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A Statement on the John Froines Case

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In recent public speeches on this campus and elsewhere John R. Froines is alleged to have advocated disruptive behavior, violence and the forceful closure of campuses this fall. These publicly expressed views, together with his trial in Chicago on a charge of conspiracy, it has been said, render him liable to dismissal on the basis that his conduct is "flagrantly unbecoming a faculty member." In compliance with a procedure suggested in the Administrative Code of the State Board of Higher Education, I appointed a committee of inquiry to review the evidence and to recommend whether or not charges should be preferred.

The committee is unanimous in its opinion that no basis exists in the public law or in the statutes of the State Board of Higher Education to warrant dismissing or disciplining Dr. Froines and, therefore, recommends that no charges be filed.

I concur with the committee's recommendation.

I am also advised by the Office of the Attorney General that under the law it is unlikely that Dr. Froines could be discharged for "cause." The question of my future course of action, therefore, must be resolved on the basis of State System and University policy and procedures governing faculty employment, working conditions, and termination; and on my personal judgment of what is equitable and appropriate. The specific personnel policies are delineated in the Administrative Code of the State System of Higher Education.

I have based my decision on the advice stated above and on the following:

1. From the materials that I have examined, and from events following his address, I must concur with the committee's report that Dr. Froines did not incite students to action prohibited by law or by the disciplinary code, and, further, that it cannot be established from his remarks that he advocated violence or unlawful acts. His call for closure of schools this fall, the committee concluded, was not necessarily a call to students to absent themselves from classes, but suggested that schools may not be opened up, or may be shut down by universal agreement, by school authorities as well as students and faculty. However unacceptable his remarks may be to me personally I do not find in them grounds for dismissal.

2. I believe that the term "conduct flagrantly unbecoming a faculty member" is not a sufficiently objective standard to be used conclusively or equitably in charges leading to dismissal. Recent decisions of the courts in somewhat similar cases appear to support that conclusion. For example, the University of Wisconsin suspended students on the grounds that they were guilty of "misconduct," which was prohibited in the disciplinary code. In November of 1969 the U.S. Circuit Court in Chicago ruled that the University's action was illegal because of the "vagueness and overbreadth" of the term "misconduct." The committee cites the case of Baggett v. Bullitt in which the Supreme Court invalidated a statute of the State of Washington requiring the taking of a loyalty oath as a condition of employment for all state employees. The court ruled the language to be too vague and commented: "The vice of unconstitutional vagueness is further aggravated where, as here, the statute in question operates to inhibit the exercise of individual freedoms affirmatively protected by the Constitution."

When this section of the Administrative Code was adopted many years ago, it was undoubtedly assumed that experience would, in the manner of the common law, give content to the phrase, "conduct flagrantly unbecoming a faculty member." That has not been the result. Cases have been too few, too dissimilar in nature, to provide a basis for generalization. The Board has this summer wisely moved to revise its definition of conduct which could lead to dismissal. University faculty members and the administration not only concur with the Board's intent to review the Code but, indeed, took the initiative in requesting such change and in making specific recommendations for improvement.

3. Some may believe that Professor Froines should not be dismissed for "cause," but may think it expedient to continue his contract for one year only and, by giving him notice now, terminate his services one year hence. I believe that such a course would be both inequitable and unwise.

The basis for termination, although unstated, would inescapably remain the one rejected as inadequate to warrant dismissal for "cause"; namely, "conduct flagrantly unbecoming a faculty member." Merely to postpone an unwarranted action does not make it more acceptable. Over against the unpleasant circumstances surrounding the Chicago Trial--in which he was found innocent--and the events following, is the fact that John Froines came to the University with an impressive and promising record as a young chemist. On the basis of his first year's performance his colleagues and his department head recommended his re-appointment. To serve terminal notice on him now would be to repudiate our practice of many years of relying on the judgment of colleagues, review committees and administrative officers for recommendations to retain or dismiss. In this instance, there has been no such professional review.

In my opinion a far more satisfactory and equitable course is available, namely, to permit Dr. Froines to return to the campus under his present appointment without prejudice. If he returns, he will be subject to the new provisions of the Code, as will every other member of the University community. If he stays within the provisions of the Code but devotes his energies to political activism to the neglect of his responsibilities as a professor of chemistry, he will be subject, as is every other probationary faculty member, to terminal appointment. The Department of Chemistry is one of the strongest departments in the University. It will, I am sure, continue to exact high standards of all of its faculty and it will not tolerate the erosion of those standards.

4. I believe that the University should permit the widest possible latitude in the expression of ideas. Thomas Jefferson spoke wisely when he said of the University of Virginia: "This institution will be based upon the illimitable freedom of the human mind. For here we are not afraid to follow truth wherever it may lead, nor to tolerate error so long as reason is left free to combat it." That idea is the very foundation of a university, or for that matter, of a democratic society.

We ought to distinguish clearly between speech and unlawful action. We ought not tremble in the presence of ideas that seem to threaten us. We ought to combat them, not with force or coercion, but with reason and with better ideas. I do not, however, for one moment condone disruptive action or violence--or speech that leads to either. Such action corrupts the integrity of a university, it impairs the free inquiry that is essential to the functioning of a university. It ought not be countenanced. The proposed regulations of the Board would assure that it will not be countenanced in the Oregon State System of Higher Education.

In these times of great stress, of threatened disruption and violence on the campus, the most important line for us to draw is that which separates lawful assembly, free speech, legitimate protest and demonstration from coercive and violent behavior. We ought to take immediate and certain action against coercion or violence. But if we believe in the principle of the competition of ideas in the market place we ought to instruct our students, and our public, by practice as well as by precept.

These are indeed troubled times, and in times of intense human conflict men are prone to speak in impassioned and often indecorous language. We ought not respond in kind. Among the many comments on campus unrest, the wisest and most eloquent I have read or heard is one made in June to the Seattle Rotary Club by Louis B. Lundborg, chairman of the Bank of America. Said Mr. Lundborg: "I am not afraid the left-wing radicals will win, I am only afraid of how they will be defeated... We have two choices as to which way we can go. We can divide into camps and shoot it out; or we can try to find common grounds so that we can grow together again. One course is easy, but is blind; the other course is hard, and slow, but is the path of wisdom."

I am guided by the faith that honest, well-intentioned men of deep conviction can differ--with tolerance for each other--on significant issues of their times. I think we shall have a better chance to heal our wounds if we eschew covert means and power plays and rely rather on the open, clearly defined processes of a democratic society and a well-ordered university.