

Chapter 10. THE SMITH CASE: PARADIGM FOR THE REPRESSION OF
DISSIDENT PROFESSORS

The hearing procedures jointly developed by Dr. Glenn Olds, President of the University, and the Executive Committee of the Faculty Senate, as outlined in their May 6, 1975 memo did not make a lot of sense to me at that time because I was not really aware of their origin. Now, however, I am more aware of their origin. Those procedures grew out of the Kent State University's successful attempt to dismiss its first tenured professor for cause, namely, its dismissal of Dr. F. Joseph Smith on June 4, 1973.

From 1910, when Kent State University was founded, up until June 4, 1973, no tenured professor at the University was dismissed for cause, that is, for alleged serious misconduct, gross incompetence, or moral turpitude. There had been discharges of tenured faculty due to abandonment of programs and so-called "financial exigencies" but not for cause, for to dismiss a tenured professor for cause is not only signing the discharged professor's professional death warrant but also potentially subjecting the University to bad publicity and, if the drastic action has been found questionable by the AAUP, then the University is a candidate for censure and the ex-professor might subject the University to costly, time-consuming, and very embarrassing law suits, courts appearances, and more bad, bad publicity. The Kent State University had suffered through years of bad publicity relative to the Kent State Massacre of May 4, 1970. From its point of view, any kind of bad publicity must be avoided. The Smith dismissal was thus engineered and completed with relatively little adverse publicity for the University because the conspirators

determined to destroy Smith had almost total control of the communication networks on and off campus. It is amazing that the story of the first case of a tenured professor being dismissed for cause at the Kent State University received virtually no media coverage whatsoever.

What happened to Dr. Smith? Why was he dismissed? That is the subject of this chapter. An attempt will be made to show that the Smith case became a paradigm for the University to repress dissident professors.

Who is Dr. F. Joseph Smith? How did such a distinguished scholar and talented man become the target for the destructive forces within the Kent State University power elite?

Smith was born on March 19, 1925 in Superior, Wisconsin. He received his Ph.D. from the University of Freiburg in 1960. Before coming to the Kent State University he held a number of teaching and research positions, including appointments at Duquesne, Freiburg, and Emory Universities, and had earned an international reputation as a productive scholar in his specialties, namely, philosophy and music.^{1/} He came to Kent State as an associate professor in 1967 and was granted tenure in 1970. As a socialist and social activist Smith worked hard to interest faculty in and recruit them for membership in the faculty union (initially an American Federation of Teachers local and then becoming a National Education Association affiliate through the Ohio Education Association).

It should be remembered that for a long time, up until very recently, that the unionization of college professors

1/ See Smith's biography in CONTEMPORARY AUTHORS (Detroit: Gale Research Co., 1974), vols. 45-48, p. 531. Also, DIRECTORY OF AMERICAN SCHOLARS (N.Y.: Bowker, 1969).

was looked upon with horror by the power elite in higher education and many of the power elite in higher education still believe that professors who join unions and encourage others to do so are both "unprofessional" and sometimes even "subversive."

In September, 1970, more than half of the music faculty, about 21 or more persons, including Smith, signed a petition requesting the removal of the Director of the School of Music, E. Lindsey Merrill, alleging that Dr. Merrill was an academic fraud, that had misused public funds for personal gain, and was not fit to direct them. Although the evidence supporting the allegations was substantial, the signers of the petition were so intimidated by Merrill and the Kent State University power elite who supported him that within less than one year almost all of the signers of the infamous petition except Smith and five others had either left Kent State or had withdrawn their support of the petition. When the petition-signers were reduced to six persons, Dr. Merrill and the Administration went after Smith, ignoring the five others, setting him up for dismissal for cause on the basis of alleged "misconduct." Smith's anti-union enemies were especially determined to make an example of him as a warning to others who might want to challenge the status quo. What Dr. Merrill did was then ask Smith to teach a course which, in terms of his interest, knowledge, and contract, he neither wished nor felt qualified to teach. His refusal to teach that course then became the "grounds" for his dismissal for cause, for "misconduct."

Smith, well aware of his constitutional rights, demanded a hearing before his peers on the alleged "misconduct." At first, an ad hoc Faculty Hearing Committee was established in order to determine whether or not any evidence for misconduct existed and whether or not there were grounds for dismissal. That is, whether or not Smith's behavior warranted dismissal. Initially, the chairperson, selected jointly by Dr. Glenn Olds and the Executive Committee of the Faculty Senate, was Professor Glenn W. Frank, Kent State's most dependable lackey for the University Establishment. However, Professor Frank was removed from that position because he had shown his antipathy toward Smith in a series of student newspaper debates on the matter of the petition to remove Merrill as Director of the School of Music. Professor Frank was replaced by Dr. Sidney L. Jackson, a man the University learned only later was a strong civil libertarian.

Since this was the very first time in which a tenured professor was ever threatened with dismissal for cause at the Kent State University, it was fortunate that a libertarian like Jackson was, I'm sure unwittingly, put in charge of that committee. Under Jackson's leadership the June 5 and June 7, 1972 hearings were conducted using civil court procedures. The University was represented by Assistant Attorney General Eric Gilbertson and Smith was represented by Attorney Howard Allison. The University also retained attorney John A. Chell, by agreement with the parties concerned, to rule on the admissibility of evidence and testimony. Proceedings were recorded each day by a court reporter.

A great effort was made to follow due process standards during the hearings. In its June 16, 1972 report, the Faculty Hearing Committee recommended that Smith be retained on the faculty and even that he be promoted to full professor within two years.

It was a real victory for Smith and his faculty peers and a tribute to the courageous leadership of Dr. Sidney L. Jackson. ^{1/}

Dr. Olds, President of the University, was very unhappy with the Committee's vindication of Smith, and the Committee's chutzpah in recommending not only that Smith be retained on the faculty but also that he be promoted to full professor (actually two of the five-person Committee recommended that such a promotion take place within one year). Both the President of the University and the Executive Committee were unaware of Jackson's commitment to civil liberties and justice prior to his appointment as leader of the Faculty Hearing Committee. If they had been, someone more like Professor Frank would have been made the leader of that crucial committee. In violation of AAUP policy, President Olds then requested that the Board of Trustees put Smith, a tenured professor, on probation for two years, and to state in writing that if Smith dared to refuse to teach any course assigned to him by the School of Music that he would be immediately suspended without pay and formally dismissed ^{2/} for misconduct following a hearing before President Olds.

^{1/} This was one of Jackson's finest hours in a lifetime of social activist pursuits. The author, a person who had great respect for Jackson, is one of many persons saddened by the news that Jackson died on May 7, 1979. See "Ohio Notables at Rites for Prof. Jackson," DAILY WORLD, May 16, 1979, p.11.

^{2/} It should be stated that Dr. Olds was so upset by the faculty committee's decision to retain Smith and give him a promotion on top of that, that he withheld the committee's findings from Smith for about one month. He even told Smith orally that the

committee had recommended his dismissal. Smith, having heard informally the contrary, demanded a copy of the final report of the committee from Dr. Olds, threatening him with action
(footnote continued on next page

Late in September, 1972, when the Autumn Quarter began, Smith again refused to teach a course for the same reasons discussed above. Campus police prevented him from entering his other acceptable assigned classes and he was, as warned, immediately suspended without pay. Smith then requested a hearing before a Faculty Hearing Committee of his peers but was permitted only a hearing before Dr. Olds. Because Smith was denied a hearing before his peers, the kind of hearing using civil court procedures which had during June of 1972, under Chairperson Dr. Sidney L. Jackson, he went to court to fight for the right to a fair hearing. That attempt failed when, on March 17, 1973, Judge Thomas D. Lambros of the U.S. District Court in Cleveland decided that "the requirements of procedural due process have been met in this case." (See Smith v. Hetzel, No. C 72-1086, N.E., E.D., Ohio, Mar. 17, 1973) Thus, Judge Lambros, a dependable member of the Establishment, therefore, supported the Kent State University power elite. That power elite could and did violate the U.S. CONSTITUTION with impunity.

Smith did have a hearing before President Olds in April, 1973, following Judge Lambros' decision. In this farcical hearing Dr. Olds was, of course, triumphant. On June 4, 1973, the University Board of Trustees dutifully and sanguinarily formally dismissed Smith. The intended destruction of Smith, -----
 from the ACLU and other supportive groups. It was hypothesized that Dr. Olds withheld the report from Smith and told him the committee had recommended dismissal in the hope that Smith would become demoralized and resign and, therefore, save Dr. Olds from the agony of facing the humiliating defeat that Smith and the Jackson committee had brought upon him.

however, started in September, 1972, when he was summarily suspended without pay. For the entire 1972-73 academic year Smith received no pay from the University. To make matters worse, the state of Ohio's Bureau of Employment Services, the agency controlling unemployment compensation matters in Ohio, refused to pay Smith unemployment compensation because he was still officially "employed" by the University even though not being paid. After his formal dismissal, June 4, 1973, the Bureau then refused to pay him unemployment compensation because he was discharged for "just cause in connection with his work," because he was discharged for "misconduct." That year of poverty for Smith and his family caused him to lose his house because he could no longer make payments on it. Blacklisted from employment in Ohio, he was forced to leave the state and went to live in the home of his in-laws in Chicago.

Needless to say, Smith, being the kind of man he is, has not given up his fight for redress in the federal courts. He now has a new suit pending in federal court against the Kent State University (see Smith v. Kent State University, No. C 74-503, N.D., E.D., Ohio, in progress). Following six long, hard years of unemployment, 1972-78, Smith had to leave the United States in order to get work again and support his wife and two young daughters. Fortunately, through his socialist friends, Smith was able to get a one-year appointment at the School of Music of the University of Bucharest in Romania for the 1978-79 academic year. In a de facto sense Smith was forced into exile because the Kent State University power elite and its Establishment connections in Ohio and throughout the United States are

determined to destroy him if they can. Since returning to the United States, he is again faced with continued unemployment, economic deprivation, and psychological pains which are integral parts of the lives of most people who have struggled against any kind of anti-humanistic power elite.

The Kent State University power elite learned much from the Smith case. When my dismissal hearing came up they made sure that the Faculty Hearing Committee would be lead by a lackey they could depend upon, namely, Professor Glenn Frank. They also tried to stack the Committee with other dependable lackeys, two of whom were full professors in administrative science and loyal to Dr. Olds.

The University was vehemently against my having the kind of civil court procedures which vindicated Smith at his June, 1972 faculty hearings and were led by civil libertarian Dr. Sidney Jackson. The University said that I would have what they called a "professional hearing" as opposed to a "legal hearing." Professional hearings, they argued, were more appropriate for the University than legal hearings. Professional hearings were inherently more just than the legal, adversary type of hearings, they insisted. For that reason, they suddenly took it for granted, without my knowledge, that I would not need nor should I expect to need an attorney to help defend me, to cross-examine witnesses, etc. This was a right I naively took for granted. When preparations for my hearings came up I thus found myself having to fight for the most elementary due process rights.

In spite of my attorney and I putting up a good battle for those elementary due process rights we were denied most of them. Thus, although the University granted me the right to counsel, that right was emasculated by the stipulation that my attorney not be permitted to actively participate in the hearings. I had to conduct my own cross-examination, conduct my own defense, and my attorney was only permitted to whisper advice to me. I was not permitted the right of discovery. I was not given a genuine bill of particulars. I was only permitted about one-third of the witnesses I requested. There was no court reporter; only an amateurish, incomplete taping of the proceedings by Professor Frank. There were no rules on the admissibility of evidence and testimony. I was not permitted a public hearing. The hearing was a secret hearing. No students, as requested by me, were permitted to be observers. I had asked for at least one graduate student to be permitted to be an observer.

Prior to the hearings, all the members of the Faculty Hearing Committee were given copies of the 95-page book, with charges against me and supposed documentation supporting those charges, which had been distributed to me and members of my department on March 12, 1975. Prior to the hearings I was not asked nor permitted to provide a document which discussed the validity of those charges from my point of view. When the hearings began on May 31, 1975, members of the Faculty Hearing Committee, for the most part, had a very one-sided view of me. They had a portrait of me painted by the biased eyes of my enemies. To me and to my attorney,

Eugene Bayer, that 95-page book with a green cover became known as "The Green Monster." If I had been a Dr. Jekyll and Mr. Hyde, then, at that time in my life, I was surely Mr. Hyde to the members of the Faculty Hearing Committee who read "The Green Monster."

The University's experience with dismissing Smith was indispensable in creating the strategy to be used in my dismissal and in producing "The Green Monster."

Chapter 11. THE GREEN MONSTER: THE 95-PAGE DISMISSAL
DOCUMENT

On the afternoon of March 12, 1975 the CPSE Department was supposed to have a regular meeting at which, included in the agenda, would be a discussion and re-examination of the August 27, 1974 decision made by department members. That decision stated that if federal funds were not available for the 1975-76 academic year, then I would no longer have a position at the University after June 15, 1975. As I pointed out in a previous chapter, that March 12, 1975 meeting was not a regular meeting. It was special.

Shortly after that March 12, 1975/^{meeting} had begun, it being about 3 P.M., Dr. Saltzman reached into a big, brown carton sitting on the table before him and removed a number of large, green-covered, bound, indexed, fresh-looking books. Dr. Saltzman then distributed, person-to-person, one copy of the green book to each of the faculty members present. He carefully recorded the handwritten number of each copy and the possessor of that copy. It appeared that what was in those books was very important and these books were very precious to him.

Once the green book was in my possession, I saw its title for the first time. The simple title of that book floored me. Here was a 95-page book, 8½" by 11" in size, about one inch thick, indexed from A-Z, and weighing almost two pounds. Its title read:

CPSE DEPARTMENT

RECOMMENDATION AND
RATIONALE FOR DISMISSAL
OF DR. ROBERT FRUMKIN

March 12, 1975

The nature of that March 12,1975 meeting has been described in an earlier part of this book. The main purpose of this chapter is to simply describe what this book, now satirically known as "The Green Monster;" is like.

The book must be seen, held, felt, weighed, and read carefully to sense its full impact. This nearly two-pound book contains some 13 pages of charges. Thus, on page 1 of the Monster it states: "We estimate that the combined efforts of Faculty Members in this Department to research Frumkin accusations and correct his administrative failures have approached the time of a full-time equivalent faculty member." On pages 2-10 are six major charges. Most of these charges contain subcharges. For example, Charge No. 6 contains 7 subcharges, Charge No. 3 contains 5 subcharges, etc. The last nine pages of the Monster contain the "The Faculty Code of Professional Ethics" and the "Ethical Standards of the American Personnel and Guidance Association." The former document is a Kent State University faculty code of ethics and the latter code is one developed by the professional association in which all department members were affiliated. How many copies of the Monster have been assembled is not known by me at this time. However, I do know that at least 57 copies have been distributed on and off campus since March 12,1975.

The six major charges, as stipulated in the Monster, are as follows:

- "1. UNSATISFACTORY PERFORMANCE AS REHABILITATION COUNSELING (SRS) GRANT DIRECTOR.....
- "2. RECURRING UNDOCUMENTED AND UNPROVEN CHARGES AGAINST FACULTY MEMBERS.....

3. UNPROFESSIONAL CONDUCT.....
4. FALSE CHARGES AGAINST THE DEPARTMENT.....
5. VIOLATION OF UNIVERSITY AND/OR DEPARTMENTAL POLICY.....
6. DEPARTMENTAL CONCERNS."

Following the statement of charges are some 75 pages of "supporting" documents, indexed from A-Z, which allegedly provide evidence for the charges made against me. Although none of the charges would be serious, just causes for dismissal if valid, none of these have any empirical validity. There are some charges which are absurd trivia, and even these are invalid, e.g., Charge 6-B states that I used department Xerox funds to duplicate a newspaper account of my divorce which took place in August, 1973. It is true that I duplicated copies of that newspaper account with a Xerox machine at the University. The fact is that I used the University Library Xerox machine to make three copies of that account and used three of my own nickels to do so.

The most serious charges in this document are those written between the lines. There are innuendos galore which suggest that I exploit students, that I am dishonest, that I am a poor model for students, that I neglect my professional teaching obligations, that I have made unreasonable attacks on my colleagues, etc.

Anyone who examines "The Green Monster" is bound to agree that it is a vicious weapon.^{1/}

^{1/} See Appendix A for a complete copy of "The Green Monster,"
 pages 363-457.

Chapter 12. THE FIRST DAY OF THE HEARINGS: SATURDAY, MAY 31,
1975

The first day of the hearings was not marred by heavy fog or rain, or dark clouds. It was a beautiful, sunny, clear Saturday, May 31, 1975. The hearings were to take place in Room 483 of the new, modern Kent State University Business Administration Building. That room was a plush, dark-panelled room with black leather chairs and large plastic, uniform green plants. The interior design was a good example of Executive Kitsch.

My attorney, Eugene Sidney Bayer, having driven all the way from Cleveland, some 40 miles northwest of Kent, was ready and eager to be my active advocate so that I would have the greatest opportunity to exercise my right to due process, my right to a fair hearing. Mr. Bayer, as rotund as a lovable Santa Claus, with a stentorian voice to match, sat at my left at the large rectangular table (finished in the finest wood, of course) at which all the principal characters in the pending drama would also sit.

The seating arrangement was as follows: At the head of the table was Professor Glenn Frank, chairperson of the Hearing Committee and a professor of geology. To his left was Dr. Betty Hartman, a voting member of the Hearing Committee and a professor of women's physical education. To her left sat Dr. Joseph Schwitter, a voting member of the Committee, a Swiss immigrant with a very decided Germanic accent, who was a professor of administrative sciences and eager to retire at the end of the quarter. To his left was Dr. John Douthett, another

voting member of the Committee and also a professor of administrative sciences. Very far to the left of Dr. Doutt at the end of the long table, was an empty chair in which witnesses called by the Hearing Committee were to sit. Across from Dr. Hartman, sat Dr. Barrett Beer, a voting member of the Committee and an associate professor of history. To his right was Dr. Paul Sites, a non-voting alternate member of the Committee and a professor of sociology. Mr. Bayer was seated to the right of Dr. Sites and I sat to the right of Mr. Bayer.

That was the basic seating arrangement during the two week period in which we met. In addition to the six members of the Hearing Committee, Mr. Bayer and I, there were also several observers who sat against the wall behind Drs. Hartman, Schwitter, and Doutt, namely, Dr. Ray Heisey, faculty ombudsman, Mr. Allen Adler, a lawyer from the Attorney General's Office of the State of Ohio and assigned to Kent State University, Dr. Frank Smith, a mathematics professor representing the AAUP chapter of KSU, and Prof. Harold Kitner, an art professor representing the KSU Faculty Association(an affiliate of the Ohio Education Association and the National Education Association). When Prof. Kitner was unavailable, Dr. Byron Lander would serve as an alternate observer. Dr. Lander represented KSUFA and the ACLU. Dr. Lander, besides being a political science professor was also a practicing attorney.

The reel-to-reel recording equipment (the entire

hearings were to be recorded and then transcribed) was on a small table to the right of Professor Frank as he faced the large table. Professor Frank, against my wishes, was responsible for recording the hearings. I had felt that an expert on recording should have this responsibility and not a person who had enough responsibility conducting the hearings. In spite of this objection, when the taping equipment was ready, with microphones set up before each person at the table and for the person to fill the witness chair, Professor Frank began to speak and to announce the hearings:

Frank: "The time is now, according to the clock in Room 483 of the Business Administration Building, five minutes after nine. The hearing on the appeal of Dr. Robert M. Frumkin is now in session. But, at this moment, Dr. Frumkin and his attorney are not present. The record should show that we will now wait until they arrive. Since they have not arrived yet, I will soon ask for consensus from the Committee as to what time and how long we will wait to determine whether or not the hearing should begin in their absence. So I'll be asking for your advice if they haven't arrived at that time.... All right, the meeting will come to order. The record should note that it is on the clock 9:10 A.M.

I would first like to introduce the members of the Committee for the record: Betty Hartman, professor of women's physical education, Barrett Beer, associate professor of history, John Douthett, professor of administrative sciences, Joseph Schwitter, professor of administrative sciences, Committee alternate member Paul Sites, professor of sociology, and myself, Glenn Frank, professor of geology and elected Committee chairman. Next I'd like to introduce Dr. Robert M. Frumkin, associate professor of counseling and personnel services education, and his attorney, Eugene Sidney Bayer. With us today, we also have Dr. Ray Heisey, faculty ombudsman, Prof. Harold Kitner, representing KSUFA, and Dr. Frank Smith, representing the AAUP. We also have Mr. Alan T. Adler, assistant attorney general for the state of Ohio. At this time I would like to point out officially that because Dr. Frumkin has an allergy to smoke we request that you do not smoke during the hearings.

The Department of Counseling and Personnel Services Education has compiled a series of charges against Dr. Frumkin and on the basis of these charges they have

recommended his dismissal. This recommendation for his dismissal has been reviewed by Dean Alfonso, Vice President and Provost Snyder and President Olds. The purpose of this hearing is to hear the appeal of Dr. Robert Frumkin that no prima facie case for his dismissal has been shown. I believe the Committee recognizes the necessity of a fair and impartial hearing and we trust that the Committee's questions as well as those by Dr. Frumkin will bring out the information pertinent to the alleged charges so that the Committee may arrive at a fair and just recommendation.

This is a professional hearing and not a court of law. It is not intended to be such. The chairman takes note that the national AAUP as well as Mr. Bayer would prefer that Mr. Bayer be permitted to cross-examine witnesses. The record should show this objection. A special note to observers that this is privileged information that will be presented and, therefore, one item covering the conduct of this hearing should be read and I quote: '1. All persons involved in the hearings must things confidential. No public statement or publicity concerning the substance of these proceedings will be made by anyone until the matter has received its final determination by the Board of Trustees of the Kent State University. 2. It should be noted that this hearing has been given a specific charge. That charge is as follows: to receive the testimony presented regarding (1) the recommendation for dismissal and; (2) the appeal of that dismissal of Dr. Robert M. Frumkin; and, finally, (3) to present a recommendation to the president of the University. 3. The procedures for this hearing will be as follows: (1) Witnesses will arrive, state their name and position or status. (2) Witnesses may make a statement of their involvement or association with this situation. (3) The Committee may ask questions of clarification or elaboration. (4) Dr. Frumkin may ask questions of the witnesses. (5) Dr. Frumkin may make a counterstatement for the benefit of the Committee. (6) When the Committee members feel that they have sufficient information from any witnesses the chair will be instructed to dismiss that witness.'

It appears that there are three major areas relative to the charges presented: 1. The federal grant management. 2. Allegations concerning the department, its policies, and its staff members. 3. Allegations concerning students and secretarial help. Finally, it should be mentioned that witnesses called for today were desired and called by both the Committee and Dr. Frumkin. At the close of today's session but prior to adjournment the Committee would like to discuss with Dr. Frumkin and Mr. Bayer the next step in the hearing procedure and to decide on additional witnesses.

The first area of concern today will be that of the management of the grant. The charges were: 1. Unsatisfactory performance as rehabilitation counseling grant director.

2. Recurring, undocumented and unproven charges by Dr. Frumkin against faculty members. Specifically, subsection 2-b which reads 'Charges of misappropriation and misuse of federal funds by Dr. Frumkin against one or two members of the department.

At this time I'll call the first witness who will be Dr. Coogan."

Bayer: "Mr. Chairman, will you allow a brief discussion before we start so that the position of Dr. Frumkin will be made clear first? Second, a possible modification of some of things you have stated in the interest of making this hearing successful?"

Frank: "Mr. Bayer, I'm afraid we're going to have to take the position that this is a hearing for Dr. Frumkin relative to the charges made against him. I might say personally for the record that I don't believe Dr. Frumkin has to defend himself today. I think the charges have to be shown that they are justifiable. I'm not really expecting Dr. Frumkin to defend himself against the charges as much as I am to have him have the opportunity to question witnesses regarding the charges. I really don't want to get into the legal ramifications of this or a legal hassle which I'm sure we can easily get into. Unless I hear an objection from the Committee members we're going to have to assume that the charges have been made. Dr. Frumkin is aware of these charges and now the Committee members will have to try to determine whether or not the charges justify a recommendation for dismissal or retention. Do I hear any objections from the Committee relative to that statement? All right then, I think ---"

Hartman: "Mr. Chairman, Mr. Chairman: I think that the ground rules indicate that Mr. Frumkin should speak to the chair and I would hope that Mr. Bayer adheres to that."

Frank: "The Committee has decided that it will at any time listen to Dr. Frumkin and try to be as reasonable and understanding as possible. The chair (speaking to Bayer) respectfully suggests that any comments you might have to assist or help your client be passed on to him so that he could address them to the Committee."

Bayer: "It is not my intention to disrupt this proceeding. A moment or two before we begin I would like to discuss a few points about the conduct of the hearings. I understand that I will not be permitted to cross-examine witnesses. We will object to that again and again. I can't believe that that fact would also preclude a prehearing discussion. Now, of course, if you say ---"

Frank: "This matter should be discussed with the Committee. I'd like the Committee's advice."

Sites: "How much time are we talking about?"

Bayer: "For my part I'd like five minutes."

Schwitzer: "What is the substance of your discussion?"

Bayer: "The substance of my discussion is to indicate to this Committee that while its role is to inquire my client and his counsel's role is to defend. We understand this as a defense of Dr. Frumkin against those who charge him with misconduct warranting dismissal. Then, based on that, I want the Committee to consider that the person who defends his career should have the greatest opportunity to test the testimony. I have a two page, no a one page plus one paragraph statement which I would like to read. It can't take more than a minute...a couple of minutes."

Doutt: "Can we see it?"

Bayer: "You want to see it before I read it? Unfortunately-

Hartman: "Point of order! Point of order! I believe you were going to ask us what procedure we were going to follow and I'm wondering if we need to do this before we listen or do not listen."

Frank: "John (Doutt), do you wish to have this statement read into the record without seeing or not knowing what's in it?"

Doutt: "I'm---"

Bayer: "Mr. Chairman---"

Frank: "Please! Please! I'm sure we can hassle this all day. I can appreciate your concern for your client. Our job, however, is not to decide whether Dr. Frumkin is guilty or innocent. Our job is to determine whether the case made against Dr. Frumkin is reasonable on the part of a faculty member for dismissal. That is what we came to determine. Therefore, Mr. Bayer, unless you have something very pertinent and you insist on putting it into the record then---" (emphasis added)

Bayer: "Well, I'd like to make my statement now. And---"

Frank: "No, Mr. Bayer, the Committee---"

Bayer: "If you're going to stifle me I will sit here mute. I will abide by your decision but it is not the purpose of this hearing to decide whether or not the charges are reasonable. That was---"

Frank: "That is the purpose---"

Bayer: "Don't interrupt me---"

Frank: " I will interrupt you because you're out of order. You are not here for the purpose of discussing this with the Committee. I will, however, take your request under advisement and find out if the Committee wishes to have you read that into the record. Now, if you will excuse me, I'll go about that business at this time. John Doutt, do you wis-

this read into the record?"

Doutt: "No! I think we understand Professor Frumkin's position both professionally and personally. I don't think we should go into this any further."

Frank: "Dr. Schwitter, do you want Mr. Bayer's statement read into the record? "

Schwitter: "No! We have established rules for the conduct of the hearing and I don't see any reason to correct them."

Frank: "Betty Hartman, do you wish the statement to be read into the record?"

Hartman: "No, I do not!"

Frank: "Paul Sites, do you wish the statement to be read into the record?"

Sites: "Considering its brevity, yes I do."

Frank: "Barrett Beer, do you wish this read into the record?"

Beer: "Yes I do."

Frank: "I will ask this Committee to permit Mr. Bayer five minutes to read his statement into the record. Are there any objections?"

Hartman: "I object!"

Frank: "Note that there is one objection, Betty Hartman's objection."

Schwitter: "The majority has voted against Mr. Bayer ---"

Frank: "I also have a vote so that there's a tie. Since there was a tie vote I will ask if there's anyone on the Committee willing to change the vote so that, in the interest of fairness, the Committee approves Mr. Bayer's request?"

Doutt: "I concede. Change my vote in favor of Mr. Bayer presenting his statement."

Schwitter: " I must express a condition, since we do not know what the content is, we should not accept this as any obligation to follow any possible suggestions that the attorney might put into the record."

Hartman: "I think we should also show that we are temporarily setting aside our approach."

Frank: "I agree that that should be part of the record. Are there strong objections? There two objections noted: Joseph Schwitter and Betty Hartman. Mr. Bayer we'll give you five

minutes please to read this into the record. I would appreciate no discussion . Thank you."

Bayer: "Thank you. ' To the Kent State University Faculty Hearing Committee: Regarding Dr. Frumkin's right to active participation of counsel, the Fifth Amendment to the U.S. CONSTITUTION provides that no person shall be deprived of property without due process of law. The Fourteenth Amendment makes that provision applicable to the respective states. There is no question that under the applicable U.S. Supreme Court decision a state-funded university such as the Kent State University is a state agency which must follow the CONSTITUTION. Thus the Kent State University is bound by the requirements of due process of law. The basic requirement is that no person can be denied his property, which of course includes a salary pursuant to employment, without due process. Due process requires adequate notice, a hearing on the merits, an opportunity to present witnesses in one's behalf and to cross-examine witnesses. And, perhaps, most importantly, it includes the right to be represented by counsel. To be represented by counsel is fundamental to the right to be heard. To limit the right to counsel to mere presence without active participation is to virtually nullify that right. These considerations are applicable to hearings involving denial of tenure or removal of a tenured professor. In the Board of Education vs. Kennedy in the state of Alabama in 1951 the Alabama Supreme Court recognized under Alabama tenure law that a teacher is entitled to the active participation of counsel at his hearing regarding tenure. In Goldwin vs. Allen , a New York case in 1967, it was held that allowing a student's counsel to act an observer only in a disciplinary hearing constituted a denial of due process. The proposition that the right to representation by counsel includes active participation is too elementary to belabor this Committee for further discussion. Therefore, we respectfully request that this Committee reconsider its previous decision that Dr. Frumkin be allowed only passive or private representation with him, by his attorney, myself, and to avoid a fatal flaw in these proceedings by allowing his attorney to speak in his behalf cross-examine adverse witnesses, and question favorable witnesses!" ((At that moment Mr. Bayer was about to provide a postscript but Professor Frank cuts him off before he could speak))

Frank: "No, I'm sorry! We asked you and respectfully requested that you read your docuemtn into the record. We did not expect a discussion afterwards, so I'll respectfully decline to recognize you at this time and simply point out that according to AAUP policy which I have in my hands at this time, it says: 'During the proceedings a faculty member will be allowed ^{by} academic adviser or counsel of his choice.' Nothing to my knowledge suggests that the counsel has to be permitted to speak. You are here. We appreciate

that. We understand the concern you have for your client. At this time I'll simply say the hearing will proceed. The first witness is Dr. Alan Coogan."

Bayer: "Give me---"

Frank: ((Ignoring Bayer and recognizing Dr. Sites)) "Dr. Sites, do you have a comment?"

Sites: "Given the legal precedents cited here I would like to have the University attorney or the assistant attorney general sitting here to speak to this issue. That is to say that if what we're doing here is as a matter of fact not legal and can be immediately overturned it seems to me that it makes little sense to proceed."

Frank: "He was quoting court decisions and proceedings and this is a professional hearing not a legal hearing."

Sites: "This is not a legal hearing?"

Bayer: "You're a state institution!"

Hartman: "Point of order! I would like to confirm that this is not a court of law and we proceed that way."

Frumkin: "How is a professional hearing distinguished from a legal hearing?"

Frank: "Witnesses are not sworn in. The testimony given for the day is simply information presented by people who have been involved. It's up to this Committee to decide whether the charges made against you up to this point warrant any kind of additional action."

Frumkin: "So, if this is a professional hearing one has to go beyond the charges, isn't that so?"

Frank: "No, because your dismissal/^{is}based strictly and specifically on six charges with their subcharges."

Frumkin: "Then, if that is so, to me that is a legal and not a professional one. In my estimation----((Frank starts to interrupt)) ---I just want to finish-- A professional hearing would consider the whole person and the whole issue and not specifically these charges."

Frank: "I think that the Committee's obligation and responsibility is to determine whether the charges per se are sufficient ones for dismissal."(emphasis added)

Frumkin: "That to me is a legal orientation and/^{not}just testimony."

Frank: "I'm sure you can see, ladies and gentlemen, that we will get nowhere today with the obligations and responsibilities of this Committee unless we follow the ground rules."

Beer: "One thing we all ought to remember is that this Committee does not have the power to either dismiss Dr. Frumkin or reinstate him. The power to do that rests with the Board of Trustees. We do not have the power of a court. We could recommend dismissal and the Board could vote to retain or we could recommend retention and again the Board could go its own way. So they really are the decision-making body, not us." (emphasis added)

Sites: "But we are preparing the record. I would like to hear what the assistant attorney general has to say about this."

Frank: "Mr. Allen Adler, do you wish to comment on this

Adler: "For the record, as far as Dr. Frumkin's due process rights are concerned, he should have an attorney at his table who knows how to carry on a classic courtroom cross-examination."

Frank: "It should go on record that the Committee in discussing and deciding the ground rules for this hearing felt that if that was a possibility that every witness would then also have the right to counsel and it was decided that this not appropriate under these circumstances. We, therefore, decided that the attorney would not have the opportunity to actively participate. This procedure had been recommended by the Faculty Senate Executive Committee and accepted by this Committee and so respectfully, Mr. Bayer, we will not permit you to cross-examine witnesses. Passing notes and discussing with your client is permissible but we will not permit you to cross-examine witnesses."

Hartman: "Are we going to stick to our guns or are---"

Frank: "We are going to stick to our guns because that's what we decided and we're not going to change the rules in midstream, right or wrong, legal or illegal, at this point, we shall proceed!" (emphasis added)

Bayer: "I would ask---"

Hartman: "You're out of order!"

Frank: "I will now call our first witness---"

Bayer: "Professor Frank, I want you tell me whether I must be mute. I do not want to disrupt this---"

Frank: "Yes! You are to be mute relative to the Committee"

Bayer: "Then I enter an objection at this point in behalf of simple justice, that to allow an attorney who is ordered to be mute, who will obey your instructions....Objection is made now and every moment of this hearing, before and after every witness and at the end of the hearing even though that objection has failed. Now, the moment we spent has not been lost, Gentlemen and Madam."

Hartman: "Point of order!"

Schwitzer: "Enough of this discussion, let us proceed."

Bayer: "What do you win ? Give us a few moments. This is our objection and so be it. I will be silent. I will pass notes, an absolutely inadequate method. I will be as cheerful as I can in my silence but I mention my objection because it will be raised if we lose. Remember folks, we view you as fair people albeit temporarily tense on this subject. We look to you for vindication. Don't allow me to turn you off or antagonize you. I only want---"

Frank: "Then I would recommend, Sir, that if that is your concern then from this moment on, Sir, you must abide by certain rules of this Committee. The chair went on record initially as recommending recognition of your objection to this situation so that the Committee is well aware of your feelings relating to this."

Bayer: "And I presume this is recorded? Is the recording system working? Now, I would like to consult with my client for a moment. Now will you give me that permission? I do not whisper because my voice is stentorian. I wish a moment with him in private."

Doutt: "In private or in public?"

Bayer: "In private. I cannot consult with him in public This is a sacred privilege. In private --- In a corner or out in the hallway."

Frank: "You may step into a corner."

Bayer: "I'd rather be out of this room. Do you mind if we go out and tell him how to act?"

Frank: "The chair notes that this is something you should have discussed with your client before coming into this room."

Bayer: "I did but ---"

Hartman: "Point of order! I feel that we're trying to get at some kind of order here and we're being prevented from doing this."

Sites: "I have to disagree. Let's have a temporary recess."

Frank: "I'm going to have to say something now that I dislike very much having to say...Your involvement ((turning to Sites)) in this is as an alternate observer up to the point when it might become necessary for you to make a vote, so I respectfully have to say that as alternate right now, the Committee will have to request that you remain silent. The regular Committee will decide if we shall take a temporary recess. John, do you wish to make a comment?"

Doutt: "Does Dr. Frumkin wish to have the proceedings continue?"

Frumkin: "Yes I do, I certainly do."

Bayer: "You mean without my consultation?"

Frumkin: " Oh no! I wish---"

Doutt: " Shall we proceed or have a recess?"

Frumkin: "I want to talk to my attorney."

Schwitzer: "I think that the Committee should meet privately and clarify our stand again, since there seems to be some misunderstandings."

Frank: "Do you wish to adjourn the hearings for five minutes and go into executive session?...Yes? Is there any objection to this? All right, the chairman will call a recess for five minutes and at the end of five minutes will reconvene in this room! The record should note that the reconvening of the hearing for

At this time, Bayer and I went out into the hallway, found a quiet spot, and discussed future strategy relative to what had been going on in the hearings thus far. After about five minutes we returned to the hearing room and the hearings were reconvened by Prof. Frank.

Frank: "The record should note that the reconvening of

the hearing for Robert M. Frumkin. The time is now 14 minutes of 10. I would like to point out that the Committee has gone on record as reaffirming its original position that there will be no cross-examination by Dr. Frumkin's attorney and that any questions asked would be directed to the chair by Dr. Frumkin...The first witness is Dr. Alan Coogan. Dr. Coogan would you please state your name, position and then any statement that you wish to make to this Committee about your involvement in this case?"

Frumkin: "I would like to make a statement before we proceed? Do I have a right to consult my attorney? Do I have any rights?"

Frank: "You do in fact have rights. We're doing everything in our power to support those rights. Those rights are afforded you not only as a citizen but as a fellow faculty member. But to continually delay this hearing will certainly won't be to anyone's advantage."

Frumkin: "I'd just like a few moments and it's very crucial as far as I'm concerned."

Hartman: "Mr. Chairman, I would like to know if Mr. Frumkin is going to speak to some issue or whether this is another attack on this Committee?"

Frumkin: "I have a fundamental objection to raise!"

Frank: "Is that fundamental objection relative to the inability of your counsel to cross-examine witnesses?"

Frumkin: "No, not really."

Frank: "Not really. Does it speak to the charges relative to your potential dismissal?"

Frumkin: "If you give me a chance to speak --- Don't I have the speak either?"

Frank: "You do but not while we have a witness in the chair."

Frumkin: "I have a fundamental objection to make before we proceed. Why can't I make it? If I have the right to speak, then why can't I make it?"

Doutt: "Let's hear the objection. We'll decide whether we are indeed wasting our time here today."

Frank: "O.K., Dr. Frumkin, you may proceed."

Frumkin: "I object to Dr. Betty Hartman being on this Hearing Committee because of her obvious prejudice to our cause. That's one objection. I have others. I object to

your stifling Dr. Sites because---

Frank: "The Committee has decided that the chair was out of order. It should be recorded so and that Prof. Sites does as a matter of fact have a right to speak although he does not have the right to vote if all the regular members of the Committee are here."

Frumkin: "O.K., that's satisfactory. I also object to my lawyer not being allowed to speak. There's a very strong objection here."

Frank: "That is a part of the record."

Frumkin: "I just want to make one reference to that particular point. In THE RIGHTS OF TEACHERS ((raising that book in his hands)) it states very emphatically that counsel in cases like this has the right to speak for his client and cross-examine witnesses and they review cases to show that."

Frank: "The point is well-taken and we are not wasting our time."

Frumkin: "I have one more objection and that is that the Committee is talking to Mr. Adler in the absence of Mr. Bayer. Didn't that occur? Didn't that occur during the recess? Without my lawyer being present?"

Frank: "That's a very cogent point. You talk to your lawyer without me being present. I am chairing this Committee. Was that also fair?"

Frumkin: "I have a right to speak to my lawyer. He's my counsel and I don't have to speak to him in public."

Frank: "Yes. That's correct."

Frumkin: "That's my right as a citizen."

Frank: "The chair should go on record as to your last objection that the advice we requested of Mr. Adler was whether we were wasting our time in continuing this hearing under the circumstances with reference to the objection raised initially by your counsel. I don't know if that's an adequate explanation but that is what we requested."

Doutt: "Do you accept the findings of this Committee and wish to continue?"

Frumkin: "I have the right to raise these objections because the Committee is supposed to be fair. Both lawyer must be present when the Committee discusses anything like this."

Frank: "That point is well-taken."

Doutt: "Do you imply that the Committee may not be in session for its own deliberations?"

Frumkin: "Without my lawyer present? No, not if your lawyer is present."

Schwitter: "Our obligation is to make a recommendation. We're only to accept additional information. You cannot bind us legally to not deliberate on our own. After all you consult with your consul without us."

Frank: "The Committee wishes to request from you whether or not you have issued an objection to the presence of Dr. Hartman on the Committee?"

Frumkin: "No, I didn't before, but I do now. I didn't know Ms. Hartman at all. I have never spoken to her before."

Frank: "Let me ask you one thing if you think that Dr. Hartman is unfair. Because she has been asked by the chair to offer a point of order when there is a problem with the Committee and wishes to talk about it, does that make her unfair? Why do you object to her sitting on this Committee?"

Frumkin: "It seems to me that she does have some bias."

Frank: "Relative to rules and procedures?"

Frumkin: "I would like to ^{ask} her some questions."

Beer: "I object to this, Mr. Chairman."

Franklin: "Is there any other discussion?"

Schwitter: "It is my understanding that Dr. Frumkin has been given a letter by Dr. Olds in which he was told the names of all the Committee members, and to this extent you have used your right to object to any professor being on the Committee. Why didn't you object to Dr. Hartman then? I think at this point it is too late to object to any member of the Committee. If this were not so, we would have to close our meeting today because we'd have to go through the whole process again to get an additional member."

Frank: "Dr. Frumkin, I'd like to ask you a question: Are you in fact interested in whether colleagues of yours are willing to hear your case; that you have been given an opportunity to express your concern about your dismissal? Do you want faculty members involved in this process or do you feel that the only appropriate way is through the courts? Decide this immediately because if that's a fact, we are quite honestly wasting our time. This is not a legal

hearing and I am not an attorney, nor do I understand the legal ramifications. If your attorney insists, in a sense, on throwing up a cloud of smoke so that it's difficult for us to get at facts, then I suggest that maybe there's something to hide. If, on the other hand, you feel that we can be objective, then I think we should be permitted to proceed. I would like your---"

Hartman: "Mr. Chairman, I would be happy to cooperate in any way you see fit."

Beer: "I object to Dr. Hartman withdrawing from the Committee."

Hartman: "I didn't say that I'd withdraw from the Committee. I just said that I'd cooperate with the chairman."

Frumkin: (turning to Dr. Hartman) "Do you feel comfortable being on this Committee? Do you have any bias toward me?"

Hartman: "I really feel that this is an inappropriate question. I would not be here if I was not willing to try to join a group looking into the charges. Mr. Chairman, are we going to ask each member of the Committee the same question or only certain individuals on the Committee?"

Beer: "Dr. Frumkin already had an opportunity to challenge the composition of this Committee. I think we must not permit obstruction and delay where each one of us can be challenged each time he may interpret us as being hostile."

Schwitzer: "I would like to put in the record that we really don't know Dr. Frumkin at all. I have possibly seen him on the campus. I would like to know if other members would have known you. I have no bias whatsoever."

Frumkin: ((turning to Dr. Hartman)) "I would like to clarify one point. I think my question was inappropriate in asking whether you have any bias toward me. What I really want to ask you is what you think a fair hearing consists of and what do you think due process is?"

Doutt: "I don't think she's on the stand."

Frank: "I think the chairman will have to rule that we are not here to maintain an inquisition of the Committee. I think it should be noted at this time that we only have one side of the story and that if there is any bias on the part of any member of this Committee we are taking our time to try to determine what your part of

the story is. We will not be able to determine that unless you give us your cooperation and your attorney gives us his cooperation, permitting witnesses to speak with the opportunity to question their credibility, their information, whatever. That's the only way we have of accomplishing this. And it's entirely up to you."

Bayer: (turning to Dr. Frumkin) "You can't let the objections slide. You must get them in the record."

Frank: "This is certainly the time to object. This is your opportunity now."

Frumkin: "I was actually trying to refer to my objections to the procedures and on that score it seems to be that there was some bias, not toward me specifically but to the procedures. That's what I want some clarification on. That's what I raise as my objection to Dr. Hartman."

Frank: "If you address the chair and state what those objections are, then they can either be discussed and eliminated or be maintained."
((speaking privately to Dr. Frumkin))

Bayer:/ "You have to say to the chairman, that he has to frame questions in a way which doesn't make it appear that we have something to hide by the way he conducts the hearings."

Frank: "I understand your concern for your client, Mr. Bayer. I understand the very tenuous position your client is in. I'm suggesting that if there is in fact nothing here of substance to these charges we'd like to try to determine that. If you don't want us to determine that, then please say so now so that we can all go home and do more important... or, I mean, go home so that we can do many other things which need doing."

Frumkin: "I want to state that I have nothing to hide and that I want to be as open as possible in this whole business."

Schwitzer: ((to Frumkin)) "May we know that you withdraw your accusation that Dr. Hartman has a bias against you?"

Frumkin: "It seems that I have no choice."

Frank: "Oh, yes you do. I must agree with the Committ that it's a little late for you to reject Dr. Hartman because if each one of us --- let's try to be very candid about this for just a moment --- if each one of us asks you a question that somehow suggests to you that we are prejudicial then of course you can

ask for our removal."

Frumkin: "I don't mean prejudice against me but rather against the procedures."

Frank: "The procedures, Dr. Frumkin, for this hearing are distinctly different from questioning Dr. Hartman with reference to her integrity."

Frumkin: "I withdraw that implication if that is there. That is not what I meant to ask her. I meant to ask her about due process procedures. She doesn't know me and I don't know her."

Doutt: "Do you think the procedures are unfair? Do you think they might affect the outcome of the hearings?"

Frank: "Would you be willing to state the specific procedures you object to?"

Frumkin: "Being denied the right to an active attorney. I think that there would be a good chance for that fact to affect the outcome of the hearings."

Doutt: "Then I see no point in proceeding."

Frumkin: "I disagree with that."

Frank: "Does the Committee have any observations on this?"

Bayer: "If the procedures were fairer, we might win. We'd be very happy."

Frank: "You'll never get to win unless you go through the procedures. You want your client to win. I can understand that because that's what you're being paid for."

Schwitzer: "We cannot get any additional information if you're going to obstruct us."

Beer: "There is a very good likelihood that if we report to President Olds that we are unable to make a finding, the recommendation for dismissal to the Board shall almost certainly go forward."

Schwitzer: "If we don't get new information, we will have to return the charge to President Olds."

Doutt: "We can proceed but apparently Dr. Frumkin thinks we are not proceeding fairly, honestly, and in a worthwhile fashion."

Frumkin: "I didn't say that."

Bayer: "I would say that."

Frumkin: "I'd say it is not as fair as possible."

Bayer: "Break the rule for a moment and let me participate please."

Frank: "Betty Hartman?"

Hartman: "We have committed ourselves to particular procedures and until we have changed that I feel duty bound to act that way, to proceed that way. I'd like that to be in the record."

Frank: "Are there any other comments by the Committee?"

Beer: "Dr. Frumkin is not asking for adjournment or termination is he?"

Frumkin and Bayer: "No! No!"

Beer: "I think we should proceed."

Frank: "Are there objections to proceeding?"

Doutt: " Let us proceed."

Frank: "The first witness is Dr. Alan Coogan. Dr. Coogan would you state your name and position and do you have a statement for the Committee?"

Coogan: "My name is Alan Coogan. I'm associate dean for research." *

Besides being the Associate Dean for Research, the ultimate person in charge of all research grants held by the University, he was also a full professor of geology. A man in his late forties, he was of medium height and weight and had short, gray thin hair crowning his reddish-skinned face. That face was seldom seen without a fat cigar. His office was often so smokey that I had difficulty breathing in it even when he was not smoking.

From the beginning of the questioning by Committee members, Dr. Coogan and especially Dr. Schwitter, an administrative sciences professor, got into a very lengthy discussion on the nature and practice of grant administration. Later in that

* Up to this point the transcription of the hearings is as complete and as accurate as is humanly possible. However, after this point only selected parts of the hearings are literally transcribed, otherwise this book would have to be over 2000 pages.

discussion, Dr. Coogan suggested that I should have been removed as grant manager because allegedly (1) I kept few records and those that I did keep were in such disorder as to be incomprehensible; and (2) that I was involved in permitting several students to get dependency allowances under the grant who were not eligible for those allowances. He also suggested that rumors were circulating that suggested that I might be embezzling grant funds and that he didn't want to have the HEW auditors come and find \$ 25,000 or \$30,000 missing.

Dr. Beer asked Dr. Coogan to talk about Dr. Coogan's requesting and getting police investigations relative to the Frumkin matter. Dr. Coogan said that he called on the police to find out if student Larry Kurtz had bona fide dependents. Dr. Coogan felt that I might have been giving out federal monies to students who did not deserve such monies. Dr. Coogan spent much time discussing Kurtz's dependents. Admittedly there was a mix-up. In a somewhat unknown state of mind, Kurtz allowed his girlfriend (who was his official income tax and legitimate dependent) to return to full-time employment and did not report her new, non-dependent status during the winter quarter, 1975, therefore making her ineligible for dependency allowances through Kurtz's federal assistance grant. It was these special circumstances of the Kurtz case which apparently prompted Dr. Coogan to feel that I was illegally aiding and abetting student misuse of federal funding.^{1/}

^{1/} It can't be emphasized too much that my position as grant manager was a voluntary, non-compensatory position. For Palmerton and Sakata it was a regular part of their work.

In order to determine if students were telling the truth relative to their eligibility for dependency allowances, Dr. Coogan had requested affidavits from students receiving allowances under the grant I was managing. This was the first time in the history of the University that such affidavits were ever requested. In discussing this issue with Dr. Coogan I said something which had been on my mind for several months.

Frumkin: "It would seem that the request for affidavits followed my charge against Palmerton and Sakata. Is that how you came to ask for affidavits from students?"

Schwitzer: "I think the question has to be rephrased. Did Dr. Coogan initiate the affidavits after having received notice of your memo against Palmerton and Sakata or before?"

Coogan: "After. Up until February 6th, 1975, the date of Dr. Frumkin's memo to Dr. Heisey, the SRS grant was operating more or less in the same manner as the others and deserved no particular administrative attention." (emphasis added)

Upon further questioning, Dr. Coogan stated that two students had been paid money they were not entitled to. He had been referring to students Larry Kurtz, previously discussed, and Cindy Kolb. When the University Police found that Kurtz's girlfriend was no longer his dependent, according to grant rules, Kurtz paid back the dependency allowance he had received during the period she was ineligible to be a dependent.

As far as Cindy Kolb is concerned, the story of her alleged violation had to do with the arrangements she had to make in order to live on the University campus. Confined to a wheelchair existence and having virtually no strength

in her legs, she eventually developed a satisfactory living relationship with a boyfriend upon whom she could depend to help her through each day. However, during the fall quarter, 1974, when she was supposed to have her sister as her dependent and helper, her sister never did come from Cindy's New York state hometown to the KSU campus. Not having informed me about anything to the contrary, I assumed that Cindy's sister was on campus and that Cindy was receiving her dependency allowance legitimately. The fact that her sister never showed up meant that the \$200 she received for dependency allowances was illegitimately received. To make up for this overpayment Cindy received it was to be arranged that Cindy would get \$200 less money on her stipend than she should have received if she hadn't this debt to settle. Since she might be in some serious financial difficulties because of her sister not having appeared, I agreed to let her borrow \$200 from me which she could pay back in small amounts until the debt was paid off.

But Cindy Kolb then received dependency allowances for the winter, 1975 quarter because her sister was supposed to show up during that quarter for sure. Unfortunately, however, her sister again never appeared. So now she was in debt \$400 instead of \$200. Someone asked me "If Cindy Kolb was having such financial difficulties as was alleged how could she afford to pay back the \$400 she owed the SRS grant?"

I replied: "Cindy agreed with me to pay back \$200 by declining \$200 of her spring quarter stipend and I agreed to pay the other \$200 back to the grant in order to clear up her debt. I saw it as a simple bookkeeping change. Then Cindy promised to pay me back my loan in small installments until her debt to me was paid in full." We felt that this was a fair arrangement and would cause Cindy no further embarrassment.^{1/}

Although Cindy Kolb was an intellectually very superior woman and severely handicapped physically, I felt that the fact that she had a promising future was not the only reason I offered to help her. I felt that every student in our program deserved the best opportunity to complete our program if she or he had the capacity and character to do an adequate job in the field of rehabilitation counseling. I felt that Cindy Kolb had the requisite capacity and character to make an outstanding contribution to rehabilitation counseling and that I was not going to permit a callous society which wasted billions of dollars on unnecessary weapons of destruction get in the way of this beautiful young woman's future.*

Dr. Coogan was asked why Dr. Frumkin's records were so important to him. He answered: "Because the continuation of the grant is only possible with good records. Continuation of the grant is not possible if the grant

* I am happy to report that Cindy Kolb is successfully employed in the field of rehabilitation counseling and completing her doctorate. This in spite of the insensitive forces against her and other handicapped persons.

^{1/} In his zeal to destroy me, this arrangement was never permitted. Cindy Kolb was "properly" embarrassed by Dr. Coogan and forced to return the money posthaste.

director dies and does not leave records to indicate what the history and present status of that grant is. Thus, records are important if a professor seeks greener pastures or even dies."

As he said "even dies" Dr. Coogan had a devilish smile on his face. It seemed to me that he would have liked the present coordinator of the Rehabilitation Counseling grant to be in greener pastures, particularly, in an unobtrusive green cemetery plot.

Dr. Coogan, of course, neglected to mention the fact that all important records for administering the everyday work of the grant were in his office, in duplicate form, sent to his office and for his files by me. His pointing the finger at me was, at best, a diversionary tactic aimed at avoiding the fact that Drs. Palmerton and Sakata had misused federal funds either illegally and/or unethically.

The so-called COOGAN REPORT of March 5, 1975, referred to often at the hearings, completely whitewashed Drs. Palmerton and Sakata and instead suggested that I might be guilty of some illegal activity. At the hearing Dr. Coogan suggested that I was responsible for Kurtz's and Kolb's failures to report a change in their status which affected their rights to dependency allowances. If they were illegitimately getting dependency allowances because they neglected to tell me of significant changes in their status was I really responsible for their actions

I could see that that might have been the case if I had known about it but certainly if I did not. And I did not know about it.

Waxsey Foreman, a severely handicapped student suffering from multiple sclerosis, and receiving grant benefits, was another person discussed by Dr. Coogan. He told the Committee that Waxsey should not have been enrolled at the University and that she was, because of a number of incomplete grades and generally poor record in graduate school, ineligible to receive any benefits whatsoever. I had approved of spring quarter benefits for her because her personal physician and University graduate school counselor said she was able to return to school and make up her work, after a short hospitalization and setback, in spite of her poor record and unpredictable health status. I had been willing to take a chance on her, to give her an opportunity to prove the skeptics wrong about her. Unfortunately, the University graduate school counselor and her personal physician were overly optimistic about her future and so was I. Dr. Coogan informed the Committee that when he had discovered the "real truth" about Waxsey Foreman he called the Comptroller's Office and the Treasurer's Office and stopped the check from reaching her. He made this statement with the smug satisfaction of a general who had just won a major victory over enemy forces and deserved some special recognition for this feat. His triumph I regarded as a tragedy. It was a

tragedy for Waxsey who couldn't continue in school and it was a tragedy for Dr. Coogan who revealed a heart of stone.

There was also discussion of other issues centering around the grant management but the one important issue I wanted most to get to concerned Dr. Coogan's feeling that his life was being seriously threatened by me.

Frumkin: "Something bothers me, Dr. Coogan. Several times you mentioned that I threatened your life. In fact you said that the last time you wanted to come over to my office for records you didn't want to come unless you had a police escort because you were afraid my threats were not ^{an} idle threat. Do you really believe that?"

Coogan: "Did you threaten my life?"

Frumkin: "Did I ever threaten your life? Did ever say that I was going to kill you? No. I never did to your face."

Coogan: "Did you ever not to my face? I'm asking you?"

Frumkin: "Not to your face? I did make a statement at the Model Cities Program, in conversation with my students, one of whom works for you."

Coogan: "Well, let me tell you, Dr. Frumkin, what my reaction to that was."

Frumkin: "I said something to the effect that 'I'd like to do something to your boss.' I'm not sure of the wording."

Coogan: "It was reported to me that the word was 'kill!' When I was told this I got up from my chair and went to the window and looked out and I thought of those days of 1970 and 1971 when I was out there on the lawn with those students and the police and I felt very, very uncomfortable. And I thought 'What should I do about this? Shall I take this as some sort of joke or something?' And I didn't think it was a joke at that time. There was a potential there of a real threat. And I talked with other people about it and I went to Becky (the student in my class who reported the statement I had made) and asked her if she thought it was a joke and how she felt at the time and how the other students felt at the time. She didn't feel it was a joke. And I was very uneasy for at least 10 or 15 minutes. And I went home and unlocked my gun and took it to my bedroom where I loaded it. Now if you want to know if I felt threatened, I leave it to you to decide for yourself."

Frumkin: "It sounds like you were."

Coogan: "They were your words, Sir, not mine."

Frumkin: "Was there any indication to you or anybody else in terms of my behavior at the University that I was the type of person who would carry out a thing like that? Do you know anything about me, Dr. Coogan?"

Hartman: "Is this part of the charges?"

Dr. Hartman's crucial question was never directly answered. Indirectly, however, it was because again and again death threats were alluded to by various witnesses. And when Dr. Olds made his recommendation to the University Board of Trustees he included a statement about this defamatory "non-charge," at least with reference to Dr. Coogan's claims.

Frank: "Dr. Frumkin, do you have anything further to say?"

Frumkin: "Yes. I was in the Navy at the end of World War II and the reason I was in the Hospital Corps was because the idea of killing somebody, anybody, was detestable and repugnant to me. I just want to put that into the record."

Frank: "Any further questions? Dr. Coogan you are excuse

Coogan: "Just one more thing. This has been one of the most disagreeable activities that I have ever been associated with as Associate Dean for Research and I object to what I feel is the unprofessional activities of Dr. Frumkin directed at me personally for doing what I feel constitutes my job and I not only that but I resent what I feel were real threats and not some joke. And I also feel that calls from the KENT STATER reporter telling me that Dr. Frumkin called him to say I was harassing him and wanted my side of the story. I had a similar call from Luella Cordier, reporter for the RECORD-COURIER. That is the kind of thing I believe the University does not stand for. I'm in this position because of the job that I do, otherwise I'd only teach geology."

Dr. Coogan left the hearing room feeling that he had done his job well. I thought to myself, what a

superb Nazi officer Dr. Coogan would have made. I could picture him at the Nuremberg trials stating that all the crimes he had committed against humanity were merely "doing what I feel constitutes my job."^{1/}

Before the next witness, Mr. Allen Emrich, came in I indicated that I wished to make a statement to the Committee. I was given that opportunity.

Frumkin: "I would like to state again for the record that I object to the fact that my lawyer has not been given the right to speak for me or to cross-examine witnesses. I will mention this objection again and at every opportunity."

Frank: "We have heard your objection and we appreciate the problems but we must go on with the hearings."

Mr. Allen Emrich, the next witness, came into the room and sat himself down in the witness chair. He was the grant accountant in the University Comptroller's Office. Mr. Emrich was a very tall, dark-haired man with a shy manner very reminiscent of the late Gary Cooper. After Committee members asked him a few routine questions and he indicated that we met together when necessary not routinely. I then asked Mr. Emrich about a meeting we had just recently.

Frumkin: "Mr. Emrich, I spoke to you a couple of weeks ago and I asked you how the grant was going relative to my participation in managing it. Do you remember what you told me?"

Emrich: "That everything was satisfactory as far as I was concerned and I found nothing wrong."

Frumkin: "I have no further questions at this time. My relationship with Mr. Emrich has been very fine. I think he's a beautiful person and I'm sorry that he had to be called here today."

^{1/} My hope on the future of Dr. Coogan is that he not be punished but that he be rehabilitated, both for his own sake and for the sake of all human beings with whom he comes in contact.

Frank: "The Committee's concern was whether or not you had fulfilled some of your obligations and Mr. Emrich shows you have." (emphasis added)

Frumkin: "To your knowledge, Mr. Emrich, have all the federal laws governing this grant been observed?"

Emrich: "As far as I know, yes."

Frumkin: "You have copies of all the official reports I have made on the grant activity. If Dr. Coogan wanted any of these reports, they are available to him. Is that correct?"

Emrich: "That's right."

The Committee and I thanked Mr. Emrich for his coming to testify and he was excused. Prior to Dr. Coogan's suggestions that I was mismanaging the grant records, as well as other aspects of the grant, I was in the habit of not only giving Mr. Emrich copies of my routine and special reports and records but also Dr. Coogan's assistant. I continued this practice up until the time I left the University. Thus, Dr. Coogan's insistence that he be given and needed all the records on the grant in my possession was a most unreasonable request. It was his way of attempting to punish me for having blown the whistle on Drs. Palmerton and Sakata and, in his eyes, casting clouds of suspicion over his impeccably run Office for Research.

The next witness was Dr. Gordon Keller, Assistant Provost and a political science professor. He was a man in his late thirties who had the stature and physique of Napoleon and look of a refined Wall Street broker commuting from Connecticut. Dr. Keller was

questioned on a number of issues relative to the University's observation of my procedural rights. Someone raised the question as to whether I was or was not "properly" consulted during the initial period of the dismissal efforts. I felt that I had not been properly or even improperly consulted by any of the 21 persons who recommended my dismissal with the exception, perhaps, of Dr. Glenn Olds, KSU President. Dr. Olds met with me on April 9, 1975, and I discussed some of the charges made against me but not all of them. Although he spent an hour and one-half with me, it seemed to me that the meeting was rather perfunctory in nature because, before the end of the meeting and without any further deliberation than was possible during our meeting at that time, Dr. Olds stated that there was a prima facie case against me and wanted to know if I wished to resign or wished to have a hearing and contest the charges.

In spite of the fact that "proper" consultation did not take place, Dr. Keller continually emphasized the idea that "KSU is sensitive to Dr. Frumkin's procedural rights." He didn't say whether that sensitivity concerned upholding or denying those rights. He claimed that the ACADEMIC POLICY BOOK of the University does not permit consultation with any persons except full professors and then never with the persons against whom charges have been made. Not unless MEIN KAMPF had been

used to help Dr. Keller interpret the meaning of "proper" consultation does his interpretation make any sense to me. To me "proper" consultation must include some exchange, some reciprocity between relevant parties to an issue. In my case that never occurred, not even when I had met with Dr. Olds.

Dr. Schwitter, in listening to the discussion about the failure of the University to get rid of me on the basis of "soft money" in 1974, came up with a very good question addressed to Dr. Keller. The question seemed to have taken Dr. Keller by surprise.

Schwitter: "I would like to know if the present charges against Dr. Frumkin are being utilized to accomplish the goal of retrenchment?"

Keller: "No! The matter of discharging a tenured professor, as you know, is a matter of extreme importance....I'm, I'm even somewhat offended by the question, with all due respect to my colleague, Dr. Schwitter. The question seems out of order. What is at issue here is the recommendation by the department."

Frank(trying to change the subject): "Dr. Frumkin, do you have any questions to ask Dr. Keller?"

Frumkin: "I sure do. Dr. Keller, do you have a picture of Thomas Jefferson in your office?"

Frank: "Is this relevant?"

Keller: "It's O.K., I'll answer his question. Among the portraits in my office are one of Thomas Jefferson, Adlai Stevenson, and Robert F. Kennedy."

Frumkin: "What is your understanding of the meaning of due process?"

Keller: "I think I could quote Oliver Wendell Holmes for that. If you read the record in a case and that record makes you puke you don't have due process."

Frumkin: "Can you give a more universal definition of due process, one we could all understand? That is, one that is more specific?"

Keller: "Due process is what reasonable men think is fair."

Sites: "In going over this green book of charges against Dr. Frumkin, it appears to me just intuitively that many such charges could be individually brought, perhaps, against any number of faculty members. That is, a case could be made. Do you find that these kinds of cases are made to the Provost? (emphasis added)

Keller: "No. This is the only such case I've been involved in."

Sites: "As you look at these charges against Dr. Frumkin at the Provost level, did you look at them collectively or individually in terms of your arriving at your decision about the matter of dismissal?"

Keller: "If you're asking whether I saw some charges as more serious than others, my answer is 'Yes!'"

Sites: "I suppose the question really is, at the Provost level, what particular charge or charges led the Provost to make the decision he made? Now that may be in the realm of privileged information and you may not want to say."

Keller: "No, I can answer that because, as the Assistant Provost, I participated in that decision, and I can speak for myself. It seems to me that questions relating to the management of the grant may not, in and of themselves, be the most serious questions. Tentatively, I want to say that this may relate to Dr. Frumkin's inability to administer or to be able to manage a grant effectively. I don't know that I'd be ready to dismiss someone who can't keep books straight or keep records properly. I am not prepared to say whether or not Professor Frumkin has dabbled, that is to say that Professor Frumkin has manipulated the allocation of monies one way or another for base purposes. The question is whether the problems with the management of the grant relate to Professor Frumkin's incompetence or do they relate to base motives. I don't know. It seems to me that the real reasons for dismissal are for harassment of students and colleagues and unprofessional behavior and violation of the FACULTY CODE OF ETHICS

Sites: "Dr. Keller, do you feel in any way that, perhaps, Dr. Frumkin was harassed? That is, to say, do you feel that Dr. Frumkin was treated differentiall in that department?"

Keller: "I believe that Professor Frumkin feels he was I personally don't think so."

Sites: "Dr. Keller, would you say that as one recommendation for dismissal is piled up on another in terms of any decision from the departmental to the Dean's level to the Provost's level to the President's level that additional weight is given at each level in terms of decision being made?"

Keller: "Yes! I think as a general proposition that is true.We were sensitive to this. As we reviewed the book of charges we were careful about not being overly influenced by this phenomenon. But we felt that there was a preponderance of evidence that required dismissal for cause as serious as that was."

Frumkin: "Dr. Keller, I would like to know what you consider the most serious charge in the whole book. You said the grant management was not. What is?"

Keller: "It seems to me that the violation of professional ethics and student harassment are very serious."

After some further discussion on the management of the grant, particularly between Dr. Schwitter and Dr. Keller, Dr. Keller was excused and the hearings were adjourned until 2:30 P.M. We all had a much needed hour and one-half recess.

At 2:38 P.M. the hearings resumed. The next witness was Dr. Robert Alfonso, Dean of the College of Education. A tall, bald, stone-faced man in his early forties, Dr. Alfonso was a former officer in the U.S. Marine Corps. He ran the College of Education, on whose faculty I was a member, with the same flexibility and compassion one generally finds in the management of our military institutions. Dr. Doult was the first person to ask Dr. Alfonso a question.

Schwitter: "Dr. Alfonso, how did the Executive Committee of the College of Education determine if the dismissal charges were appropriately handled at the departmental level? Was there anyone from the department at the Executive Committee meeting?"

Alfonso: "There was a non-voting member from the department on the Committee. That was Dr. Litwack. He was a non-voting member on the dismissal issue because he had already voted on that issue at the departmental level. However, he did provide valuable information to the Executive Committee."

Schwitter: "Did you at anytime during the Executive Committee meeting suggest that Dr. Frumkin be called to defend himself?"

Alfonso: "I don't recall that ever coming up. I believe the Executive Committee did not view itself as a hearing board but as a body only dealing with documents, not dealing with charges. They are merely an advisory board casting votes with reference to promotions and other matters."

Doutt: "Do you think that Dr. Frumkin's due process were recognized by his department in making their recommendation that he be dismissed?"

Alfonso: "The Executive Committee of the College of Education, after reviewing the RECOMMENDATION AND RATIONALE FOR DISMISSAL OF DR. ROBERT FRUMKIN, took two votes. First, they noted on whether the charges warranted dismissal. They unanimously agreed the charges did warrant dismissal. Second, they voted on whether the process of reaching their decision was fair. They unanimously agreed the process was fair."

Schwitter: "How did the Executive Committee decide that its process was fair and appropriate?"

Alfonso: "The Committee followed an outline to assure of the appropriate process."

Sites: "What was Dr. Litwack's role on the Executive Committee? Did he vote? Did he provide information to the Committee?"

Alfonso: "Dr. Litwack is a regular member of the Committee. However, because he was a member of Dr. Frumkin's department he did not vote on the matter. His role was purely advisory. He didn't provide any information that wasn't already in the dismissal document."

Schwitzer: "Why wasn't Dr. Frumkin ever asked to respond to the charges before the Executive Committee?"

Alfonso: "The Committee had enough information to go on without Dr. Frumkin's input."

Beer: "Which charges do you feel were the most serious? Or do you feel they all bear equal weight? What things do you feel in your mind were most convincing in reaching your conclusion that Dr. Frumkin was guilty of unprofessional conduct?"

Frank: "May I interject here? I think we should ask substantive questions. I'm not ruling you out of order but I wonder if value judgments are in the purview of this Hearing Committee?"

Beer: "I feel that our main job is to make a value judgment and not to collect facts. We're going to have to decide whether the charges warrant dismissal or whether they do not. In my own view making a value judgment is all-important and collecting data is not."

Frank: "O.K., Dr. Alfonso, you may answer Dr. Beer's question."

Alfonso: "To answer your question, Dr. Beer, to rate the charges in order of priority is very difficult. There are so many charges."

Frank: "Dr. Frumkin, do you wish to ask Dr. Alfonso any further questions?"

Frumkin: "Yes. Dr. Alfonso, is there any one charge you consider, in and of itself, would be grounds for dismissal?"

Alfonso: "I would consider student harassment as grounds for dismissal. I think that there are others that would be sufficient as well."

Frumkin: "Do you consider student harassment then the most serious charge?"

Alfonso: "No. I just picked that out because I think the relationship between faculty and students is a very sacred and delicate one."

Frumkin: "Do you have any knowledge of student harassment on my part?"

Alfonso: "Well, I see what's in the dismissal book on page five." ((he was referring to the Gabalac issue))

Frumkin: "Is that all you know about 'student harassment' on my part? Do you think one distressed student is sufficient cause for the dismissal of a tenured professor?"

Alfonso: "It depends on the nature of it."

Frumkin: "Do you know what happened to this lady?"

Alfonso: "Yes. Contacting her employer I felt constituted harassment."

Frumkin: " Dr. Alfonso, will you explain that please?"

Frank: "I don't think Dr. Alfonso is the proper person to ask that question. It isn't proper to ask him for an interpretation of what he read in the dismissal book. I think Kay Schotzinger ((the 'employer' in question)) will speak to that specifically and to ask the witness as to what he perceives what someone has said or implied probably is an unfair question."

Frumkin: "It was on the basis of this document that Dr. Alfonso approved of the dismissal recommendation, therefore, I think it is a proper question and think Dr. Alfonso has an obligation to answer it."

Alfonso: "I didn't approve of dismissal on this charge alone. This charge is only one of a collection of charges. I know that point 6 on page 1 of Dr. Saltzman's memorandum on your October 30, 1974 meeting with Mrs. Gabalac ((memo dated Nov. 4, 1974, see Appendix A, pages)) you agreed that your phone call to Mrs. Gabalac's employer constituted harassment. I said it was harassment and you admitted it was harassment."

Frumkin: " I admit making a phone call to Kay Schotzinger but that's not harassment. I do not feel that that is harassment. Do you feel that a phone call is harassment?"

Alfonso: "Not 'a phone call' like I call home, etc."

Frumkin: "How is ~~my~~ my phone call harassment? Can you explain that, please?"

Alfonso: "Your questions to Kay Schotzinger concerning Mrs. Gabalac were quite personal and in my judgment some were improper."

Frumkin: "How did you decide that my phone call constituted harassment?"

Alfonso: "Well, if my wife were a student and her instructor called to ask about her personal life that would be harassment in my judgment."

Frumkin: "Couldn't there be other interpretations about the so-called 'personal' questions I asked? Why should my particular phone call constitute harassment?"

Alfonso: "Because as a value judgment it constitutes harassment."

Frumkin: "What was your reasoning?"

Alfonso: "I can't answer other than that it constituted harassment. Harassment depends on questions. If you ask me about my marital life, my personal life, that's in the nature of harassment."

Frumkin: "If you don't know why I asked these questions, how do you know that is harassment? Maybe I was concerned about you, concerned that you were troubled, and I was trying to find out why and try to understand you and maybe help you?"

Schwitzer: "Maybe, Dr. Frumkin, we should ask you, did you make this telephone call and what was your reason for it? Then maybe we can see if it was harassment or not. Was this within the regular conduct of your class?"

Frumkin: "It nothing to do with my class. I was trying to understand why Mrs. Gabalac wrote that letter. This very vicious letter seemed to come of left field."

Schwitzer: "Then why didn't you ask her directly?"

Frumkin: "I tried to talk to her directly but she refused to talk to me. That's why I called her 'employer! I know Kay Schotzinger. Kay is not a stranger to me. I thought maybe she could give me some insight into Mrs. Gabalac's unusual behavior."

Schwitzer: "Why did you ask such personal questions?"

Frumkin: "I'm a licensed psychologist; I've worked with emotionally disturbed persons. I wanted to know something about her background, her behavior with other people. I thought that, in terms of letter, that she was having some problems and I was simply trying to understand why she wrote that letter she sent to Dr. Saltzman."

Schwitzer: "I still don't understand why such personal questions?"

Frumkin: "Have you seen the letter she wrote?"

Schwitzer: "Yes."

Frank: "We must bring the questioning back to Dr. Alfonso."

Schwitzer: "Before we do that, I have one more question for Dr. Frumkin. Dr. Frumkin, let me ask you this. You have co-authored several articles with Dr. Palmerton. How has this cooperation developed and how has it fallen apart? Who was the initiator or originator of this joint authorship?"

Frumkin: "I was."

Schwitter: "Why? Was it good cooperation while it lasted?"

Frumkin: "Yes. It achieved Dr. Palmerton's purpose."

Schwitter: "What was your purpose?"

Frumkin: "Helping a colleague."

Schwitter: "Didn't these publications help you?"

Frumkin: "No. I didn't need those. I had so many already published I didn't really need those. He had trouble writing and getting published so I helped him."

Beer: "As long as the matter of publishing has come up, Dr. Alfonso, will you tell us what Dr. Frumkin's standing is in his department as a practicing scholar?"

Alfonso: "I think he's certainly one of the more productive ones in his department and in total production in the College of Education, although he's not at the top, but he's done rather well. He has very broad interests and his writings span many different areas and some even peculiar to the area in which he is employed. His total output is quite impressive. If we took out those not directly related to his field it would be smaller but still it's a good record."

Beer: "Do you see him as an asset to the College of Education on the basis of his published research?"

Alfonso: "I think his published research has dropped off substantially the last few years. He was brought in originally because of his record of published research and a potential for doing the same. I would not put him at the top. We are not criticizing Dr. Frumkin's record of research and publications; it's more than adequate."

Frumkin (unnecessarily defensive): "In terms of numbers, I will not get into the matter of quality right now, in terms of numbers, I have more publications than all the members of my department put together and I could prove it. And if you want to get into the matter of the quality of those publications we might do that too. As far as my publications, since I've been here, I have a list of 33 published items."

Frank: "The questions relative to the charges, Dr. Frumkin, do not question your productivity."

Frumkin: "Dr. Alfonso stated that my publications have 'dropped off substantially' since I'm here. That's not true!"

Alfonso: "I guess my statement may be incorrect."

Frumkin: "It's very difficult to work or try to work under the circumstances in my department. It's amazing my productivity in publishing hasn't fallen off substantially. Dr. Alfonso, do you remember, since you've become Dean of the College of Education, the first attempt to get rid of me?" 1/

1/My sensitive friend Helen Samberg has noticed that I use the phrase "get rid of me" often. These are the words of a harassed person.

Alfonso: "I don't recall any first attempt to get rid of you. I remember the department asking you to resign but I'm not sure that was an attempt to get rid of you....It was maybe what they thought was good advice."

Frumkin: "In January, 1971, my departmental colleagues said that if I didn't resign they would start proceedings to have me dismissed. I consider that harassment of the first order. I consider it harassment of the first order because they had no grounds for dismissal and when I refused to resign they did absolutely nothing about it."

Hartman: "Do you have some evidence of that?"

Frumkin: "It's our department/minutes of January 26, 1971." ((at that point I gave a copy of those minutes to Prof. Frank and he read those minutes to all assembled))

Frank: " Let me just read these/minutes into the record. These are the minutes of the Counseling and Personnel Services Education Department for January 26, 1971. I shall read only item 2, which applies to Dr. Frumkin. It reads as follows: ' The department Executive Committee by a vote of 4-1 (Woldt against) endorsed the position of the Rehabilitation Counseling faculty and request the approval of the department to investigate procedures and, if possible, to initiate proceedings for the removal of Dr. Frumkin if he fails to submit a letter of resignation by February 9, 1971.'" The rest of the minutes do not apply to Dr. Frumkin. There were several other items of business discussed. The entire meeting lasted from 1:20-2:10 P.M., a total of 50 minutes."

Sites: "And the length of time of that meeting was from 1:20 until 2:10 P.M. , only 50 minutes? Such a weighty matter! Dr. Alfonso, do you see all this in a way strange, that as far back as that, with four prior attempts prior to this one, according to Dr. Frumkin, to remove him from the department, a unusual? Do you see it as harassment?"

Alfonso: "I think there were four issues or episodes. I don't think I'd describe it as strange, maybe a little unusual. I don't think I could point to that kind of thing happening with any other member of the College of Education. I think it represents at least a pattern of behavior or issues troubling faculty over quite a, quite a long time."

Sites: "I find it extremely strange that a department could take a vote to initiate dismissal proceedings before it had any grounds or collected evidence. I find this extremely strange. I would think that before a move of this kind was made one would have evidence. Don't you think so?"

Alfonso: "I can only say that they must have/had grounds."

Frumkin: "Dr. Alfonso, are there any charges against my teaching abilities or skills?"

Alfonso: "I don't think there are any formal charges although it comes out in letters from some students. The letter of Mrs.

Gabalac to you is critical of your teaching." ((Mrs. Gabalac's letter was not written to me. I wish it had been.))

Frumkin: "Are there more letters? You said letters from 'some students.' Doesn't that mean more than one?"

Afonso: "I can't recall all that, Bob."

Frumkin: "Do you, from what you know about me, think I'm a competent teacher?"

Alfonso: "No! From what I've heard from your department, based on information they've given me and material in this dismissal book, I wouldn't call someone a competent teacher who changes classes willy-nilly, changes times of classes without telling students, and uses materials which appear to be inappropriate and out-of-date. There is no evidence that you are a competent teacher."

Schwitter: "There seems to be some confusion here. You are using competence in several different ways. This evidence you use with regard to class schedules, etc., has nothing to do with professional competence."

Alfonso: "I don't know how to respond. I'm only basing my answer on what's in the book with all the charges. If you want me to tell you about extraneous things I've heard informally, then you'll probably say I was unfair because it's not in the dismissal book. I don't want to do anything that is unfair to Dr. Frumkin."

Schwitter: "I just wanted to point out that not following departmental instructions does not mean professional incompetence."

Alfonso: "In the absence of data which says they are good teachers we assume they are not good teachers. That relates to promotions and other matters." ((Here is an example of the U.S. Marine Corps mentality at its best.))

Frumkin: "Have you ever seen any evaluations of my teaching other than Mrs. Gabalac's?"

Alfonso: "I know that Dr. Saltzman made an evaluation of your teaching. As I recall it wasn't a very strong endorsement."

Frumkin: "I think Dr. Saltzman's letter tells a very different story. Here, for the record, Professor Frank, is a copy of Dr. Saltzman's evaluation. Please accept it as an exhibit in my defense. "

Schwitter: "Dr. Frumkin, I do not think there is a question about your professional competence. You should not be concerned about that."

Frank: "The charges have nothing to do with teaching competence."

Alfonso (defensively): "I have a letter here from you, Bob, written five years ago in which you describe me as "wise and open-minded."

Frumkin: "I had no reason to think otherwise at that time."

Dr. Alfonso was excused and Dr. Glenn Saltzman, Chairperson of the CPSE department, was the next witness. A chunky, red-headed and red-bearded, average-in-height man in his thirties, Dr. Saltzman had always given the appearance of being the Jack Armstrong type of Middle Class W.A.S.P. Married to the same woman for many years, father of a house full of children, he was Commander of the Naval Reserve Unit in the Akron metropolitan area (which includes Kent and other smaller communities), had a private pilot's license, watched Monday night professional football and attended all KSU home football games, and mixed good drinks in his basement bar.

Prior to Dr. Saltzman's testifying, I asked Professor Frank if I might make a statement. He gave me permission to do so.

Frumkin: "What has gone on here procedurally only shows the importance of cross-examining witnesses competently. I am not an expert in cross-examination. My weakness in this art was shown in my cross-examination of Dr. Alfonso, especially on the issue of teaching competence. I, therefore, want to re-emphasize my objection to the fact that my attorney, an expert in the art of cross-examination, has not been permitted to cross-examine witnesses and provide the defense I'm entitled to under our U.S. CONSTITUTION and its provisions for due process."

Professor Frank noted my objection, called on Dr. Saltzman to introduce himself, and Dr. Schwitter, eagerly and breathlessly, asked the first question.

Schwitter: "Dr. Saltzman, did Dr. Frumkin have a chance to discuss the charges against him at the March 12th, 1975, department meeting?"

Saltzman: "Yes! He was given a chance to question the charges. You don't have to take my word for it. There's a tape available of that meeting."

Frumkin: "That's not true! I was not given that chance! I asked for an opportunity to discuss the charges but was denied it. Ask Dr. Heisey. He was at that meeting. He can tell you the truth."

Saltzman: "You said something about 'Are we going to have a hearing on these charges' and we said 'We're going to follow University procedures.' "

Frumkin: "I asked for an opportunity before department members would take a vote on dismissal to discuss the charges with them. I was denied this. Department members were supposed to have their signed ballots into Dr. Saltzman's office by noon on Friday, March 14th, less than 48 hours after being given the dismissal charges and without ever talking to me about those charges."

Schwitter: "There was no chance for you to discuss the charges with the different members of the department?"

Frumkin: "That's correct. They said I had no right to do that."

Schwitter: "They said you had no right!"

Frumkin: "Yes! That's what they told me and I objected to this very strongly. It's on the tape."

Saltzman: "That's not my view of what happened. My view of what happened is that we contacted the AAUP, the University Ombudsman the President of the Faculty Senate, the OAHE (Ohio Association of Higher Education, an affiliate of the Ohio Education Association and the National Education Association), the University attorney, the Provost's Office, the Dean of the College of Education, and the ACADEMIC POLICY BOOK was followed carefully. The procedures we planned and have followed represent our best understanding of the procedures recommended and agreed upon by all those sources I've just mentioned. Before the dismissal document was developed and outlined we had contacted all those resources to make sure they agreed upon the procedures we would follow. We were concerned about how we can possibly do what we planned to do in the fairest, best manner. And we were advised by the ACADEMIC POLICY BOOK that there was no necessity to have a meeting so long as there had been consultation with the full-time professors and Executive Committee, of the department. We also, in this case, took one additional step. We asked every person in the department who had been charged by Dr. Frumkin in some manner or other to also review the charge listed and decide if they were accurately presented. They all reviewed the charges because, coincidentally, but not by design, that included every person in the department." ((That's a gross exaggeration of the facts. I never made any charges against Drs. John Guidubaldi, Virginia Harvey, Ansel Woldt, and Marvin Kaplan))

Frumkin: "I'm not in the department? "

Saltzman: "Oh, excuse me. Every person in the department except Bob."

Schwitzer: "Dr. Saltzman, could you give us some factual information on the department with reference to Dr. Frumkin's charging that in 1973 you were trying to get rid of him?"

Saltzman: "One of the reasons he was having trouble in the department was because he was unwilling to teach courses he was asked to teach. In every case we had to always negotiate with him, have special meetings to settle differences, he always had to be given special treatment." ((I was very tempted to yell out: Liar! Liar! Somehow, however, I contained myself.)) (emphasis added)

Frumkin: "How many courses have I refused to teach, Dr. Saltzman? You did use the plural, didn't you? Do you know, really know how many courses I refused to teach?"

Saltzman: "I really don't know exactly. There have been many."

Frumkin: "How many? Don't you have some idea?"

Saltzman: "I'm not sure. What's the difference, it's been a regular problem with you."

Frumkin: "The correct number is one. That one course was the Counseling Practicum. That was about five years ago. Now I teach that course. The reason I refused to teach it then was because I felt unqualified to teach it and felt it was wrong to even try to teach it until I was qualified to do so. I felt that was the professional thing to do, both for my sake and the student's sake. I felt it would be unprofessional for me to teach a course I was unqualified to teach. Because I was interested in becoming qualified to teach that course I enrolled in a number of courses and took a number of workshops so that I could become qualified to teach that course. Thus, I became qualified to teach the course and have taught it the past few years. That, Dr. Saltzman, is the only time I have ever refused to teach any course at KSU and I had a damn good reason for doing so! You know that your whole phony pitch about my supposedly refusing to teach courses reminds me of the case of the dismissal of Joe Smith, the first tenured professor ever to be dismissed for cause from KSU. In 1973 the University dismissed Smith because he refused to teach a particular course he had a good reason for not wanting to teach. They allegedly bumped him for that reason but I know that wasn't the real reason."

Schwitzer: "Dr. Saltzman, why do you have to dictate the courses instead of allowing faculty to teach what they like to teach?"

Dr. Saltzman was not able to answer this good question raised by Dr. Schwitzer. Strange that Dr. Saltzman, an acknowledged expert on teaching methods, personnel practices in education, and morale in the schools, was lost

for words at a time when words were badly needed. Professor Frank, realizing that Dr. Saltzman was in difficulty, quickly freed him by asking him to relate to the Committee what other problems the department had with me. Dr. Saltzman then willingly related a long list of behaviors of which I was allegedly guilty like he was some scattered brained yenta trying to help neighbors catch up on the latest dirt about the town scapegoat. His patronizing litany of innuendos about me, especially on the matter of my being "overly suspicious" of the motives of my departmental colleagues led the usually, fairly calm Dr. Sites to interrupt Dr. Saltzman right in the middle of his sentence.

Sites: "Enough is enough, Dr. Saltzman! I don't like things not in context. If since 1971 a department had been trying to get rid of me --- four times previously --- I would be paranoid as hell! I'm serious! I would say, 'Gee, why does this happen? Why does that happen?' I think that some of Dr. Frumkin's reactions represent a very natural human response. This whole discussion needs to be looked at within this framework, in context. I don't think we can understand Dr. Frumkin's behavior outside of this context."

Frumkin: "I really appreciate your comments, Dr. Sites, because that's the whole trouble with this dismissal book. It's mostly out of context."

Schwitzer: "Dr. Frumkin, I'm still not clear as to why, after there were several attempts to dismiss you, you didn't try to get a job elsewhere. Didn't you feel that your talent might be better appreciated at another university?"

Frumkin: "In spite of everything, I like KSU and enjoy living in Kent. I have lots of good friends here."

Frank (ready and eager to support the case for the conspiracy "Dr. Saltzman, will you please discuss charge 6-G, which reads 'Faculty and staff are in fear of retaliation by Dr. Frumkin...' ?")

Saltzman (insidiously): "I am fearful of Bob. I am fearful of what he might do in any irrational moment. I'm afraid of being accused of stealing, of having an affair. He's called my home. My family is frightened of him. He asked about when my plane was leaving and returning, the flight number. I'm afraid of what he might up to."

Beer: "Do you have any fear of physical assault? Does Dr. Frumkin have any prior record of getting into physical confrontations with anyone?"

Saltzman: "Only in terms of what I've heard about his threat to kill Dr. Coogan."

Beer: "Are you afraid for your life?"

Saltzman(turning to me): "I'm afraid of what you might do in an irrational moment. Sometimes, Bob, you get so angry I'm afraid of what you might do."

Sites: "Haven't you ever lost your temper, Dr. Saltzman?"

Saltzman: "I try not to in meetings and such."

Sites: "To your knowledge, has Dr. Frumkin ever been involved in a shoving or pushing act or has there been an occasion where blows have been struck by him?"

Saltzman: "No. Some of the biggest damage is not being socked in the mouth but rather being unable to sleep because of charges being made or cartoons being distributed that cause you to be laughed at. That is what's really hurtful. Bob widely distributed a cartoon with all the members of the department made to look like kangaroos. That cartoon I might add was quite well done. He had some little turtles in the cartoon talking to each other and one turtle was saying to another turtle 'Those profs look more like kangaroos than professors! And then the other little turtle says 'No. They look more like jackasses to me.' And then there's another little turtle saying 'This place reminds me of a Star Chamber.' Then near the top of the cartoon, in real big letters he has what's supposed to be the Counseling and Personnel Services Education Department's motto. He says the department's motto is: 'Love and Understanding --- That's Our Profession. We are a HELPING PROFESSION.' That's not our department's official motto. We have no official motto. Here's a copy of the cartoon if you want to see it for yourselves. May I introduce it as evidence, more evidence of Bob's harassing the faculty?"

Frank: "Dr. Frumkin, is this your cartoon? And did you distribute copies of it on this campus?"

Frumkin: "Yes. That's my cartoon and I did distribute copies of it on campus, both to faculty members and students and anyone wanting a copy of it."

Schwitter: (emotionally upset after looking at the kangaroo court cartoon) "Dr. Frumkin, did you distribute any of these cartoons to your students?"

Frumkin: "Yes I did. They are my friends and I shared my life -- the bad as well as the good --- with them."

Schwitter: "Don't you think this is unprofessional behavior for a professor, Dr. Frumkin? What motivated you to do this?"

Frumkin: "I'm glad you asked those questions, Dr. Schwitter. Do I think that distributing that cartoon was unprofessional? My answer is: NO! I think it is my constitutional right to make that cartoon and distribute^{it} as widely as I see fit. My departmental colleagues denied me my constitutional right to due process when they voted for my dismissal without giving me a chance to respond to the charges in this dismissal book. That made me very angry. That dismissal book, filled with a bunch of false and trivial charges, in my view, constitutes harassment of the first order. I fought back by producing a cartoon. I was expressing my indignation in a democratic way. I do not feel my behavior was unprofessional."

Doutt: "I, myself, think Dr. Frumkin's cartoon was self-serving behavior. Such behavior is certainly unprofessional."

Sites: "I disagree. I think it is self-protecting rather than self-serving behavior. I don't think this is unprofessional behavior."

Bayer (in his stentorian voice): "This is first amendment rights!"

Frank: "While we're on the subject of writing, Dr. Frumkin, can you tell the Committee if you wrote a drama?"

Frumkin: "Yes, I wrote a play."

Frank: "What was its title?"

Frumkin: "It was called KANGAROO COURT."

Frank: "What did it deal with?"

Frumkin: "It dealt with a dismissal of a professor."

Frank: "Did it have anything to do with Kent State University?"

Frumkin: "No. It did not. It was written in the early sixties and copyrighted in 1974."

Sites: "Aren't we talking about first amendment rights again?"

Frumkin: "We certainly are!"

I thought Professor Frank's questions about my play as being rather strange. There had been no charge against me for writing plays and not even a formal charge against me for making and distributing the kangaroo court cartoon. ^{1/}

1/ A copy of the cartoon can be seen on page 81.

I wondered who had told Professor Frank about my playwriting and about this particular play. This suggested to me that Professor Frank had been talking with someone in my department about things other than the charges in the RECOMMENDATION AND RATIONALE FOR THE DISMISSAL OF DR. ROBERT FRUMKIN. To me, Professor Frank's question suggested some collusion, if not conspiracy, with those against me. It was a question not in keeping with the expectations I had from an impartial leader of the Hearing Committee.

Frank(to Saltzman): "Has there been any other kind of faculty harassment?"

Saltzman: "Oh, yes. Bob once said he would drop a bomb on Sakata (a Japanese-American fellow) on Pearl Harbor Day."

Beer: "Do you think he was serious, Dr. Saltzman?"

Saltzman: "No."

Beer: "Then what kind of remark do you think that was?"

Saltzman (smugly): "It was more like a racial slur."

Sites(to me): "What did you mean by that remark, Bob?"

Frumkin(with satirical vigor): "Well, I planned to rent a Japanese mosquito dive bomber from the Suzuki Rent A Bomber Company of Cleveland and then fly the bomber into Sakata's office, during his office hours, of course, and show him his people can't get away with the things his people did to us real Americans at Pearl Harbor."

Saltzman (very seriously): "I don't think that's very funny, Bob."

Schwitter(trying to rescue me from certain disaster): "What positive things, Dr. Frumkin, did you contribute to the department?"

Frumkin: "I helped many students and colleagues get published for the first time."

Saltzman (on the attack again): "Who did the research, Bob?"

Frumkin: "I did the research on some and not on others. If you show me the specific publications you have in mind I can tell you exactly who did the research."

Schwitter (supportively): "In no way, Dr. Frumkin, are these charges against your professional competence."

Frumkin: (appreciatively) "Thank you for pointing this out, Dr. Schwitter."

Doutt: "Dr. Frumkin, how did this conflict with your colleagues come about, in your opinion?"

Frumkin: "I feel it had to do, in large part, with my humanistic values and behavior, that is, my involvement with the militant KSU Black Caucus, testifying in U.S. District Court about the chilling effect of the May 4th, 1970 aftermath, my organizing and chairing a national symposium on "The Kent State Massacre," my frank statements about sexual values and behavior, my support of gay rights, some of my writing on the Soviet Union, my stand on pornography, my support of socialized medicine and the unionization of professors, my support of the anti-war movement, and my stand on other controversial issues. I think some of my conservative colleagues see me as some kind of undesirable radical."

Frank: "Were there any other problems Dr. Saltzman?"

Saltzman: "Bob gave the department telephone number for his dating service while he was being interviewed on a local radio program. We had a flurry of phone calls about it. Our secretary can verify this."

Frumkin: "Wow! There he goes again. Dr. Saltzman, I did nothing of the kind! Your so-called flurry of calls followed my radio interview on WKNT (a Kent area radio station) in which I was talking in general about computer dating. Because Bob Long, the interviewer, introduced me as a KSU professor, some people called me at the University to get information on computer dating questions they had. There was no mention of the KSU department telephone number or any particular dating service. If you had taken the trouble to listen to the radio program, which you obviously could not have, you would have heard that neither the name of any particular dating service nor our department telephone number was given to the listeners. You and your secretary are not telling the whole truth. I want to emphasize again to members of the Hearing Committee that this allegedly factual assertion by Dr. Saltzman is a good example of his great skill in the distortion of and twisting of the truth. It is quite evident in his preface to the RECOMMENDATION AND RATIONALE FOR THE DISMISSAL OF DR. ROBERT FRUMKIN. It shows he is not above lying and distorting facts for his own Machiavellian ends."

Frank: "Any other problems, Dr. Saltzman?"

Saltzman: "Yes. We've had many complaints about Bob from his students over the years. In many of our departmental retreats Bob agreed that he had done the things made in the complaints and he has agreed to change his behavior but he never keeps his agreements as hard as we try to help him."

Frumkin: (to the Hearing Committee)"Here Dr. Saltzman goes again. There he goes making false statements about 'many complaints', about agreements made and never kept, about the department trying to help me without any success, about the department allegedly caring about me and trying to 'rehabilitate' me so that I'd fit in. I've never heard so much bullshit in my life. Dr. Saltzman, how many complaints have you had, specifically, and, specifically, who made those complaints? For God's sake, present me with some facts I can intelligently respond to, and present me with my accusers so that I can confront them. These charges after charges after charges are getting to be like Kafka's TRIAL. This is like Dr. Saltzman's statement about my refusing to teach many courses. How many courses did I refuse to teach? It was one course and I had a damn good reason for not teaching it."

Saltzman(on the defensive): "Bob, we told you what the specific complaints were and who made them, in confidence, at our retreat at the Yankee Clipper(a local restaurant with special meeting rooms which KSU faculty and staff often used). Don't you remember that, Bob? Didn't you then agree that those complaints were justified? Isn't that enough evidence to justify our concerns about you?"

Frumkin: " I'm sorry. I vaguely remember our having a retreat at the Yankee Clipper but I don't remember what specific complaints were made and anyone mentioning the specific students who made them. How long ago was that retreat? "

Saltzman: "Oh, about four or five years ago. I remember it very well. It should be in our department minutes if you care to examine those minutes."

Frumkin: "I'm really sorry, I don't remember that. There are no student complaints against me in the dismissal document except the complaints of Mrs. Gabalac. I don't think I should even be discussing this question of anonymous student complaints. I have a right to confront my accusers and to know their specific complaints. So let's drop this whose business unless you're prepared to make new additional charges against me?"

Sites: "Dr. Saltzman, do you find it unusual that Dr. Frumkin would want to know who his accusers are? I find if it were myself, I would say, if confronted by the whole department, I will not listen to you until I can confront my accusers."

Frank: "Dr. Saltzman, has the department had any other concerns?"

Saltzman: "Yes. Bob used the department xerox funds to xerox copies of his divorce notice which he widely distributed. And he never reimbursed the department for those copies he made with our funds."

Frumkin: (very frustrated) "Dr. Saltzman, don't you ever get tired of lying? Here are the facts. For the record I xeroxed three copies of that divorce notice. I put one copy on the department bulletin board. That one copy was removed by Dr. Litwack without my permission. The other two copies I kept for myself. Those three copies were made at the University Library on their xerox machine. They were made with my three nickels. Is that clear? And I can prove it. Here is something xeroxed from the College of Education xerox machine which our department uses and here is a copy of my divorce notice. If you examine each piece of paper carefully you see that the paper the College of Education uses is very different from the paper used by the University Library machine. So even this very petty charge is invalid, another Saltzman lie. But just in case nobody believes me, here is 15 cents to reimburse the department ((at which point I put 15 cents on the table)). Do you want the 15 cents, Dr. Saltzman?"

Frank (sheepishly): "That isn't necessary, Dr. Frumkin, you've made your point."

Frumkin: (still angry) "Have I really made my point? This charge, mind you, was one of the serious charges against me. It was stated in the dismissal book, on the very first page, that 'each reason listed for dismissal is serious, and in and of itself may constitute a reason for dismissal.' The matter of xeroxing my divorce notice was charge 6-B in the dismissal book, on page 9 if you want to see ⁱⁿ order to believe it."

Schwitzer: "Dr. Frumkin, Dr. Saltzman has said that he and other people have felt their lives threatened. Have you ever felt your life threatened since you've been here at the Kent State University?"

Frumkin: "Yes! And today was that day. I felt that my life was threatened when I heard Dr. Coogan tell this morning how he loaded his gun and was ready to use against me. I felt very threatened because on the day after he loaded his gun, not knowing how he felt about me, his fears about me killing him, I innocently came to his house to pick up a book. I didn't know it was his house. It happened this way. The League of Women Voters in Kent publish a little book on political leaders one should know about in local, area, and state politics. I had called their office about picking up a copy of the book but the woman who answered, because it was a few minutes before closing time, told me if I go to 1993 Brookview in Kent I could buy a copy there from another member of the League. Because she was in a hurry, she didn't give me the name of the member. She said she knows she's home because she just talked to her a few minutes ago, so she'll call her back and tell her a man is on his way to pick up a copy of the book. She didn't ask what my name is. She just said be sure to bring \$2.00 for the book. The home happened to be the home of Dr. Coogan."

Fortunately, Dr. Coogan was not yet home from the University. If he had been home and he found me at his door unannounced he might have killed me 'in self defense!' "

Frank: "Dr. Frumkin, do you have any questions for Dr. Saltzman?"

Frumkin: "Yes. Dr. Saltzman, can you say anything about my teaching?"

Saltzman: "Yes. Your class I visited was average."

Frumkin: "I disagree with that statement. On November 18, 1974, Dr. Saltzman wrote a 3-page memo to me about my class he visited on November 12, 1974, the same class which Mrs. Gabalac complained about in her letter to Dr. Saltzman when she dropped that class. In that memo he said some of the following things about my class: 'you could be heard quite readily because of your use of the public address system. This was an especially good idea in that near the back of the room the blower for the heating system was quite noisy. If you had not used the portable address system, it would have been difficult to hear you'; 'the content of this 2½ hour class was consistent with the quarterly plan that you had presented to me earlier in the quarter, and followed closely your lesson plan for the evening. The content of the evening was worthwhile and students could have learned some significant information by attending this class'; 'It was apparent to me that you prepared a plan for the evening, which was distributed to each student in attendance. The plan was distributed to students and was followed quite closely. You are to be commended for having every one of the 42 examinations, taken by students, graded and returned during the next week after administration. It was apparent that you had spent a great deal of time on these tests, in that the test was very lengthy and half of the test was of an essay nature. Your comments to students indicated that you had read their tests thoroughly and that you were acquainted with individual class members' responses; 'You seemed at ease before the class and were at all times in control of the class. Your eye contact with the students in the class was good and, as I have mentioned before, you could be easily heard at all times. Your response to student questioning, regarding their testing scores, was very good and students appeared to feel free to ask you questions regarding the test or their assignment; 'The movie was interesting and did make many good points; ' I think your closing of this class was good. When the guest speaker started to run overtime, it was thoughtful of you to bring his presentation to a conclusion, but to offer students who were especially interested in his topic the opportunity to stay after class to discuss this special topic with him; ' In summary, I would just like to say that I think your November 12, 1974 class was well-organized and properly presented. You are to be commended for planning a full evening, for selecting an excellent consultant on the topic of alcoholism, and for returning test papers the week after they had been administered; ' A carbon copy of this evaluation was sent to Dean Alfonso. I think this is

a better than average evaluation. I, therefore, submit it as evidence about my teaching competence."
(emphasis added)

Frank: "We shall accept this as the November 18, 1974 Saltzman teaching evaluation. Dr. Saltzman, we are running very late. Do you have any final comments for the Committee?"

Saltzman : " Bob has admitted that he has harassed Mrs. Gabalac with his actions. He admitted this at our meeting with Mrs. Gabalac back in October, 1974."

Frumkin: "I did not agree to that!"

Saltzman: "Well, call Mrs. Gabalac or Dixie Benshoff, a graduate student representative who was at that October meeting. Either one will tell you the truth."

Frumkin: "What I stated at that meeting, for the record was---"

Frank: "I don't think this is relevant for the moment and---"

Saltzman(voice raised very angrily): "Well, this is one of the charges against Bob and it is one that is extremely important. It's important because this harassment has continued into this past couple of weeks. It is not something that terminated with the original charges. And just for the sake of this girl you must investigate these kinds of charges and the writing Bob continues to make about her alleged moral conduct and---"

Frank: "We will be discussing this whole issue at a later time. You're excused Dr. Saltzman."

Saltzman: "Thank you for this opportunity. If you have more questions I'll be happy to come back anytime."

A discussion then followed around how long the hearings should continue for the day. It was already after 5 P.M. Drs. Sakata, Getson, and Palmerton had been waiting to testify since 2 P.M. and Dr. Sakata will be gone on the 7th of June. The Committee decided to call Dr. Sakata as the next witness and call the other back at some other time.

Dr. Robert Sakata, was an associate professor in Rehabilitation Counseling, Director of the Guidance Bureau and Coordinator of the Rehabilitation Counseling Program.

He was of medium height, a somewhat overweight mesomorphic American of Japanese descent. He and Dr. Keith Palmerton, another Rehabilitation Counseling staff member, were close friends. I often referred to Dr. Sakata and Dr. Palmerton, in my writings, as "The Sting Twins" because together they, like the main characters in the movie THE STING, were master manipulators.

Doutt: "Dr. Sakata, can you tell us about the problem you had with Dr. Frumkin relative to your file?"

Sakata: "He removed a personal document of mine without my permission." (emphasis added)

Schwitter: "Did Dr. Frumkin or your secretary remove the document from the file?"

Sakata: "He asked her for it and she removed it from the file." (emphasis added)

Schwitter: "Did she feel she had the right to do so?"

Sakata: "She must have assumed he asked me first."

Frumkin: "If I had asked you for that document, would you have given it to me?"

Sakata: (without thinking) "I probably would have, yes. It's hard to go back and relive what happened some months ago but if you recall, Bob, you also have a copy of the same document." (emphasis added)

The Hearing Committee ^{MEMBERS} looked at each other with great surprise. I too was surprised and emphasized Dr. Sakata's very revealing slip of the tongue.

Frumkin: "Did you hear what Dr. Sakata said? Did you give me a copy of that memo sometime before I borrowed your copy?"

Sakata: "I didn't give one to anyone!"

Frumkin: "If that's the case, then how did I know that the memo existed? How did I know its date? How did I know you would be likely to have a copy of it?"

Sakata: "You knew all this from what I said at a faculty meeting."

Frumkin: "Why do you think I wanted the memo?"

Sakata: "I have no idea. You never clarified with me why you wanted it."

Frumkin: "Do you have an idea now as to why I might have wanted it?"

Sakata: " No."

Frumkin: "Do you have a copy of the memo with you?"

Doutt: "What was in it?"

Sakata: "The memo was written in terms of how I felt about what was happening in the department."

Frumkin: "Do you consider yourself the individual author of it?"

Sakata: "Yes I do."

Frumkin: "Do you consider that the memo belongs to you personally?"

Sakata: "Yes."

Frumkin: "Then are you saying that you think I had no right to it? Is that so?"

Sakata: "That's right."

Doutt: "Were there any critical statements about the department? The memo is important. We ought to know what's in it."

Sakata: "The memo contains my reactions to what was happening within the department and within the University in terms of lack of financial support. One thing which came up was the viability of the Rehabilitation Program."

Schwitter: "Was there anything in the memo pertaining to Dr. Frumkin?"

Sakata: "I don't remember if anything pertained to him specifically or by name."

Schwitter: (to me) "Why did you want someone else's memo if had nothing to do with you?"

Frumkin: "Because there are some very self-incriminating things there about the Rehabilitation Program. Because one of the things that came up in the August 27, 1974 department meeting was whether or not the Rehabilitation Program was something that people wanted to continue and

a vote was taken that day with reference to persons best qualified to continue the program. What the memo showed was that Bob Sakata was more interested in college counseling and Keith Palmerton was more interested in general departmental affairs than they were in the field of Rehabilitation Counseling. They really wanted to end the Program. Well, that memo, addressed to the Executive Committee of the department, of which I once had a copy, got misplaced. I went to Dr. Sakata's secretary to borrow his copy in order to make another copy for myself. Then I returned it to his secretary. I only borrowed it for about 15 minutes. The memo states very clearly that it is from the Rehabilitation Counseling Faculty of which I am a member. The reason for the big fuss over the memo by Sakata is probably due to the fact that it is so incriminating as far as the real motivations of Sakata and Palmerton. I mentioned before that I have called Sakata and Palmerton 'damned liars.' That is, in fact, one of the charges against me. This memo is important because it demonstrates that what I called them is valid. I think the Committee should have a copy of that memo. Dr. Sakata should provide the Committee with a copy."

Sakata(innocently): "I don't know if I have it. My copy seems to have disappeared."

Frumkin: "If I knew Sakata would testify today I would have brought my copy of that memo so that the Committee could see it."

Frank: "In fairness to Dr. Frumkin, he didn't know that Dr. Sakata would be here today!"((After looking through some of his materials, Professor Frank produced a copy of the memo in question and it was passed around))

Sites:(after examining the controversial memo)"Dr. Sakata, it seems to me that since this memo was from the Rehabilitation Counseling Faculty and grew out of a meeting of that faculty, you had an obligation to send that memo to the Executive Committee and a copy to Dr. Frumkin and Dr. Palmerton. Didn't you do that?"

Sakata: "After I wrote it I debated whether I should send it to the Executive Committee and decided not to put it in my personal file and not send it."

Sites: "If that is the case, the question still remains: how did Dr. Frumkin know about the details of the memo if a copy was not sent to him?"

Frumkin: "I can answer that question. Because a copy was sent to me and to Palmerton and the Executive Committee. When the meeting came up last August, Sakata and Palmerton wanted everybody to forget about that memo because it revealed their true feelings about the Rehabilitation Program. They didn't want to be one of the persons removed from the Rehabilitation Program because of an alleged, phony is a better term, financial exigency. That explains the big fuss about the memo."

Frank: "I think we have a clearer picture on that issue now. Any further questions of Dr. Sakata, Dr. Frumkin?"

Frumkin: "Bob, are you afraid of me physically? Do you fear I might take your life?"

Sakata: "You made a comment to me when we were sitting in Dr. Saltzman's office. You said 'Wait until December 7th.' I didn't react to you at that time but I wondered what you meant. You know I'm of Japanese descent."

Frumkin: "You didn't know what I meant?"

Sakata: "That you'd drop a bomb on December 7th? You looked at me with a leer, if I can characterize you that way. What did you mean?"

Frumkin: "I was joking. I was asked when I'd submit the charges I said I had against you and others and I said December 7th in jest. Did you take it seriously?"

Sakata: "Bob, there are other kinds of bombs besides ones made of 500 lbs. of metal and explosives."

Doutt: "Do you regard Dr. Frumkin as hostile to people of Japanese descent? Have you found him hostile in your associations with him?"

Sakata: "I don't really know. I don't know what to say about that."

Frumkin: "I do. Our relations have been relatively congenial in spite of his eagerness to get rid of me. And in spite of everything, right now, I'd like to wish you good luck in your new job." ((I had mixed feelings about Sakata in spite of his being one of my worst enemies on campus. I had wished that things were different.))

Dr. Sakata was excused and the very long day ended at 6:10 P.M. The first day of the hearings was officially over. The witnesses against me appeared like a solid wall, like offensive linemen on a professional football team ready to grind the opposition under their heavy cleats. However, there were weak spots in that line and ^{they} stood out clearly to anyone in the know. Those weak spots were the obvious violations of due process, freedom of speech, equal protection of the law, the lying and distortion of the facts, the overuse of innuendo, the unanimity of my accusers. There's a challenge here that whets my sense of justice. It is an exhilarating

feeling, like the first day of a meaningful battle in
a worthwhile struggle, a rebellion against tyranny.
