

Chapter 4. THE SECOND AND THIRD DISMISSAL ATTEMPTS

Late in October, 1970, the first dismissal attempt occurred when Dr. Keith Palmerton, Coordinator of the Rehabilitation Counseling Program, asked me for a letter of resignation before the end of the Fall Quarter, 1970, or face dismissal proceedings. Palmerton's personal interest in my resignation was already mentioned, that is, he knew that I was a member of the promotions committee and would probably be against his receiving any promotion. Another possible reason for his pushing for my resignation could have been due to the University's reaction to the publication of a chapter I had co-authored on the Soviet family. Among the power elite at the Kent State University, as well as the power elite in the state of Ohio, there is a strong anti-Soviet bias as well as a general antipathy toward socialism and socialists regardless of their orientation. Because my chapter, entitled "Planned Change: The Family in the U.S.S.R.," in H.M. Hughes (Ed.), LIFE IN FAMILIES (Boston: Allyn & Bacon, 1970), pages 203-215, was generally favorable to the Soviet family and the Soviet system, I was from that time on regarded publically as a "socialist" in the pejorative sense in which that term is used by the Ohio power elite. The fact that I have been an ordinal socialist since the age of fifteen seemed to have made little difference to those who chose to define ^{me} as one of the enemies of the state of Ohio and the United States. ^{1/}

 1/ An ordinal socialist is a well-educated person who, after examining the various political economic systems possible in the world, has come to believe that socialism, in humanistic terms, offers more to human beings than any other system. He is for democratic republican and against fascistic societies.

He tries to keep an open mind about all societies, however. That is, he is critical of any society when it violates basic human rights, when it threatens the environment, etc. He feels that criticism is the life-blood of science and democracy and that it is vital for the development of world peace & justice.

In the middle of January, 1971 I testified in the U.S. District Court in Cleveland about the chilling effect of the May 4th aftermath, the Portage County Grand Jury investigations, and the injustices which persisted in relation to that tragedy. I was one of the few faculty members out of over 1000 full-time and part-time teaching staff, and the only member of the College of Education faculty, to testify at those hearings.

My having testified in U.S. District Court followed closely the controversy over the title of the symposium I was to lead in April, 1971 on "The Kent State Massacre" as well as my co-authoring the chapter favorable to the Soviet family and Soviet system. This is not to underestimate also Palmerton's animosity toward me because I refused to resign and because I voted against his getting a promotion.

On January 29, 1971 the CPSE Department Executive Committee voted 4-1 to initiate dismissal proceedings against me if I did not resign by February 9, 1971. On February 3, 1971, by a majority decision (the actual count has been kept secret!) members of the CPSE Department supported the Executive Committee recommendation.

The suggestion that I should resign by February 9, 1971 or face dismissal proceedings exacerbated my anger. I asked the Executive Committee for a statement in which the grounds for their recommendation were specified because, up until that time, such a statement had never been given to me. There was no response from the Executive Committee. I refused to resign and heard nothing about this kind of thing again for more than two years.^{1/}

In April, 1971, in Atlantic City, the symposium I chaired

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The Executive Committee consisted then of the Department Chairperson, Dr. Lawrence Litwack, and Dr. Keith Palmerton, Dr. Russell Getson, Dr. John Guidubaldi, and Dr. Ansel Woldt. Woldt voted against the Jan. 29, 1971 decision.

on "The Kent State Massacre," with controversial title and all, was a great success at the national meetings of the American Personnel and Guidance Association. The symposium was one of the best attended programs at the convention in spite of a hard-driving rain, on the morning of that symposium, which kept many persons confined to their hotel rooms if they were not quartered in the same hotel as the symposium. At that memorable convention I also had the rare opportunity of seeing, hearing, and talking with one of my activist heroes, namely, Saul Alinsky, keynote speaker at the convention. If I had been foolish and frightened enough to resign, as recommended, on February 9, 1971, I would have had to cancel "The Kent State Massacre" symposium and miss out on what turned into one of the most meaningful experiences in my life.

During the Spring and Summer, 1971 quarters I also took a half-time (20 hours per week) unpaid internship in rehabilitation counseling at the Geauga County Mental Health Center in Chardon, Ohio, a semi-rural area about 25 miles east of Cleveland. The internship was part of my voluntary, personal professional development program at the Kent State University designed to help me become more like my colleagues in their formal counseling knowledge and skills because my graduate degrees were concentrated more in the theoretical aspects of the behavioral sciences rather than in the applied areas, although I had had some work in those areas also, including some work in psychiatric social work and marriage counseling.

During those two years of relative freedom from harassment by Palmerton and Litwack and others, I spent much of my non-

teaching hours in enhancing my knowledge and skills in counseling and psychotherapy and serving on the Kent State University Artist-Lecture Series Committee.

It was during the Spring of 1972 that I organized and chaired a special conference on racism. The conference on this controversial topic had an excellent turnout and considerable positive feedback from participants. The conference dealt with the hottest issues of the day, as, for example, "Sexism and Racism," "War, Peace, and Racism," "The University and Racism," "The Courts, Law, and Racism," etc.

While on the Artist-Lecture Series Committee I chaired and organized a special program on the American Indian. That was the summer of 1972. It was ^avery exciting, successful program. Included among the notable American Indian leaders participating in the program were Robert Burnette, Sioux Indian, and author of THE TORTURED AMERICAN, and Simon Ortiz, an Acoma Pueblo Indian, an outstanding poet and writer, as well as leader.

It was also in 1972 that I raised strong opposition to my colleague Dr. Arnold B. Coven, in rehabilitation counseling, not having his contract renewed. Dr. Coven was an untenured assistant professor, a social activist, a good teacher, and positive influence on the rehabilitation program but he, like I, was often in disagreement with the authoritarian policies and behavior of our Chairperson Litwack. When there was a decision to renew or not renew Coven's contract ^{for the} following year, Litwack, who had a strong contingent of toadies supporting him, found no difficulty in getting his way. Coven, lacking the stomach for a pitched battle with Litwack and his cronies, left Kent State

University and went on to teach at Wayne State University in Detroit, Michigan. It was Kent State's big loss and Wayne State's gain.

After the Munich Massacre at the 1972 Olympics I founded the Middle East Friendship League at the Kent State University, an organization which attempted to get people of Middle Eastern background together to meet person-to-person and get to know each other as human beings. The organization held meetings until my dismissal. I am not sure of its present status on the Kent campus.

In January, 1973 there was a mandate from the Provost's Office that all chairpersons of University Departments will be elected rather than appointed. To make this transition all departments were asked to vote on whether or not to keep the incumbent chairpersons during this period of change. Following this directive, the Dean of the College of Education, Dr. Robert Alfonso, requested the members of the CPSE Department to decide whether or not to have Litwack continue as Chairperson of the Department. If there was a vote of no confidence we were asked to decide on a successor who would take over the responsibilities of Chairperson beginning September 1, 1973.

After a very tense secret balloting, the vote by the 11 members of the Department was 6-5 against Litwack continuing as Chairperson. I was one of the six persons who voted against Litwack. Whose vote was the deciding vote we shall never know. Litwack was psychologically crushed by this vote of no confidence. Several weeks following the unfavorable vote Litwack resigned from his position and an interim acting Chairperson was appointed until a new one could be properly elected.

Because of the obvious split in the department over the leadership of the department, Dean Alfonso then asked for letters explaining what each member felt about the 6-5 vote against Litwack. In my letter to the Dean I said very frankly that Litwack was too authoritarian and too biased a person to be chairperson of a department dedicated to helping and understanding human beings. Shortly after Litwack resigned as chairperson and our letters were in to the Dean's Office, Dr. Russell Getson, a close friend of Litwack, was appointed acting chairperson until members of the department would elect a new chairperson. Later that Spring, members of the department elected Dr. Glenn Saltzman as the new chairperson.

I do not know if Litwack was shown my confidential letter to Dean Alfonso. If he had been shown it I am sure it would have been most upsetting to him. In any case, following that vote of no confidence, Litwack went to the Faculty Ombudsman, Professor Harold Kitner, to find out how the department could get me dismissed. Professor Kitner told Litwack that the department must have grounds to dismiss a tenured professor, that there must be just cause for dismissal. Litwack was able to say only that, at that time, I refused to attend departmental meetings while members were permitted to smoke. I had requested that Litwack, while he was chairperson make it a rule that there be no smoking at departmental meetings because I was and still am extremely allergic to smoke. Litwack had refused to do this even after I brought a letter from my personal physician explaining my allergy problem. That is when I refused to attend any meetings until such a rule was made. The Ombudsman told

Litwack that he didn't have a case, that grounds for dismissal of a tenured professor must be substantial. Thus, Litwack was motivated to search for a "just cause" for my dismissal.

Still relentless in his quest to find a just cause for my dismissal, Litwack then came up with the "brilliant" idea that I had "soft tenure." He told Dean Alfonso that I had "soft tenure" because my salary came from federal grant monies (soft monies) only and that probably there will not be grant monies to support my position for the 1973-74 academic year. Therefore, Litwack, with the support of Palmerton, encouraged Dean Alfonso to write to me on March 8, 1973 informing me that if funds are not available from federal monies to support me during the 1973-74 year, then June, 1974 will terminate my tenured appointment at Kent State University because I unfortunately had "soft tenure."

On March 30, 1973 I wrote to Dr. Bernard Hall, Kent State University Provost, informing him that I was granted tenure in 1969 and that I am the senior member of the rehabilitation counseling program staff and that that program is one of the most viable programs in the whole university. At that time I also informed the Faculty Ombudsman, the American Association of University Professors (AAUP), the Kent State Federation of Teachers (KSUFA, an affiliate of the American Federation of Teachers), of which I was a member, the American Civil Liberties Union (ACLU), of which I was also a member, and the Ohio Education Association (a division of the National Education Association) about my plight and I requested help right away. In spite

of my efforts, on June 1, 1973, Dean Alfonso informed me again that I will probably not be on the faculty after June 15, 1974 because of the expected loss of federal funding and that, with his regrets, I should seek employment elsewhere.

In the BOOK OF MACCABEES (part of the APOCRYPHA) it states that "Rebellion against tyranny is obedience to God." Ben Franklin and Thomas Jefferson liked that statement. Thomas Jefferson, in fact, tried to make that statement a part of the official United States Seal. I love that statement also. After that June 1, 1973 letter from Dean Alfonso I posted that statement in large, readable letters on the outside of my office door. That statement was a continual reminder of my commitment to the ideals of democracy as they relate to the role of the professor in the university.

On the June 12, 1973 contract sent to me by the Kent State University for the 1973-74 academic year there was an asterisk which was followed by the matter of fact statement that: "Academic year 1973-74 is terminal appointment." The beginning of the third dismissal attempt was now made official and the reason was based on the idea that I had "soft tenure" and not the "hard tenure" which is the genuine kind of tenure.

After some further contact with the Kent State University AAUP Chapter, on July 25, 1973 I received a letter from Dr. James P. Louis, Chapter President, acknowledging my March 30, 1973 letter to Dr. Bernard Hall, Provost, about my impending 1973-74 terminal appointment due to my "soft tenure" status and the university's alleged financial exigency. He informed me what

the parameters of my situation were in terms of AAUP principles and policies and let the Provost and other relevant parties know that I have requested an appeal on this decision.

One of the few times a financial exigency can be used legitimately to terminate a tenured professor is when a program is discontinued or terminated. On November 20, 1973 there appeared a memo allegedly from the entire Rehabilitation Counseling Program Faculty and addressed to the Executive Committee of the CPSE Department. The memo/^{was}entitled "The Discontinuance of the Rehabilitation Program." This extraordinary memo, a copy of which I received by an untimely error made by a new, naive secretary, called unabashedly for the discontinuance of the rehabilitation program and the immediate termination of all student admissions to the program. It suggested that two of the three rehabilitation program staff members would be absorbed into the other programs of the department and that the third member, namely, me, would be terminated due to the termination of the Rehabilitation Program and the alleged lack of any students.

The impression one gets from reading this memo is that it was written by all three members of the rehabilitation staff. The truth, however, was that it was written by two members of that staff only, namely, Dr. Keith Palmerton and Dr. Robert Sakata, without the help or knowledge of the remaining member, me. It is true that we had a meeting on the status of the

Rehabilitation Counseling Program prior to the writing of the memo but writing such a memo by the whole Rehabilitation staff was not a part of the meeting. It seems that Palmerton and Sakata had a meeting with me so that they could justify writing the discontinuance memo. The new secretary who worked for Dr. Sakata apparently not knowing the whole story passed out copies of the memo allegedly written by all three Rehabilitation staff members to all the Rehabilitation staff members. It was the logical thing to do. That is how a copy of it got into my hands as well as into the hands of the Executive Committee of the Department to whom it was addressed.

The November 20, 1973 memo triggered a November 21, 1973 memo from me to the Executive Committee in which I stated that the November 20, 1973 memo was not from the entire Rehabilitation faculty but only from Sakata and Palmerton. I strongly objected to the idea expressed in that memo that the Rehabilitation Program should be terminated, that they alone should remain on the CPSE faculty, and I should be removed. It is noteworthy that I received no answer to my November 21, 1973 memo and that the Executive Committee has denied ever having received it.

On January 28, 1974 I addressed Professor Harold Kitner, Faculty Ombudsman, requesting that he help me appeal the terminal appointment decision. On January 30, 1974, Professor Kitner informed me that only those without tenure can be non-reappointed, that termination of a tenured professor is dismissal. Actually, therefore, he was telling me that officially I received notice of my dismissal in the June 12, 1973 contract for the 1973-74 academic year which indicated I had a "terminal

appointment." Professor Kitner said he would begin earnestly to try to help me with my problem.

On March 12, 1974 I met with Dr. Glenn Olds, President of the Kent State University, concerning my status. Like Dr. Glenn Saltzman, new CPSE Chairperson, Dr. Robert Alfonso, Dean of the College of Education, and Dr. Bernard Hall, Provost, he was relatively firm in his contention that my dismissal was a pure matter of financial exigency --- "nothing more and nothing less."

However, both in my letter to Dr. Olds prior to our meeting and in the meeting itself, I did stress the belief that I felt the idea of financial exigency was being used as an excuse by certain members of the CPSE Department to get rid of me. In that meeting I told him about the 1971 attempt at dismissal and about the very low faculty evaluations I received during the 1972-73 and 1973-74 academic years. I pointed out to Dr. Olds that these evaluations were so low that if they could have been proven empirically to be valid they could have been just cause for dismissal. I told Dr. Olds that the evaluations were so negatively biased that one might readily allege that there is a conspiracy here, a real concerted effort to deny me some of my basic rights guaranteed by the United States CONSTITUTION.

Dr. Olds was quick to point out that at least one of the evaluations I spoke of was surely in error, namely, the matter of publications. Showing me the just-published COLLEGE OF EDUCATION FACULTY PUBLICATIONS(1974), which I had never seen before, he stated that my publication record was

excellent rather than poor and he wondered if the other criteria of evaluation were rated with the same kind of bias. He gave me hope that maybe he would look into these discrepancies. He suggested that there was a good possibility that I would have an opportunity to present my case before the Appeals Board of the Faculty Senate.

Through the efforts of Professor Kitner, Faculty Ombudsman, and President Olds, I was granted a hearing before the Kent State University Faculty Senate Appeals Board on Monday, April 22, 1974. The Appeals Board consisted of five persons: Dr. Gordon W. Keller, Chairperson, Dr. Foster D. Armstrong, Dr. James D. Dooling, Dr. Charles Soltis, and Dr. (Sister) Marijane Werner. On May 8, 1974, Dr. Keller, Chairperson of the Appeals Board wrote to Dr. Olds:

"We find unanimously for Professor Frumkin and against his non-reappointment. Among the issues raised by this appeal are these: (a) Does Mr. Frumkin hold tenure? Yes. (b) Is there a special category of soft-money tenure? No provision for such exists in the ACADEMIC POLICY BOOK. Nor were such conditions of employment ever established for Mr. Frumkin. (c) Though Mr. Frumkin's salary has always been paid through a federal grant, is his position hostage to continued renewal of that grant? No."

While the Appeals Board made it clear that I had tenure and was not dismissed, it also added a statement which was to become a cue for the University's next dismissal effort. The question was asked: "Does tenure protect faculty in all circumstances, regardless of financial exigency? No. Termination of employment may be effected so long as appropriate consultative procedures are observed, and so long as program needs are evaluated."

Dr. Olds' letter to me, dated June 20, 1974, stated that he was extending my contract for an additional year. It seems that the decision of the Appeals Board did not influence him at all because his decision to extend my contract another year was based on the fact that the Rehabilitation Counseling Program received additional funding, enough, at least, for those monies to pay half of my salary for the 1974-75 academic year. In that letter he said he believes that "comprehensive review of the entire program priorities, personnel and funding are required."

While the third dismissal effort had failed, as suggested above, Dr. Gordon Keller, in his report to Dr. Olds, planted the seed for the next dismissal effort. The June 20, 1974 letter of Dr. Olds provided the high potency manure for that seed to begin spouting roots.

Chapter 5. THE FOURTH DISMISSAL ATTEMPT: AN AD HOC FINANCIAL EXIGENCY

Dean Alfonso wasted no time in carrying out the suggestions of Dr. Olds in his June 20, 1974 letter. Immediately he requested the Rehabilitation Counseling staff to decide on what two members of the three-member staff to retain on the faculty after June 15, 1975. Thus, on July 29, 1974 the Rehabilitation staff met to talk about the program for the 1974-75 academic year and beyond.

At that meeting it was decided that the coordinatorship of the Rehabilitation program be transferred from Keith Palmerton to Robert Sakata. It was also recommended that the Rehabilitation program continue, whereas less than a year before this time, Palmerton and Sakata wrote a forceful memo (November 20, 1973) that it be discontinued. This about face by Palmerton and Sakata was due to their realization that, during a genuine financial exigency, if the whole Rehabilitation program were to be terminated, then they might also be terminated.

After that much business was completed, the meeting ended. I left and they stayed on and decided between themselves that they would write a memo supporting their own retention and my dismissal. That memo, dated July 31, 1974, from Palmerton and Sakata, addressed to Dr. Saltzman on the subject of "Rehabilitation Faculty Retention" is filled with bias and deception and an outright fraud. For example, it stated that: "Dr. Frumkin, since his first employment by the University in 1967, has stated, in Rehabilitation Program Meetings and Department Meetings, his lack of background to teach core courses, or his

lack of interest in doing so. In spite of his attendance of courses taught within the Master's level programs of our Department, he has not demonstrated a development of expertise beyond this level. In addition, he has not made it known at any of the curriculum planning meetings, his readiness or interest in teaching rehabilitation or department core courses. A review of QISR (Quarterly Instructional Service Report) reports and quarterly schedule of courses over the years, provides evidence of this contention." That memo states further that Dr. Palmerton and Dr. Sakata can more adequately advise incoming masters and doctoral students without my help.

For the record I would like to point out that I had taught more rehabilitation courses than either Palmerton or Sakata, that is, both quantitatively and qualitatively, that I had taught rehabilitation core courses since the very beginning of my appointment at Kent State University back in March, 1967, that I had taught core, non-rehabilitation courses for the last 6 of the 8 years I had been at Kent State, that I had created two new courses in the department, one rehabilitation course and one general core course, plus a new course in sociology, and that I had consistently demonstrated more interest in maintaining and enhancing the rehabilitation and core courses. The QISR reports provide clear evidence of what kind of liars Palmerton and Sakata really are.

The greatest fraud committed by Palmerton and Sakata

concerned the matter of their ability to advise masters and doctoral students on theses and dissertations. Both men are too dishonest, too uninterested in science and the scientific ethic, to be of any great help to masters and doctoral students in their research efforts. Both men received their initial Graduate Faculty full membership status because of their use of research papers which I wrote and which I got published and on what was supposed to be a "cooperative" effort, but^{for} which they took the major credit. Palmerton had committed grand larceny in connection with his misuse of federal grant monies and Sakata had plagiarized (along with Litwack) a masters thesis in order to get himself an extra, data-based research publication to enhance his status. Sakata, along with Litwack, also misused College of Education funds, public funds, to subsidize the publication of the plagiarized thesis. These facts were well-documented at the May-June, 1975 hearings of my appeal before the Kent State University Faculty Hearing Committee. A transcription of these hearings has never been made available by the University because such a transcription would expose the shameful behavior of Palmerton, Sakata, and Litwack which the University has been successful in covering up. More details on these matters will be presented later on in the book.

It is noteworthy that neither man was penalized in any way for the above-mentioned acts in spite of the fact that, ^{given} the information presented at the May-June, 1975 hearings, neither man would have been kept on the faculties of any reputable University in the United States. Men such as these, I feel, are hardly fit to advise graduate students on research. That

task calls for men with honesty, humility, and integrity, and some real respect for the ethos of science.

On August 27, 1974 the CPSE Department met ostensibly to consider which two members of the rehabilitation faculty to retain. The members of the department all received copies of the Palmerton-Sakata recommendation on the rehabilitation faculty retention and my simple recommendation. Palmerton and Sakata naturally recommended that they be retained. I recommended that Sakata (if I had to make a choice) and I be retained and that Palmerton be terminated.

At this August 27, 1974 department meeting there was no discussion on the implications or issues raised by the directive given the department by Dean Alfonso in spite of my plea that justice in this matter demands that such implications and issues be thoroughly examined. I stated that the whole directive was something the department should not accept because: (1) The pruning of faculty is only justified, according to AAUP standards and principles, where there is a genuine financial exigency associated with program functioning. The rehabilitation program was, by its record, one of the most viable programs in the entire university. Any reason for its reduction at this time would, therefore, have to be arbitrary and anti-democratic. (2) If it were true that the rehabilitation program in the College of Education was the least viable program in that College, then the pruning would have to be done on the basis of more than the superficial and biased memoranda from its staff about themselves. That is, in such a case, the relative merits of each member would have to be objectively examined by unbiased observers

lest a gross injustice be committed.

The Department Chairperson, Dr. Saltzman, and other members of the department refused to consider these implications or issues. Without any real discussion of the issues raised by ^{the} Dean Alfonso directive and without any real discussion of the merits of the rehabilitation staff, there was a unanimous vote (excluding my vote) that Palmerton and Sakata be retained and that I be removed from the rehabilitation staff at the end of the 1974-75 academic year.

On August 30, 1974, Dr. Saltzman informed Dean Alfonso about the CPSE Department recommendation that, in the absence of federal funding, Drs. Palmerton and Sakata be retained and that I be "released."

By September 3, 1974 I had still not received a teaching schedule for the Fall Quarter, 1974, in spite of several written requests addressed to Dr. Palmerton, the rehabilitation staff coordinator at that time. On September 3, 1974 I wrote to Dr. Saltzman asking for a teaching schedule because I felt very upset "dangling in this early autumn limbo."

On September 11, 1974 Dean Alfonso informed me that my appointment at the University will end in June, 1975. He did not state that this termination was dependent on federal funding, that is, the presence or absence of such funding. He stated rather unequivocally that "this coming academic

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year will be a terminal one for you," not qualifying this statement in any way. Thus, it was that dismissal attempt number four was now in progress.

Less than two weeks before classes were to begin for the Fall Quarter, 1974, I finally received my teaching assignment. After that assignment was made there began a relentless effort to build a case supporting the termination of my position just in case the termination on the grounds of alleged lack of funds did not become a reality. If such were to be the case, then termination would have to be based on some other cause or causes, that is, something other than a financial exigency.

My 1974-75 contract did not reach me until November 11, 1974. It seems that sometime between the August 27, 1974 meeting and the beginning of the Fall Quarter my departmental colleagues were hoping that I might resign and leave town. It seemed that they were hoping that this might happen even after the quarter started. My late contract stipulated that this contract was a "One Year Terminal Appointment." It was my second, consecutive annual terminal contract.

On October 16, 1974 I registered a formal complaint with the Office for Civil Rights (OCR) of the U.S. Department of Health, Education, and Welfare (HEW), alleging that the Kent State University had discriminated against me on the basis of my social activist, Humanistic orientation (creed) and on the basis of my close affiliation with militant Black students on campus. I stated in my complaint that I had been denied a

promotion, pay raises, and other benefits, and been threatened with termination by June, 1975, because of an alleged financial exigency which requires the termination of some faculty.^{1/}

The University was deeply upset by my registering this complaint. I was upset too because of the things which made it necessary for me to file the complaint. I looked at my office door and read some inspiring words: "Rebellion against tyranny is obedience to God!" That is a good American tenet I thought to myself.

^{1/} See pages 40-44, Chapter 6.