we believe there are compelling reasons to act upon it, reasons which far outweigh the risk that students will act improvidently or that the University will thereby alienate that minority of parents who wish it to perpetuate their own supervisory role. ... If we are asking the student to question, to substitute reason for habit or

prejudice in the determination of how he is to use his life, then it seems unduly suspicious and aggravating to subject him to restrictions on either his private or political life more onerous than those applicable to his peers who are not in college."

The second broad difficulty with the sanctioning system proposed in the spirit of the University as a community, which again makes the community look suspiciously like a family, is the breadth of discretion the authorities have available. At present it is for them to decide whether or not to use academic sanctions against an offender, and also whether or not to bring a civil complaint which could lead to criminal sanctions. The discretion resembles that of the parent faced with an unruly son, or the judge in juvenile court. A substantial proportion of the students exposed to such discretionary authority are in fact adults, and many of those who are not yet 21 are exposed to the adult responsibility of compulsory service in the armed forces.

The minority applauds discretion because it permits the injection of wisdom into the process of judgment; they fail to perceive the extent to which the problems of our campus are continually aggravated by the circumstance that the students see this discretionary role as placing them at the mercy of the administrator. Furthermore, the availability of discretion provides a tempting opportunity for pressure groups, apprised of activities on campus of which they disapprove, to bully the administrator into a tougher decision than he might otherwise make. We should anticipate attempts at interference whenever the offense is ill-defined, and the appropriate punishment left to the discretion of the administrator. We think it not unlikely, moreover, that the interests represented by those pressure groups will be predominately nonacademic in their emphasis. We doubt that the strident insistence on expulsion for the obstructors, in the days following October 18 last, was motivated by concern for the interests of the University. So long as we retain the discretion to employ, against unpopular political expression, sanctions which are unavailable to the surrounding community, we will feel pressures to use those sanctions, whether or not they are appropriate to the situation, and whether or not the response is appropriate to a university.

We are not suggesting, of course, that discretion ought never to be exercised by the University in dealing with offenders. We are merely pointing out that discretionary power can be dangerous, and indicating the wisdom of limiting its use if at all possible to do so. The University is not required, under our recommendations, to deal with complaints against members of its community in a mechanical fashion. Not every case that brings the accused under the law's shadow is a prima facie case against the accused.

One area of discretionary judgment is left completely unspecified by the Crow Report, and by the minority contribution to our Committee: the criteria by which the University decides whether or not to bring a civil complaint when there has been an infraction on campus of civil law. The minority of our Committee propose that use of University sanctions be permitted in an aggravated situation "regardless of whether criminal sanctions are also sought" but does not say when the University should seek criminal sanctions. They propose that University sanctions not be permitted in unaggravated situations, but recommend that the University "rely upon and cooperate with criminal law authorities"; again it is not clear what the University should do about bringing a civil complaint. In defining the University's options of employing academic sanctions, it is clearly insufficient to identify those actions which may call forth such sanctions if the University also has the option of bringing a civil complaint, and the latter eventuality has a bearing on the likelihood of the former. This is a clear-cut case of a general failing of the Crow Committee Report and the minority contribution to our Committee Report: neither give adequate attention to the availability of alternative means for protecting the interests of members of the University community. Such vagueness, in association with the broadness of the proposed regulations, can only exercise a chilling and intimidating effect on students who feel morally impelled to engage in political activity.

We support the general trend embodied in the Remington and Crow Reports, and in the WSA Student Power Report, toward the limitation of the intervention in the individual activities and conduct of students. We suggest that the University should be concerned, in the imposition of academic sanctions, only with its academic relationship with its students. And further, we suggest that in considering the adoption of some specific policy or rule to protect the educational process, the University must bear in mind the following: that rules and the machinery used to enforce them must be reasonably related to the protection of the educational process; that the importance to the individual student of the activity forbidden him by the policy or rule must be considered in relation to the interest protected by the policy or rule and in relation to the sanction imposed upon him if he violates the policy or rule; that alternative means to safeguard the interest in question may be available; and that higher education is of such incalculable value that only in extreme situations should it be denied to a qualified individual.

Too much of the current discussion of University sanctions has concentrated on their deterrent and punitive effects. As a consequence we are in danger of losing sight of the basic goals of sanction policy. Our concern must be with the growth of the intellectual and critical faculties of our students, with the encouragement of inquiring minds and critical attitudes, and with the maturation and self-realization of individuals. It is inconsistent with these goals that a University be punitive; and, certainly, there are agencies in our society far better suited to that task.

Sometimes a university may be required to exclude some individuals in order to protect its educational process, but such exclusion should be only a last resort, and, in any case, should be considered a serious failure of the educational process.

d. Alternative bases for a sanction policy

In searching for alternative bases for a University sanction policy, we have found it useful to differentiate the various roles of the University. In many circumstances, the University is a landlord and restaurateur (as well as social organizer, athletic coordinator, and so forth). In this role, the University offers its students and faculty many valuable services difficult to obtain elsewhere, and in doing so its relationship to its students is that of an agent to a client. In other circumstances, the University serves as a licensing agent, certifying that individuals associated with it are competent to assume a variety of roles within the larger society. This, too, is an invaluable, and indispensable role for the University, but in this licensing role the relationship of the University to its students is characterized by bureaucratic formality and administrative impersonality, characteristics very different from the challenge and excitement of the academic relationship.

In many other circumstances, those with which we are most concerned, the University is a provider and manager of educational experiences, and it is in this role that the University is differentiated from all other agencies in our society. It is in this academic relationship that the University is a community, and is most competent to judge acceptable and unacceptable behavior; these characteristic activities are the ones that can be best protected by the use of University academic sanctions.

To differentiate among these roles is not to say that we regard any of them as unnecessary, irrelevant, or necessarily harmful to the University. But we do differentiate among them to note that in each of these roles the University has a somewhat different way of operating, and a different way of relating to its students. In light of all of the above comments, we believe that this differentiation enables us to delineate more clearly those areas in which University academic sanctions may judiciously be imposed.

It seems clear that the interests of the University as landlord and restaurateur can be adequately protected by existing criminal and civil law. Theft, destruction of property, nonpayment of bills, gate-crashing, homosexuality, and neurotic and psychotic behavior are not problems peculiar to a university, and are commonly dealt with in our society. While it would seem perfectly legitimate for some service unit of the University, such as the Residence Halls, to deny an individual access to its services when his behavior does not conform with its standards, this should not, in our judgment, have any reflection on his continued association with the University. We see no need, therefore, for a special category of University sanctions to protect University property or the safety of members of the University community.

We believe, also, that for the most part the University's role as a licensing agent is adequately protected by the grading system, by the power to confer degrees, and by certification to licensing boards. Destruction of University records is analogous to the destruction of city and county records, and both can be protected adequately without the use of University academic sanctions.

What, then, are areas appropriate for the imposition of University sanctions? We believe that there are several aspects of the operation of the University in which only the University is competent to judge acceptable and unacceptable behavior, and we recommend that University academic sanctions be limited to these areas.

We regard the classroom, the laboratory and the lecture (and other forums, debates, and the like) as the activities most critical to, and most characteristic of, the educational process. We believe that in these areas the University is most competent and best equipped, by use of the range of academic sanctions we discuss below, to safeguard the educational process. We assert this in order to maximize the latitude of behavior deemed acceptable while protecting the opportunity of others to learn. For example, in a public lecture, the University is best able to ensure that vigorous challenge from the audience is not confused with disruptive behavior, that the former is protected, and that the latter is prevented.

e. Recommendations

We urge, therefore, that University academic sanctions be employed only when it is necessary to do so to protect the access of all members of the University community to the educational process, and only when alternative safeguards to this access are demonstrably inadequate. It seems to us, further, that an individual should be excluded from the University only when his presence presents a clear continuing danger to the access of members of the University community to the educational process. We recognize that there may be some cases in which activities not directly part of the academic relationship may need to be protected by the use of University academic sanctions. For example, if the University is to have a judicial system, it must have available some contempt of court procedure to insure that the system will be able to function.

Some further clarification is in order. We believe that the University should use its sanctions only in those areas in which it is most competent to differentiate acceptable from unacceptable behavior, and in which other available safeguards are inadequate to protect those interests peculiar to the University.

In order to expand the variety of sanctions available to the University, we propose that University rules be altered to permit the exclusion of individuals from units and services within the University without necessitating exclusion from the entire University. That is to say, it should be possible to exclude an individual, when necessary, from a particular university activity such as a class, lecture, or forum, and to suspend him from a department or college, without suspending him from the University. Since the behavior from which we need protection is specific to these situations, we should have some way of dealing with such behavior at the appropriate level. Only the infrequent occurrence of repeated infractions threatens, and, therefore, need concern the entire University. Just as a student whose academic performance is not satisfactory in one department may succeed in another, so may a student who does not conform to the standards of behavior in one program conform to those of another. Only when there is evidence of continuing unacceptable conduct, and when there is clear likelihood that such behavior will continue, need an individual be separated from the entire University.

We note that the safeguards of existing criminal law are adequate in many areas of concern to us. For example, obstruction (unlawful assembly) may be subject to a maximum penalty of one year in jail and a fine of $500. Surely the University need not add its sanctions to these to safeguard placement interviews or any other activity obstructed.

We must presume to deal with a community of rational individuals. Our proposed sanction policy should be adequate to protect the interests of the University in such a community. No possible sanction policy can protect the University from the occasional madman who may enroll here. A sanctions policy directed primarily toward such individuals would surely do injustice to the majority of individuals against whom it was applied.

And we note, finally, the need to consider the protection of University interests in the light of our guarantees of equity and freedom of expression to individual citizens who seek to challenge, to criticize, and to confront their governments. The University environment is by nature a somewhat chaotic one. Intellectual ferment and turmoil need not and must not be sacrificed to maintain order on the campus. Under the policy proposed here, exposure to duplicate sets of sanctions would be very rare, if they ever occurred; consistent with this policy would be action by the University to ensure that individuals in such situations of double jurisdiction not be forced to contest charges in both jurisdictions simultaneously. Accordingly,

(Recommendation 1: See under "a" above)

Recommendation 2: We recommend that University discipline be imposed only where intentional conduct clearly and seriously impairs access of members of the University community to the educational process, and alternate safeguards to this access are demonstrably inadequate.

Recommendation 3: We recommend that an individual be suspended from the University only when his behavior and attitude are such as to indicate a continuing threat of impairment of access to the educational process.

Recommendation 4: We recommend that Faculty Rules be amended so as to permit the exclusion of students from units and services within the University without necessitating exclusion from the entire University.

Recommendation 5: If some particular behavior is prosecuted in a criminal court, the University shall normally accept the court's judgment as full disposition.

Recommendation 6: We recommend that in those rare instances in which an individual is liable to the imposition of both University sanctions and those of another authority for some particular behavior, University policy be that he not be forced to contest simultaneously both sets of charges.

We emphasize again that sanctions are to be considered as only one, and the least desirable, of several possible University responses to obstructive demonstrations. We assume that our prefatory comments and these recommendations will be interpreted such that, when the imposition of University sanctions is deemed necessary, they will be imposed at the level of the smallest appropriate unit within the University, and that exclusion from the entire University will be, as it has been in the past, very rare. We also assume that University policy on admissions and readmissions will be made consistent with University policy on sanctions.

We note in passing that, should it be discovered that there is some activity that takes place on campus, not directly related to the educational process, but not adequately protected by existing criminal and civil law, it is possible to formulate rules, for approval by the Board of Regent Rules, subject to enforcement in county courts, with monetary and jail penalties rather than academic sanctions. This course of action would permit the University to deal wisely and equitably with campus political activity, for example, since it would not discriminate, either in conduct permitted or in sanctions imposed, between students and non-students.

We believe that our proposed sanction policy will place this University in the vanguard in dealing with the complex problems arising from the changing role of students in university and community affairs. We realize that changes of the sort we propose involve some risks to the University, but we believe that they involve fewer risks than alternative positions. The likely benefits to the University are sufficiently important to warrant the risks involved.

f. Criticism of these recommendations

We have ourselves suggested and discussed a number of possible objections to these recommendations, and we think it appropriate to discuss the major objections here.

It is argued by the minority of our Committee that our proposal lacks support among others who have been examining university sanction policies. While we do believe, as we have already suggested, that our proposals would put us in the vanguard of educational institutions, we should also note that proposals of this sort have in fact received substantial support. In its "Statement on The Academic Freedom of Students", the American Association of University Professors asserts that "Faculty members and administrative officials should insure that institutional powers are not employed to inhibit such intellectual and personal development of students as is often promoted by ...their exercise of the rights of citizenship." The A.A.U.P. also asserts that "...institutional authority should never be used merely to duplicate the function of general laws. Only where the institution's interests as an academic community are distinct from those of the general community should the special authority of the institution be added." (Emphasis added) The A.A.U.P. further suggests that "...such vague phrases as 'undesirable conduct' or 'conduct injurious to the best interests of the institution' should be avoided. Conceptions of misconduct particular to the institution need clear and explicit definition." This language is almost identical to that in the "Joint Statement on Rights and Freedoms of Students", approved by the U.S. National Student Association and the Council of the American Association of University Professors. That statement asserts that "...the student should be as free as possible from imposed limitations that have no direct relevance to his education".

It may be argued that while classroom activities and lectures are clearly essential and dormitories and athletic events clearly peripheral to the educational relationship, there may be some activities which come between the two. We recognize that considered judgment (as by the panel of students and faculty recommended in the Crow Committee Report) will be necessary to interpret any policy recommendation. We are unwilling, in order to obviate the need for this judgment, to attach to all functions and processes of the University the protection of academic sanctions. Whether or not some activity disrupted were more or less central is a question of only modest importance when repetition of such disruption (not subject to criminal law and coupled with the clear likelihood that such disruption will continue) necessitates proposing the suspension of an individual student.

It may be argued that civil and criminal law provide insufficient protection to the University's interests. At best, the question of deterrent effect, which may vary with attitudes and circumstances, can be determined only by experience. We note, however, that a possible $500 fine and one year in jail would seem sufficiently severe to deter obstructive activity. Furthermore, the machinery of criminal courts is perhaps better able to deal with repetitive behavior than is the University. Suspending a student by no means guarantees that he will not return to the campus; to put him in jail would certainly do so. Moreover, we must consider deterrence along with equity, and we should adopt a posture which results in similar treatment for student and non-student demonstrators. To do otherwise is to suggest that students, simply by virtue of being students, have a greater obligation to obey the law or to refrain from protesting than other citizens.

Some may argue that students have responsibilities beyond those of other citizens, and that these responsibilities include obeying the law more carefully than other citizens. Students indeed have responsibilities in addition to those of other citizens, but these relate to their academic performance, and not to their public behavior.

It may be argued that parents, and citizens in general, wish the University to take its students in hand and to maintain their discipline and decorum in non-academic matters. This, of course, is the position of in loco parentis, and to surrender to it is the very antithesis of encouraging maturation and the assumption of responsibility. To provide special protections for students involved in illegal activity would be unjust. To add sanctions on top of those of the criminal law is equally unjust and would unnecessarily restrict the behavior of one group of citizens in our society.

It may be argued that the imposition of University sanctions for certain kinds of behavior will protect students from the harsher treatment they may expect to receive from municipal and state law enforcement officers and courts. This is, of course, the other side of the coin of in loco parentis. The reasons adduced for special protections for students from the criminal law are precisely those used to urge special restrictions on student behavior. They assert that students are not quite adults, that they cannot be expected to act like adults, and that they are therefore not to be treated as adults. We believe that this view is an anachronism. Moreover, this sort of shielding may in fact be a guise for a University posture even less consistent with our educational goals. When the University alternates between friend and enemy of the student, when, in return for non-prosecution of misdeeds, it encourages spying and reporting on other students, it undermines the trust necessary to the educational interaction for which a University exists. And finally, since our society determines at what age an individual becomes

an adult, it is inappropriate for the University to insist that an individual considered by our larger society to be an adult be considered otherwise by us.

Some may view these recommendations as leading to a greater role for Madison police on the campus. We have been discussing the imposition of sanctions, and not procedures for arrest, forcible removal, and the like. Unless instances requiring arrest and forcible removal increase, University police (the Department of Protection and Security) will continue to be sufficient to police the campus; when instances of mass demonstrations requiring arrest and forcible removal do occur, supplemental force may be needed, regardless of the sanctions subsequently imposed.

It may be argued that our proposals would call for a more extensive and complex University judicial system than presently exists. We are in agreement in principle with the recommendations of the Crow Committee regarding improvements in the University judicial structures, and we have offered some amendments to their recommendations. We strongly agree that counseling and prosecuting must be separate functions, and that students must be represented on judicial panels. Therefore, we believe that a considerable refurbishing of the University judicial system is in order, regardless of alterations in sanction policy, and we believe that the structures envisaged in the Crow Report will be adequate to handle whatever cases may arise under the policy we recommend. We would regard it as unfortunate for the University to commit substantial resources of time and energy to the process of adjudication, not only because it is a substantial diversion from our main task, but also because it threatens directly the accomplishment of that task, by continually counterposing the University and its students in adversary relationships, a posture which is inconsistent with the most elementary principles of effective educational interaction.

It may be argued that our proposals would encourage greater external interference in the affairs and governence of the University. In fact, however, rather than restraining the impact of outside interference on campus, employing academic sanctions to protect all University processes and functions may have the opposite result. If we assert our ability to deal with certain kinds of behavior and are then unable to do so effectively through the use of academic sanctions, outside influence is not restrained, but invited. In other words, if we have the capacity to discipline individuals who obstruct CIA recruiters on the campus, and if even our most severe penalties or the penalties we decide to impose do not deter that activity, we invite interference. We suggest that there are many kinds of activity that it is neither advantageous nor possible for the University to deal with. The sooner we accept this fact, the more rational, and, therefore, the more protective of the University's interests, our responses will be. We should not demean ourselves by bowing to fears of outside influence in transforming the University into a general agent of social control. Unimaginative responses to legitimate challenges, even if they succeed in momentarily minimizing outside interference, will be of little use if they foster conditions that devalue the educational endeavor and lead to continued confrontations and crises. It is just and appropriate that the Wisconsin Legislature and the Board of Regents concern themselves with University and campus activities, as is their mandate in state law. And it is just and appropriate that the faculty and the students concern themselves with the nature of the academic enterprise.

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For the Majority

2. MINORITY STATEMENT

This Committee has an interest in sanction policy because sanctions are part of the "response to obstruction". We are not specifically concerned with sanction policies applicable to the whole spectrum of student misconduct (theft, narcotics, sex offenses, etc.), but with those applicable to obstruction--though some of the principles we consider may well have broader application.

a. The diverse views on sanction policy

The sanction policy we recommend for dealing with obstruction falls between two undesirable extremes.

(1) On the one hand is the extreme form of "in loco parentis" approach which would give the University the all-encompassing disciplinary role of a parent toward a minor. This approach would include such University attitudes as these: emulating the strict "disciplinarian" parent and adopting a policy that University sanctions will automatically apply whenever, and because, the student has been convicted of a criminal offense; or playing the strict role again by applying sanctions to deviations from an undefined "high standard of conduct", as our Student Handbook 1967-68, p. 11 puts it--a standard which is described as being "in addition to the civil code and specific regulations of the University". (Probably this provision was thought necessary because there are so few specific University regulations; a University code of student conduct is yet to be written.)

We should note that "in loco parentis" is sometimes also applied to situations where the University is playing the role of indulgent parent by making itself a "sanctuary" from law enforcement officials (i.e. persuading them to forego criminal sanctions, either regularly or in particular instances, pursuant to the understanding that the University will apply its own sanctions--which then turn out to be inconsequential). Where the University does not use such an arrangement to allow serious misconduct to be followed by inconsequential university responses, the use of the term "sanctuary" in criticism of the arrangement is less appropriate.

(2) The other extreme is represented by the WSA view presented in the "Student Power Report 1967". This rejects the notion of the "sanctuary", and it rejects the strict approaches as well. Viewing students as adults to be treated the same way as non-student adults, it asks both that there be no special favors and that there be no special burdens merely because they are students—except in one respect. The Report regards University administrative sanctions as proper in the field of "academic participation"--presumably in such matters as deficient grades or academic cheating or plagiarism. In this view, student conduct violating the criminal law is not to be the subject of separate University prohibition and University punishment; and "the University may only take sanctions against the student based on his academic participation", says the Student Power Report.

A more sophisticated variant of this position takes account of the fact that pertinent criminal law sanctions include not only those in the state statutes on unlawful assembly or disorderly conduct but also those in the state statutes which make violations of Regents' rules subject to criminal misdemeanor penalties (to be imposed, as in the case of the other and heavier criminal penalties, by a court). Some would say that if alleged obstructive conduct is covered by Regent rules, these lighter criminal penalties applicable to violations of such rules should generally be the criminal sanctions to be invoked, in preference to the heavier criminal sanctions. And there would be no administrative sanctions (e.g. probation; suspension) except where academic deficiency, cheating or plagiarism is involved.

(3) In between the two extreme positions described, more than one middle position is possible. While there is considerable and growing agreement that the "in loco parentis" approach in its extreme form should be rejected, and general agreement that administrative sanctions are permissible on matters of academic competence, there is real disagreement on the extent to which conduct already covered by the criminal law should be subject to administrative sanctions.

Some argue for example, that this area for possible application of more than one type of sanction should be confined to the narrow category of conduct affecting the "central" academic activities of the University, such as classroom, library, laboratory and lecture activities. Outside of this category only criminal law sanctions would apply. The views of the majority of this Committee seem to be close to such a position--though in their view even conduct in this narrow category would not be subject to administrative sanctions if adequate criminal law provisions applied to the conduct.

A second middle position agrees that some kinds of misconduct covered by the criminal law should be subject to administrative sanctions, but this category is broader than in the previous view, because it is not confined to central academic activities. The category includes all University functions and processes. However, the apparent breadth of the category has less consequence than may at first appear. For while recognizing the right of the University to make prompt use of its own sanctions, some adherents to this second middle position would recognize that the University need not (or should not) also press charges with the public authorities, though others might. And if the public authorities are already prosecuting or have disposed of the case, some would say that the University should, at least in the "ordinary" or "less serious" case, choose to forego or to moderate its own sanctions. Variations within this general position are possible, as we shall see below. The Crow Committee proposals fall, we believe, within this general position.

* * *

b. A summary view of our own position

The position we recommend falls within the second middle position just described. Intentional conduct which obstructs or seriously impairs a University function or process would be subject to University discipline. The obstructive conduct would be clearly defined, and the range of sanctions specified. The types of aggravating circumstances which would make the higher range of sanctions applicable would be listed. The highest sanction would be a 3-year suspension rather than expulsion.

The fact that the same conduct was subject to the law applicable to the larger community would be no reason for foregoing University sanctions designed to maintain the integrity of the University community. If the case were not an aggravated one, then (a) if the criminal process had already or was about to be started, with or without University help, the University would forego its own sanctions, and (b) if the public authorities were not to prosecute, the University could seek an adminis-

trative sanction less than suspension. On the other hand, in the aggravated cases, whether or not the criminal process had been invoked, the University would have power to remove the student temporarily from the University community. Simultaneous prosecution of the criminal and administrative proceeding would be avoided.

We begin the ensuing analysis with why it is important for the University to retain, for application to all obstruction cases, its power to prescribe and impose sanctions. We reply to the miscellaneous arguments against it, and show the weakness in alternative positions. We show finally that our position is in general harmony with the conclusions of various studies of the problem in recent years, at other universities as well as here, as well as with the attitudes on University sanctions and obstruction held by a number of organizations vigilantly interested in student rights.

* * *

c. The rationale of university sanctions for obstruction or serious impairment of university activities

Before concerning ourselves with the relative merits of, or the relation between, administrative sanctions and criminal sanctions, we wish first to set forth a rationale for university administrative sanctions considered by themselves.

We are speaking now of suspension, and lesser sanctions like loss of privileges, or probation which can ripen into suspension if the conditions of the probation are violated. (This is a type of probation which has some force; it is not the probation which the majority characterizes as a "slap on the wrist".) We do not include expulsion. As indicated elsewhere in Part Two of this Report, our Committee is unanimous in rejecting expulsion and accepting a three year suspension as the maximum period of exclusion from the university, with a right to petition for reinstatement after the lapse of one year.

The rationale presented below is in terms of the following objectives: deterrence; "remedial" protection of the university community by removal of the violator; helping maintain the autonomous and self-governing character of a university community; and avoiding dependence on criminal law whose prohibitions or enforcement may be unsatisfactory.

(1) Deterrence

That administrative sanctions are a powerful deterrent is a point which needs little elaboration. We believe there are some, including some of those who advance the "criminal sanctions only" proposal, who apparently view administrative sanctions as more of a deterrent than the criminal law. But whether or not most of us, or most students, would make the same evaluation, it remains true that administrative sanctions represent a strong deterrent. That is to say, by their known existence and known application, they exert pressure on students to conform to faculty regulations.

The corollary is that if the deterrent were removed, there would be more violations of regulations, including more obstructive misconduct, and correspondingly more police activity on the campus--a result we would regard as most unfortunate.

(2) "Remedial" aspect

What we have said about the deterrent pressure brought to bear on students might be described as the "penal" aspect of administrative sanctions. There is also an aspect which courts sometimes call "remedial"--referring to the salutary effect on the relevant community from which the deviant has been removed. Thus, for example, in cases where a hearing is held to determine whether a broker should be suspended or expelled from a stock exchange, and the broker claims that the proceeding is so penal in nature that certain elements of criminal procedure should be applied, he is likely to lose on the theory that while the proceeding has penal aspects it is also, and perhaps primarily, remedial. It has a purpose, in other words, of protecting investors from the danger represented by the broker's continued operation--a danger which can reasonably be anticipated from his past violative conduct. In the university setting, we would be dealing with the kind of danger to the university community that is reasonably inferable from the student's past conduct violating faculty regulations. And just as not every type of violation would be deemed to justify the broker's suspension or expulsion, we believe that not every violation of faculty regulations would reasonably give rise to the inference of such danger to the university community as would justify the student's suspension.

(3) Maintaining the characteristics of a relatively autonomous, self-governing "university community"

Certain characteristics of a "university community" would be endangered or weakened if the University gave up its power to control obstructive campus conduct injurious to its interests, by faculty regulations established and administered with student participation.

By a "university community" we refer to a university population with certain characteristics, outstanding among which is a considerable autonomy in relation to the larger community--a freedom from unduly hampering external controls. It is this autonomy, together with a form of self-government in which faculty (and to an increasing extent in the present period, students) have substantial power in relation to administrators, that constitute a good deal of the concept of "academic freedom". There are certain additional characteristics of the university community that are pertinent. In any group we call a community we expect interchange among the inhabitants. In the university setting we think of intellectual and social interchange among students, and among students and faculty; the phrase "community of scholars" comes to mind. Finally, as in other communities, we think of a consciousness of mutuality of relation, a feeling of the inhabitant that internal order or stability is dependent upon acceptance of enforceable "rights" and "responsibilities".

The community model of a university is of course not the only possible model. We believe, however, that it comes close to picturing the kind of institution that the University of Wisconsin has long striven to be. If so, it is important that the feelings we have pictured as to rights and responsibilities (at least as they pertain to the continued carrying on of University activities) should be implemented by university enforcement of those rights and responsibilities.

Why is the "community" model so desirable, and university enforcement so important? For all the reasons that responsible self-government, and relative freedom from outside interference with the cooperative pursuit of truth and beauty, are desirable in an educational institution. We are speaking of goals which universities have won only after a hard struggle, and which many have not yet won. Surely universities who have won them or come close to winning them should do all they can to preserve them. This University serves these goals when it prohibits, and imposes its own sanctions against, intentional obstruction of University-run or University-authorized activities. If it failed to do so, it would invite external controls. Thus, the legislature cannot be expected to do nothing when faced with the image of a university unwilling to "take care of its own affairs". The power vacuum will be filled--with possibly irreparable damage to the ideal of a relatively autonomous educational community. Legislative change, remember, may not be confined to the subject of maintaining order on the campus.

It is no answer to our position to argue that even with this University's present system of administrative sanctions, it suffered--as a result of the obstruction at the Dow Chemical interviews on October 18, 1967--a drastic intrusion by the city police and a near-drastic intervention by the legislature. There are two deficiencies in this argument. The first is that intrusion or control is likely to be worse when continuous then when episodic. The second is that the University posture on October 18 was not typical of what we believe its posture will be in the future if our recommendations are followed. The intrusion and intervention occurred in circumstances where the University had not presented a clear image of autonomy--of being able to take care of its own affairs--for its system of prohibitions and sanctions had not been perfected. Its rules pertaining to obstruction and to disciplinary hearings were in such state as to invite court litigation; its system of meeting obstruction did not function without violence or without the use of riot-equipped city police; and in the resulting situation, legislative intervention was to be expected. We believe as is partly evidenced elsewhere in this Report, that improvements can be made in the University's rules and its methods of handling these problems, so as better to maintain the integrity of the University community and minimize the possibility of external intrusion.

Neither is it an answer to our position to say that the alternative positions we have described at the outset of this Minority Statement are also capable of maintaining the characteristics of a university community. So important to us, because of its consequences, is the image of a university that is master in its own house, that alternatives which blur that image carry a heavy burden of justification. We feel such a blurring occurs when a university declares itself to be powerless to exclude members even temporarily from its community, no matter what the danger to other members of the community and to the normal functioning of the university. Each of the alternatives being now pressed upon the University would involve this declaration of powerlessness--either as to all conduct outside the area of a student's academic competence (Student Power Report) or as to all conduct outside the area of certain interferences with central university activities like classroom activities (majority of this committee). And the latter alternative merges into the former in obstruction cases. For while the majority would use administrative sanctions if the interference with central university functions were not adequately covered by the criminal law, the majority states that interference with such functions by an obstructive demonstration is adequately covered by the unlawful assembly statute. Thus, even as against aggravated conduct (e.g. substantial and prolonged obstruction; resistance to arrest; prior similar conduct) by a participant in an obstructive demonstration, which conduct, let us assume,would have been viewed by the Committee on Student Conduct Hearings as requiring removal from the academic community for a year,the University would be powerless to move in that direction. The criminal case, with its heavier burden of proof, and its tribunal less sensitive to university needs, may result merely in a fine. Even a jail sentence may, under the Huber law, involve release during the day to permit attendance at classes.

To emphasize the image of a university able to take care of its own affairs is not to emphasize authoritarianism. The image is consistent with democratic self-government. Our system of administrative sanctions is one which is appropriate to, and which helps maintain, an autonomous self-governing community much more than the criminal law system--under which students subject to the rules have little or no role in their formulation or in imposition of sanctions for their violation. This is true even of the criminal law system for handling violations of the "Regents' rules", earlier described. Of course anyone, including faculty or students, can present views to the Regents before the Regents issue final rules. But neither the formulation of a

Regents' rule nor the court process of imposing a criminal misdemeanor penalty for its violation has either students or faculty at the heart of the deliberative, decision-making process. In contrast, under the student discipline provisions of the Crow Report, already adopted by the faculty on an interim basis, both students and faculty play a vital role in the formulation of student conduct rules and in the hearing procedures for imposition of sanctions. The majority of this Committee overlooks or undervalues this when it belittles our community model as "authoritarian" in character.

Finally, our concept of a university community can be more sharply etched if we consider an argument which is based on a quite different conception of a university. The argument has been made that higher education by the state today must be viewed in the same category as the welfare benefits it dispenses--the university playing the role of a service agency or facility. That being the image of the university, it becomes easy to argue that just as obstructive demonstrators at a welfare office should not be met with a deprivation of welfare benefits as a sanction, obstructive demonstrators at a university should not be met by the deprivation of educational benefits (suspension or expulsion) as a sanction; rather, sanctions should be narrowly confined, e.g. to the category of academic competence, as the Student Power Report argues.

The analogy of withholding educational benefits to withholding welfare benefits might be attacked as inept (e.g. welfare benefits can be literally a matter of life and death to their recipients; suspension from a university does not absolutely preclude a student from higher education; the welfare office, unlike this University, would have acted without statutory authorization to sever the relationship in question). But our primary objection to the argument is that it is directed at a type of university which this University is not now and hopes never to become. We can imagine a university with no campus as we know it, situated in the middle of a metropolis, attended by students who do not live at, or close to, the university, and in which the factors of relative autonomy, of interchange among students and faculty, of mutuality of relation, and of faculty-student power are minimal. This would not be the "university community" to which this University aspires. This would indeed be more like a "service facility". We view the citizens of our University community as not being at the receiving end of educational largesse from a detached government which in cases of obstruction unexpectedly and without legal authority withdraws the largesse. They are citizens who are part of and close to the relevant government, and whose acceptance of the possibility of government severance of the relation, upon violation of express obligations, should be viewed as implicit in their entrance into the relation.

(4) Avoiding dependence on criminal law that is incomplete or ineffective or inadequately enforced

A final element in the rationale for university sanctions against obstruction of university activities is this: dependence on the criminal law may mean dependence on provisions that cannot or will not be applied to the misconduct involved. Suppose that a student (and this we are told has happened here) deliberately disrupts a classroom by shouting and constant interruption in order to prevent a professor's ideas from being heard by the class. This is not an "unlawful assembly" under the criminal law. Is it "disorderly conduct"? The disorderly conduct statute is now under attack in the courts on the ground of unconstitutional vagueness. Even if it is upheld as applied to the situations involved in the litigation will it be upheld as applied to the classroom situation we have pictured? and to others that may be imagined? If the statute is held inapplicable or unconstitutional, should the University then seek legislative amendment for application to specific University situations, and run the risk of getting more extensive legislative controls than it would like? Why shouldn't the University use its own sanctions rather than run such risks and depend on such uncertainties of enforcement?

Even if the statute did clearly apply to such things as obstructions of classrooms or guest lectures, will the prosecuting authorities be geared to handle, and be willing to handle, what to them will seem like minutiae and which in conjunction with the non-obstruction campus offenses will amount to a considerable mass of minutiae? The total of University disciplinary cases during the 1966-67 year amounted to 225 cases handled by the Division of Residence Halls and 167 by the Office of the Dean of Student Affairs.

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d. Replies to objections

While we have from time to time presented some refutations of arguments against our position, we think it would be well at this point to treat more concentratedly the major additional objections that have been made, either by this Committee's majority or by others: the alleged unfairness of "double sanctions"; the alleged inappropriateness of University sanctions where the obstruction is of non-central functions; the alleged failure to consider responses other than sanctions; and the allegedly over-broad discretion lodged in University authorities.

(1) Alleged unfairness of "double sanctions"

The view that conduct covered by the criminal law should never or rarely be subject also to University sanctions rests mainly on two misconceptions: (1) that the use of multi-type sanctions represents a unique or rare phenomenon in our legal system, and (2) that it is, at any rate, inherently unfair, smacking of "double jeopardy" and discrimination. We discuss below why these are misconceptions.

(i) The prevalence of multi-type sanctions in the legal system

To begin with, one must realize that the sanctions utilized by the modern state are diverse not only in their form but also in the groups to which they apply. Some apply to all persons within the state who engage in homicide, theft, battery, disorderly conduct, sex offenses, arson, etc. But others apply only to those who enter into special relationships with the state--e.g. those who enter into business or employment contracts or licensing arrangements with the state, or become an inhabitant of a municipality to which the state has delegated broad governmental authority.

The special sanctions in these situations apply even though the conduct involved has been, or may be, subjected to the general sanctions applicable to all persons in the state engaging in that conduct. This is because the general sanction by itself does not sufficiently serve the purposes of the special relationship.

FOR EXAMPLE: Suppose a business corporation enters into a contract to supply goods to the state. The state discovers that the bid which enabled the company to get the contract was made pursuant to a collusive bidding arrangement with other companies, which arrangement was in violation of the anti-trust laws. The state, let us assume, prosecutes for violation of these laws. But the state feels that these prosecutions don't sufficiently serve the purposes of the special relationship. So it protects the integrity of the government-contractor relationship by rescinding the contract and putting the company on a "black-list" of those violators who are ineligible for a specified period to bid on state contracts. The fines or imprisonment obtainable from the anti-trust prosecutions served the state's interest by offering a general deterrence against anti-trust violations; rescission and suspension serve not only a deterrent purpose but also the "remedial" purpose of protecting the special relationship of the government to its contractors.

So too with the state as employer. Suppose that a man has entered into an employment relationship with the state as a probation officer working with wayward girls. He then commits a sex offense with one of the girls. The state will prosecute. But this prosecution does not sufficiently serve the purpose of the special employment relationship. Those purposes are served by the state's severing the relationship and substituting an employee believed to be more trustworthy.

Similarly, one who enters into a licensing arrangement with the state--whereby one conducts a business or engages in a profession--and violates a criminal statute, may find that the state regards criminal prosecution as not sufficiently serving the purpose of the licensing relation. For instance, the lawyer who is convicted of embezzling his client's trust funds is not thereby immunized from disbarment. So too, the man whose driving of an auto has subjected him to criminal penalties can also have his driver's license revoked (or have demerits recorded against him that may eventually lead to such revocation).

Another illustration, which is closer to the University because of its community aspects, is the situation with respect to sanctions by Wisconsin municipalities. One who becomes an inhabitant of a municipal community in this state becomes subject to municipal sanctions (which under the almost unique Wisconsin rule cannot include imprisonment) for conduct which may also be subject to state sanctions. As the Wisconsin Supreme Court stated a half century ago and has since reaffirmed: "No rule is better settled in Wisconsin than that a prosecution under a city ordinance does not bar a prosecution for the same act under a state statute..." (City of Milwaukee v. Johnson, 192 Wis. 585).

(ii) The lack of "double jeopardy" or discrimination

In the illustrations we have given, there has been no running afoul of the "double jeopardy" clause, since that clause applies not to doubling of any sanctions for the same conduct but to doubling of criminal punishment for the same legal offense. Here we have only one criminal punishment, and different legal offenses--one under the criminal statutes and one under non-criminal University regulations. (Where two criminal punishments for the same conduct are involved Wisconsin has a statutory policy placing certain limits on the possibility of prosecution for the additional offense. See Wis. Stats. Sec. 939.71). Moreover, as we shall later elaborate, we urge a policy of deliberately restricting to the most serious cases the possibility of both criminal sanctions and the University sanction of suspension.

But what of the alleged unfairness which stems from discrimination: i.e., subjecting a 21-year old student to the possibility of both a state criminal prosecution (e.g. disorderly conduct) and suspension from the University, whereas a 21-year old non-student engaging in the same type of conduct downtown is subject only to the criminal prosecution? Can the student claim this to be an improper, perhaps unconstitutional, discrimination? Not any more than the government contractor we have referred to can claim discrimination because non-government contractors who violated the anti-trust laws by collusive price-fixing would be subject only to anti-trust sanctions and not to the administrative sanctions visited on government contractors. Nor could the government employee, or the licensee, or the inhabitant of a municipality claim discrimination because people who had not attempted to receive the benefits of these special relationships were not being subjected to their burdens. When different classes of people are being treated differently in the law, and discrimination is charged, the question for the courts is whether there is a

rational basis for the classification. The rational basis is just as clear in the case of the University student as it is in the situations just mentioned: he has entered into a special relationship involving responsibilities as well as rights, including the responsibility of abiding (under pain of community penalty) by the rules of the community he is entering. The non-student did not enter into such a relationship.

The response to the discrimination argument can be made even stronger than this. For we have not bothered to deny the assumption that the non-student downtown would be subject only to the state criminal statute. In fact he would also be subject to the city ordinance covering the same conduct. (If his conduct occurred on campus he would be subject to the same state criminal statute plus - if his conduct violated Regent rules - the criminal misdemeanor penalties applicable to violation of such rules).

(iii) The restricted use of University sanctions, under our proposed policy

We have been arguing that University sanctions are not made improper by the fact that criminal law sanctions may be applied to the same conduct. But this is not the same as saying that University sanctions should be used whenever the conduct is covered by the criminal law or whenever criminal sanctions have actually been applied. We recognize the heavy impact of suspension upon a student's life. It may immediately make him subject to military service; and his admission to other universities, while not impossible, will not be easy. We are also aware of the possible harshness of "double sanctions", even though the legal concept of double jeopardy is not involved.

We therefore favor, as does the Crow Report, a careful limitation of the suspension sanction to those instances of serious misconduct which really do injure the interests of the university community, and which would justify an intra-community response in terms of at least a temporary forfeiture of community membership.

We have considered what might constitute, in a case of intentional conduct that obstructs or seriously impairs University functions, the necessary circumstances of aggravation that could justify imposition of the University sanction of suspension. We believe the following circumstances to be relevant: (a) the magnitude and/or duration of the obstruction or impairment; (b) the fact that the conduct was accompanied by physical resistance to authorized personnel efforts at lawfully terminating the conduct or lawfully making arrests; (c) the fact that the student had on one or more previous occasions engaged in obstruction or serious impairment of University-run or University-authorized activity.

Students should be informed by our rules that circumstances of aggravation falling into one or more of these categories would permit suspension regardless of whether criminal sanctions are also sought (though care would be taken to avoid simultaneous proceedings), and that the suspension period would vary, depending on the extent of such aggravation, up to a maximum suspension period of 3 years, with an annual right of review after 1 year.

Our rules should further inform the student that, in cases where there are no elements of aggravation falling into any of these categories, the University will forego its own sanctions and rely upon, and cooperate with, the criminal law authorities, or may, if the public authorities choose not to prosecute, seek a sanction less than suspension.

(2) Alleged inappropriateness of university sanctions where the obstruction is of non-central university functions

This position is essentially the first of the middle positions described at the outset of this Minority Statement, and is close to that of the majority of this Committee. The majority seems to think for example, that the placement function being not a central function, any obstruction or serious impairment of it would not be subject to University sanctions (an added reason being that the unlawful assembly statute would apply to a demonstration obstructing placement).

Yet, once it is decided that the university should undertake the campus placement function, why should not administrative sanctions apply to obstruction or serious impairment of a function thus officially undertaken? All the values and purposes analyzed earlier as part of "the rationale" for university sanctions are more fully realized where university sanctions apply to all university-run or university-authorized activities. Moreover, we think it unwise to let the important issue of liability vs. non-liability to university sanctions depend on the impracticable venture of drawing a line between a central function and a peripheral function, - between "the educational process" and other university processes. The placement function, for instance, has some ties to the educational function; and obstruction to placement has sometimes interfered with classroom activities as well. Listening to a lecture by an outside political candidate sponsored by a campus political group in a university building may seem like less than a central educational activity, but how much less central is it than listening to a lecture on a similar topic in the same building, either by an outside lecturer sponsored by the University Lectures Committee, or by a professor in a regularly scheduled class? Is dramatic art to be viewed as so removed from the educational process that obstruction of a University Players performance offends no educational interest of the University? Or consider a football game: If obstructive activity delays the game for an hour, thereby upsetting the planned schedule of the day's events for 60,000 present and past members of the university community, is this to be viewed as no injury to university interests because athletics are labelled a "peripheral" activity? These questions raise elusive considerations of degree which might possibly influence the administrative hearing body's judgment as to severity of the sanction to be imposed. But they should not form the basis for deciding whether conduct should or should not be subject to university sanctions at all.

(3) Alleged failure to consider responses other than sanctions

The majority of this Committee seems to suggest, particularly in its initial observations, that the minority is too much concerned with sanctions; that the issues raised by obstructive activity must be confronted by discussions; that there should be a meaningful role for all members of the academic community in policy discussions and decisions; that confrontations should be avoided; that creation of an Ombudsman would help; that the University must not lose the confidence of a significant portion of its student and faculty members; that "the use of University sanctions is at best an extreme response and one that should be employed infrequently indeed".

Let us say, first, that under our own proposals, any substantial University sanction (suspension) for obstruction will indeed be employed infrequently, since it would not be possible except in an aggravated case of obstruction. Secondly, we have never denigrated the above-mentioned alternatives to sanctions. On the contrary, a letter from this Committee to the University Committee early in this Committee's deliberations communicated our collective thoughts along these lines--with some specific suggestions (including creation of an Ombudsman) to implement our common goals. We have chosen, for more than one reason, not to go into these matters now. (a) The Chancellor in early April announced plans for a new office which apparently will fulfill the functions of an Ombudsman. The announcement also seemed to suggest another objective which all of us on the Committee support: separating more sharply than has hitherto been done, the counselling and prosecutorial functions presently joined in the office of the Dean of Student Affairs. (b) On the point that students must be given a more meaningful role in the policy discussions and decisions, the Crow Report has already taken great strides in this direction. (c) The whole subject of what can be done to attack the sources of discontent, alienation, or non-communication on the campus, if it is to be treated with more satisfying specificity than appears in the majority statement, requires more time than this Committee has been able to give it. This is particularly so because the difficulties in the problem include a deepening student disenchantment with our educational methodology itself, and with the society whose values students are expected to serve. The subject, in short, is one which needs comprehensive thoughtful study by a broadly-based committee, and one other than the present Committee.

(4) Allegedly over-broad discretion of University authorities

The majority of this Committee has stressed that the minority's position involves lodging excessive discretion in University authorities. They refer to discretion on whether to provide a "sanctuary" for the student by not filing a criminal complaint, and discretion on whether to invoke University sanctions (except in the unaggravated case which is prosecuted criminally).

Yet the majority seems willing to ignore the extent of discretion involved in its own proposals. Its heavy reliance on the criminal law means that the University will have the same opportunity as under the minority proposals for the exercise of discretion as to filing criminal complaints. They apparently do not expect the University to exercise its discretion in such manner as to afford a "sanctuary" for the student. But neither have we suggested that the University should so exercise its discretion.

The argument has sometimes been made (an argument disclaimed by the majority) that the University should have no discretion to withhold filing a complaint whatever its doubts may be about the case--thus leaving it solely to the discretion of the district attorney whether a student is to be faced with a criminal prosecution. Even if this were otherwise deemed desirable, it would be questionable for imposing a limitation on the University not applicable to anyone else. All who have studied the operation of the criminal law system are aware of the enormous extent to which people choose, quite legitimately, not to file a criminal complaint. The choice is even more legitimate where, as here, the result of the choice is not to free the potential defendant from all sanctions but to subject him to administrative sanctions instead. And the choice is still further legitimated where the system of adminstrative sanctions and hearing procedure meet all tests of fairness, as we believe the amended system does.

As for the majority's stress on the discretion we permit to invoke University sanctions, we must observe that the majority's own position countenances discretion in this area as well. For their position involves a discretionary determination of whether University sanctions are "necessary to . . . protect the access of all members of the University community to the educational process"; whether a particular function is properly regarded as part of the "educational process"; whether criminal law or other "alternative safeguards to this access are demonstrably inadequate"; whether in a case where suspension is contemplated, the student's presence can be said to present "a clear continuing danger" to such access. In short, on the subject of discretion, we are prepared to concede a certain unavoidable blackness of the kettle, but must observe that neither is the pot the color of the driven snow.

Furthermore, no apology need be made for the existence of discretion in administration of sanctions. Being an inevitable, legitimate element of the system, the possibility of its abuse is to be approached not by advocating abolition or undue restriction but by so structuring the system and selecting its adminis-

trators as to minimize the possibility of abuse.

A final aspect of the majority's argument on the uncertainty of the use of criminal and administrative sanctions, is the contention that "such vagueness, in association with the broadness of the proposed regulations, can only exercise a chilling and intimidating effect on students who feel morally impelled to engage in political activity." This is puzzling. We believe our rules should be free from the kind of vagueness which leaves a student uncertain on whether his conduct will be treated as legitimate "political activity" or as illegal "obstruction". For that reason we have formulated, in the Recommendations at the end of this Minority Statement, a definition together with illustrative examples, that delineate the meaning of "obstruction or serious impairment" more specifically than does any university we know of in the country, for any comparable standard or prohibition. The majority is really objecting that the offending student (like other offenders in the legal system generally) may be in doubt as to how severe the actual sanction will be after adjudication. The student does know in advance what the maximum is, in addition to knowing the standard of conduct itself.

Moreover, while the majority is critical of the "broadness" of our proposed regulation, they decline to be specific themselves. They scorn the "attempt to pinpoint the very meaning of obstruction by means of sterile definitions that ignore the reasons why men sometimes feel the ethical imperative to engage in illegal acts", and express a preference for dealing in "basic principles". The inconsistency of this statement with their professed antipathy to "broadness" is apparent. The statement also fails to recognize that while ethical motives for illegal conduct might have some legitimate influence on the adjudicatory tribunal in limiting the severity of the sanction imposed, such motives are properly excludable in the definition of the illegal conduct itself.

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e. Support for our views from other recent studies

Recent studies both at this University and elsewhere are generally harmonious with our approach to the problem of sanctions.

(1) The August 1965 unanimous report of our own Remington Committee on Non-Curricular Life of Students (presented again in summary form in April 1966 as Fac. Doc. 57) concluded: "Conduct which creates danger to persons or property in the University or which disrupts the educational process, is properly subject to disciplinary action by the University regardless of whether the conduct is a violation of city ordinance or state criminal law and regardless of whether action, in the form of prosecution, has been taken by city, county, or state authorities..." (emphasis added) (p. 53). Inquiry of Professor Remington reveals that, in his opinion, the Committee in using the phrase "educational process" had in mind the general functioning of this educational institution; it had no occasion to consider any differences between, e.g., classroom functions and other functions. The disrupted placement interview, for example, was not then a problem. So too when "political activity" was mentioned there was no occasion to discuss it in relation to the kinds of issues that have since arisen. The Report says that "student political activity, appropriate off campus, ought to be allowed on campus unless it is carried out in a way which is unduly and unnecessarily disruptive of the primary educational responsibility of the university"; and that violations of law through political activity on or off campus should be subject to prosecution by public authorities. It does not say that any politically-motivated activity must be free from University sanctions; and the phrase, "primary educational responsibility", like the earlier phrase "educational process" was not intended to have the delimiting phrase-of-art significance which the majority of this Committee would give it.

(2) The Crow Committee Report substantially follows the Remington Report categories of conduct subject to University discipline by listing (a) serious damage to University property, (b) serious continuing danger to personal safety of other members of the University community; (c) intentional conduct clearly and seriously obstructing or impairing a University function or process.

More explicitly than the Remington Report it recognizes the amenability to university sanctions of interferences with university functions or processes other than the strictly educational ones. As for the nature of the interferences, the adjectives and adverbs in the above Crow Report criteria do not represent a substantially more severe attitude than that of the Remington Report. For in addition to the above-quoted statement from the Remington Report on the three basic categories for student discipline, there are other passages in the Remington Report which make clear that the interferences must be serious ones: "a serious danger to others" (p. 52); "seriously damages University property" (p. 53); "unduly disruptive of the educational process" (p. 53).

The Crow Report makes clear by examples that its criterion of "clearly and seriously obstructing or impairing a University function or process" includes not only obstruction or impairment of classroom activity but also of speeches or programs on campus, and meetings of university committees, as well as denying entry to or exit from a university building or room to anyone authorized to enter or leave in connection with a university function or process. If the conduct has been, or is about to be, handled by criminal law sanctions, then according to the Report this does not require the University to abstain. It has discretion not to press a criminal charge, and to be satisfied with imposing its own sanction (though an individual such as another student would be free to press charges). Our own Recommendations at the end of this Minority Statement build upon the Crow Report's standard of conduct and illustrative examples, and is basically harmonious with them.

(3)At Columbia, the unanimous Nov. 1967 Report on Recruiting Policy stated (p. 14, Columbia Daily Spectator Supp., Nov. 13, 1967): "It is a very serious offense for students to interfere, in defiance of University regulations, with the freedom of action of other students--especially with respect to any approved function at the University . . . Your committee [approves] the invoking of disciplinary sanctions--such as warning, probation and suspension--in the case of students who deliberately obstruct University activities or who physically attack other students. We recognize that penalties such as these are not trivial. They may interrupt students' educations, form a part of their records that may disadvantage them later, and--at present--increase their chances of military conscription. We agree, however, that in view of the gravity of these offenses, such sanctions are appropriate and should be applied." (Emphasis added).

(4) A Cornell Commission on the Interdependence of University Regulations and Local, State and Federal Law (Sindler Commission), which reported unanimously in Oct. 1967, was composed of 5 professors, 4 students, 2 administrators and 2 who were both administrators and faculty members. They concluded that the University could apply sanctions when student conduct had "an adverse effect on distinct University interests, namely: (a) the opportunity of all members of the University community to attain their educational objectives; (b) the generation and maintainance of an intellectual and educational atmosphere throughout the University community; (c) the protection of health, safety, welfare and property of all members of the University community and of the University itself."

Where the misconduct was also in violation of law, this fact would only be "relevant to whether the University will choose to exercise its jurisdiction. With respect to student conduct violating the Student Code and the law, the University will adhere to the following practice: (a) Ordinarily, the University will not impose sanctions if public prosecution of the student is anticipated or after law enforcement officials have disposed of the case. (b) Exceptionally, the University may impose sanctions for grave misconduct demonstrating flagrant disrespect for the basic integrity and rights of others".

(5) The January 1968 Berkeley Report by a joint faculty-student committee takes essentially the same attitude as that evidenced in the preceding reports--a fact which does not appear from the lengthy quotation from that Report by the majority of this Committee. Conduct violating the criminal law, according to the Berkeley Report, is not subject to University sanctions unless it (1) violates academic standards, e.g. through plagiarism or cheating, (2) physically harms, or imminently threatens physical harm to a member of the University community, or directly affects the property of the University or of members or guests of the University community, e.g. by theft or malicious damage, (3) violates a "regulatory standard" of the University. These latter standards are defined as "those embodied in the provisions of the Campus Rules which regulate the free exercise of political and other forms of student expression, the right of students to associate together in organizations, and their use of University facilities to hold meetings or organize or plan activities. The purpose of the regulatory standards is to facilitate the freest exercise of these rights consistent with reasonable protection of the normal educational functions of the University". And on the same page (p. 71) the Report recognizes that one of the objectives of the Campus Rules is to see "that discipline is imposed only for offenses that impair the orderly functioning of the University". (Emphasis added). It is further stated that when an act violates both the criminal law and the University's standards in one of the above three categories, and is prosecuted in the criminal courts, the University will "normally" accept the court's judgment as the full disposition for the offense.

Thus, in all major respects--including recognition of the propriety of university sanctions for unjustified injuries to university interests through political or other forms of student conduct, and acceptance of flexible use of university sanctions so as to avoid addition to criminal law sanctions in less serious cases--we believe our own position is in accord with recent University studies of the sanctions problem.

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We further take note of the approval of university sanctions against student obstructive conduct voiced by some extra-university organizations which have always had deep concern for the rights of students. Thus, a November 17, 1967, Statement of the Wisconsin Civil Liberties Union endorsed the following policy statement of its parent body, the American Civil Liberties Union: "In light of recent occurrences on some college campuses, . . . the American Civil Liberties Union considers it important to emphasize that it does not approve of demonstrators who deprive others of the opportunity to speak or be heard, or physically obstruct movement. Guidelines on demonstrations should be determined by the administration and faculty in consultation with students, and should be called to the attention of the students; and due process should be observed where infractions are charged."

Similarly, an October 28, 1967 Council Resolution of the American Association of University Professors declares: "In view of some recent events, the Council deems it important to state its conviction that action by individuals or groups to prevent speakers invited to the campus from speaking, to disrupt the oper-

ations of the institutions in the course of demonstrations, or to obstruct and restrain other members of the academic community and campus visitors by physical force is destructive of the pursuit of learning and of a free society. All components of the academic community are under a strong obligation to protect its processes from these tactics."

This organization was joined not only by university administrators but also by the National Student Association in a 1967 Joint Statement on Rights and Freedoms of Students which included the observations that students "should always be free to support causes by orderly means which do not disrupt the regular and essential operation of the institution", and that "educational institutions have a duty and the corollary disciplinary powers to protect their educational purpose through the setting of standards of scholarship and conduct for the students who attend them and through the regulations of the use of the institutional facilities." This statement went on to discuss the relation of university sanctions to other sanctions: "Students who violate the law may incur penalties prescribed by civil authorities, but institutional authority should never be used merely to duplicate the function of general laws. Only where the institution's interest as an academic community are distinct and clearly involved should the special authority of the institution be asserted. The student who incidentally violates institutional regulations in the course of his off-campus activity, such as those relating to class attendance, should be subject to no greater penalty than would normally be imposed. Institutional action should be independent of community pressure." (Emphasis added.)

It is important not to misinterpret this language. It is not saying that institutional sanctions are to apply only where the interest involved is uniquely or peculiarly that of an educational institution, but rather only where a university interest is distinct and clear. And what is meant by distinct, we think, is this: a university is not to say that merely because a student's conduct violates the criminal law, therefore a university sanction applies; that would be "merely to duplicate the function of general laws." Rather, there must be a distinguishable university interest, i.e. injury to the university population or university property, or to some university function or process. We therefore find this position quite consistent with our own. To give the quoted language the interpretation which the majority of the Committee seems to give it--that only a university's interest in peculiarly educational functions is to be protected by university sanctions would make the language inconsistent with the unqualified language of the virtually simultaneous Council Resolution quoted in the preceding paragraph. The institution's obligation to protect its "operations" and "processes" from obstruction is there recognized without any limitation to peculiarly educational operations or processes.

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f. Restatement

Our position is not properly viewed as a conservative one; nor is it accurate to label it reformist. Not because it is neither--but rather because it is both.

It is conservative because it conserves the values of a system of university sanctions for injury to university interests: (1) deterrence against conduct injurious to such interests; (2) direct protection of those interests by temporary removal of the offender; (3) promotion, through the democratic formulation and imposition of group sanctions, of a relatively autonomous, self-governing community needing no new intrusion of legislative controls; and (4) avoidance of dependence on criminal prohibitions or enforcement that may be unsatisfactory. The position of the majority of the Committee obviously does much less to conserve all of these values.

On the other hand, there are reformist elements in our position too. First, along with the rest of this Committee, we have rejected the expulsion sanction, as distinguished from suspension. We do this primarily on grounds of unnecessary harshness. So too we have rejected the "in loco parentis" position under which University sanctions would become applicable to conduct on the ground that it violated some vaguely phrased requirement such as "a high standard of conduct" or "not bringing the good name of the University into disrepute"; or merely on the ground that the conduct violated a criminal statute, whether or not the conduct was on campus and whether or not it seriously damaged a university interest. Rather, we have attempted, in our Recommendations below, to formulate with as much precision as the nature of the problem permits (and with more precision than any comparable effort we have encountered) a rule with accompanying examples, concerning obstruction or serious impairment of University-run or University-authorized activities.

Similarly, we have found it unnecessarily harsh to permit any University sanctions in a situation where the public authorities are prosecuting for conduct that obstructs or seriously impairs a University activity, unless one or more designated circumstances of aggravation are present. If it were not an aggravated case, and the public authorities were not prosecuting, the University would be free to seek a sanction less than suspension. In other words, while we have argued at length for the retention of University sanctions for obstruction or serious impairment of University activities, and rebutted the alleged unfairness of so-called "double sanctions" and other alleged defects in our position, we have also argued for more restricted applicability of University sanctions, and have attempted to formulate some guidelines

g. Recommendations

(1) Rule against obstruction or serious impairment of University-run or University-authorized activity

Students shall not engage in intentional conduct that obstructs or seriously impairs the carrying on of University-run or University-authorized activities on the campus. This includes activities either outdoors or inside a classroom, office, lecture hall, library, laboratory, theatre, Memorial Union, or other place for the carrying on of a University-run or University-authorized activity.

For purposes of this rule, one engages in intentional conduct that obstructs or seriously impairs the carrying on of an activity when one engages in conduct which by itself or in conjunction with others' conduct prevents (and which one knew or reasonably should have known would thus prevent) the effective carrying on of that activity.

Examples: (a) A student would violate this rule if he participated in conduct which he knew or should have known would prevent or block physical entry to, or exit from, a University building, corridor, or room to anyone apparently entitled to enter or leave in connection with a University-run or University-authorized activity.

(b) A student would violate this rule if, in attending a speech or program on campus sponsored by or with permission of the University, (1) he engaged in shouted interruptions, whistling, derisive laughter, or other means which by itself or in conjunction with the conduct of others, prevented or seriously interfered with, a fair hearing of the speech or program, and (2) this occurred after the chairman's bona fide effort at the outset of the speech or program, or after the bona fide effort of the chairman or an authorized University representative at some later point, to communicate a reminder to the audience of the University rule against conduct of the type described.

(c) A student would violate this rule if in a classroom (1) he used techniques similar to those specified in the preceding paragraph, or filibuster-type tactics, or other tactics, which by themselves or in conjunction with the conduct of others, prevented or seriously interfered with the carrying on of the teaching and learning process, and (2) this occurred even after the instructor's bona fide effort to communicate a reminder to the class of the University rule against conduct of the type described.

(2) Limits on sanctions

(a) Suspension periods shall be for periods ranging up to 3 years, depending on factors detailed in (b) below. Wherever the suspension imposed is for more than 1 year, the student shall have the right after one year has elapsed, to petition annually for administrative reconsideration, on the ground that his future conduct can be expected to be free from those aspects of his earlier conduct giving rise to the suspension.

(b) In order to constitute a case where the suspension sanction may be imposed for obstruction or serious impairment of a University-run or University-authorized activity, circumstances of aggravation in one or more of the following categories would have to exist: (a) the magnitude and/or duration of the obstruction or impairment; (b) the fact that the conduct was accompanied by physical resistance to authorized personnel efforts at lawfully terminating the conduct or lawfully making arrests; (c) the fact that the student had on one or more previous occasions engaged in obstruction or serious impairment of University-run or University-authorized activity.

(c) Where such circumstances of aggravation do exist in one or more categories, the University will be free to seek suspension regardless of whether a criminal prosecution will also be brought. The University will make every effort to see that the criminal proceeding does not go on simultaneously with its own proceeding.

(d) Where such circumstances of aggravation do not exist in one or more categories, (1) if the public authorities choose to prosecute, the University will not seek to impose a sanction; (2) if the public authorities do not prosecute, the University may seek to impose a lesser sanction than suspension (e.g. reprimand, loss of specified privileges, probation).

J. Ray Bowen
E. David Cronon
Stephen C. Kleene
James F. Marty
Samuel Mermin (Chairman)
Toni L. Walter

For the Minority