

Chapter 9. FIFTH DISMISSAL ATTEMPT: THE BEGINNINGS

On November 11, 1974 I finally received my 1974-75 Kent State University contract. It was about six months late and it explicitly stated that it was a "One year terminal appointment." The delay in my contract, I feel, could be, in part, due to the hope of the University that I would resign once I accepted the 1974-75 terminal year as a reality.

What made me feel the terminal contract had some reality to it was what happened our December 11, 1974 CPSE Department meeting. Shortly before that meeting I had discovered the fact that the 1974-75 GRADUATE CATALOG did not include my name, contrary to past practice, next to the rehabilitation counseling courses listed. Some of my departmental enemies had apparently seen to it that my name was eliminated from the GRADUATE CATALOG because they and many others thought they would have had me out of the University before the Fall Quarter, 1974 began. At that December 11, 1974 departmental meeting I, therefore, made a motion that the GRADUATE CATALOG (which was published several times per year), in its next issue include my name where it should be because "I am still on the faculty, at least until June 15, 1975."

A countermotion was then made by Litwack and seconded by Sakata that my name should not be added to the GRADUATE CATALOG (all our courses were graduate courses) and that I should not be provided with a summer teaching load. (Prior to the meeting I had asked Sakata personally if I might teach during the Summer Quarter, 1975, if the 1974-75 academic year was really my final year at Kent State. My request to Sakata

was apparently mentioned to Litwack.) Litwack stated that the "rationale" was that "R. Frumkin has already received notification of contract termination as of this 1974-75 academic year." ^{1/} That was the rationale stated in that meeting and repeated in the minutes of that meeting. Litwack's motion was ^{allegedly} and other votes ^{partial} "passed" "unanimously" (my vote/excluded), over the strong objections of a n/a-voting, part-time member of our department, Professor Emeritus, Dr. Dwight Arnold. Dr. Arnold felt that Litwack's proposal was unfair but nobody paid any attention to this decent old man. Dr. Arnold and other part-time/

My colleagues did not pay any attention to my arguments on this matter either. I pointed out that the terminal contract was contingent on the certain, bona fide lack of federal funding for the 1975-76 academic year and that this denial of a place in the GRADUATE CATALOG and denial of a summer school teaching load for 1975 was very unfair at that time. My colleagues were acting as if they knew definitely that there would be no federal funding of the rehabilitation program for the 1975-76 academic year and that my position at Kent State would end on June 15, 1975 no matter what the circumstances were. My argument was ignored. What is interesting about the Litwack motion is that Litwack proposed it and Sakata seconded it and Sakata wrote up the minutes for that meeting. Those minutes were in error and incomplete. Not only I and Dr. Arnold voted against the motion but also some of the teaching fellows

 1/ See Appendix B, page , for the relevant excerpt from the minutes of the December 11, 1974 meeting.

* The motion was not "unanimously" passed. There were, at minimum, at least two full votes against the motion. This is just one example of Sakata's deliberate distortion of facts.

and graduate assistants who had had partial voting privileges, that is, their vote counted $\frac{1}{4}$ of a vote each. For that reason, because I unfortunately did not take notes on the voting, the actual vote remains a mystery. Another important point about the minutes written by Sakata was his omission of my arguments why I should not be excluded from the GRADUATE CATALOG and why I should, at that time, be offered a summer school teaching schedule.

A registered letter from Provost Dr. John Snyder dated December 13, 1974 reaffirmed the idea that my 1974-75 Kent State University contract was terminal. Like Dean Alfonso's September 11, 1974 letter, mentioned earlier, Dr. Snyder's letter did not state that this termination was dependent on federal funding, that is, the presence or absence of such funding. The letter ended with the hypocritical closing: "Please accept my best wishes for your professional future."

Early in October, 1974, in the thick of my fight against the conspiracy intent on getting me out of the University, I found myself longing to get away to some kind of utopia, a promised land, a place where there was some justice and tranquility. I saw Israel as the Promised Land to which I, as a Jew and a person, might go in order to find what I was being denied at Kent State and in the USA. Consequently, for my between quarters vacation coming up late in December, I made arrangements to go to Israel to see if I could find some

meaningful work, and, perhaps, start a new life there.

I spent two unforgettable weeks in Israel and located several worthwhile jobs. One evening, while visiting with my cousins overnight in a little village near Hadera, attempting to go to sleep, filled with both joy and sorrow, I spent about four hours crying harder and longer than at anytime in my whole life. I had never felt so accepted, so appreciated, so at home as I did in Israel. I had never felt that accepted, appreciated, and at home in the USA. At that moment I knew what the Holocaust had meant, what Israel meant to those Jews living in Israel, and why every people needed a land they could call their own. I then understood what Palestinian Arabs were struggling for. They too needed an autonomous, independent state as much as Jews did. This was a right of all people all over the world.

I returned to the USA refreshed by the Israeli experience and enthusiastic about the future. I was seriously thinking about leaving Kent and the USA until the flagrant injustices I faced when returning to the Kent State University put me in a position somewhat like that of the Jews in the Warsaw Ghetto. If my academic career in the USA was going to be wiped out it was not going to be done without an all-out fight on my part. I took immediate steps against the growing conspiracy intent on my academic assassination.

On January 10, 1975 I met with Provost Snyder, Assistant Provost Gordon Keller, and Faculty Ombudsman, Dr. Ray Heisey in the office of the Provost to discuss my status at the Kent

State University. In a letter to me from Dr. Heisey, dated January 17, 1975, the main points I had made at that meeting were summarized by Dr. Heisey, namely:

- " 1. You feel the decision to cut you from the program was unfair both substantively and procedurally.
2. The professional qualifications which you have are superior in your opinion to those of Palmerton and Sakata when everything is taken into account, such as comprehensiveness and depth of experience in Rehabilitation Counseling.
3. Of the many programs in the College of Education, the decision to select Rehabilitation Counseling to eliminate was an arbitrary one.
4. You feel that you have skills which have been used to help others get graduate faculty status and those same persons are now attempting to throw you out.
5. Your unique contributions to the department should be considered in this decision. You have helped students get articles published, you have developed new courses, you have brought in \$ 95,000 in the last two years to the University in grants.

The above five points are those which you made to Snyder and Keller as they asked you for your point of view on the matter. It was not considered a hearing or a formal presentation of your case, but an opportunity for you to give your point of view.

(continued on page 61)

It was my understanding that the procedure from here on is that Provost Snyder has asked Assistant Provost Keller to talk with Dean Alfonso and obtain documentation for the case which the department and the Dean's office have established. Once this documentation and the factual data are ascertained, you will have a chance to answer these and that I will assist you in the preparation of your response. I will be in touch with you once I hear that the case is available and that you have received a copy for making a response. "
(emphasis added)

In Dr. Heisey's letter, I believe, is the clue as to when my enemies inside and outside of the CPSE Department received encouragement to move toward establishing a dismissal case against me instead of relying on the tenuous, unpredictable grounds of a financial exigency connected with a lack of federal funding. Thus, it seems to me, while it is apparent that my enemies were collecting materials which might be used against me for years(at least since 1969),and making an all-out effort to create such materials especially after I had filed a complaint with the Office for Civil Rights, it was the specific request of Assistant Provost Keller asking the CPSE Department to document its case for not retaining me on the faculty if there was no new federal funding of the Rehabilitation program for the 1975-76 academic year which led to the new decision that to insure that I do not return to the faculty in September, 1975, that they will work toward dismissing me for cause. To move from the use of a financial exigency to cause as a basis for not retaining me on the faculty was a serious matter which had crucial significance for my life as well as the lives of many other persons.

Realizing that June 15, 1975 might be my last day at the Kent State University if I do not get any assignments and financial support beyond that date, in a memo to Sakata dated January 20, 1975, I expressed my desire to teach summer school during the 1975 Summer Quarter. Sakata's response, orally, was that I could not teach summer school because my contract ends on June 15, 1975 and will not be renewed. He said that with the confidence of a man who knew more than I did. Again, I pointed out that my so-called terminal contract was contingent upon the certain, bona fide fact of no further federal funding of the Rehabilitation Counseling Program and that, at that time, January 20, 1975, it was still not known if we would or would not receive further federal support. He reminded me that the CPSE Department had voted "unanimously" on December 11, 1974 that I should not have a summer school teaching load and that "that's that!"

I was extremely upset by Sakata's attitude, an attitude which seemingly was one shared by many other members of the department. The attitude was not that my terminal contract was contingent upon the renewal of federal funding but rather that it was a terminal contract no matter what the financial state of the Rehabilitation Counseling Program would be for the 1975-76 academic year.

In that frame of mind and just having been rebuffed by Sakata on my summer school request I wrote the following letter to Dr. Virginia Harvey, a member of the CPSE Department and the Kent State University Faculty Senate. In this letter I addressed her as a member of the Faculty Senate, as

my representative on the University's faculty governing body. The entire letter read as follows:

"In the Spring of 1974 I appeared before a KSU Faculty Senate Grievance and Appeals Committee headed by Dr. Gordon Keller. That five-person committee examined my case very thoroughly and came to the unanimous, favorable conclusion concerning my status within the university. That committee presented its findings to the President and Provost of the Kent State University and they virtually ignored them. For that reason, almost the same circumstances which existed last year now exist again and I am in the position of having to appeal to the Faculty Senate for a second time concerning problems which should have been settled with the Faculty Senate's Grievance and Appeals Committee recommendations in 1974.

My suggestions, therefore, are as follows:

1. As in the U.S. Constitution, there should be some kind of double jeopardy clause in the Faculty Senate Policy so that a person, like myself, who was found by the Faculty Senate's Committee to be 'innocent' of an alleged offense, namely, being on soft money tenure, need not be tried a second time for the same offense.
2. That some provision be made by the Faculty Senate to deal with the University when it ignores its findings and recommendations and makes a mockery of the whole purpose of the Faculty Senate. An extraordinary number of serious man(person) hours were put into the review of my case by the Faculty Senate and other interested parties. To have all that work ignored is unfair and unjust and must be dealt with if the University wants to avoid becoming known as just another member of the world of Academic Siberia.

I hope something can be done about these suggestions for the University's welfare as well as my own.

Thank you for your cooperation."

Dr. Harvey never answered my letter, nor did anybody else from the Faculty Senate. What she did about the letter only she knows.

On October 9, 1974 I had indicated to the CPSE Department's Executive Committee that I possessed evidence regarding the misuse/misappropriation of federal funds by one or more members of the department.

I was reluctant to bring charges against these persons because I felt that a therapeutic and rehabilitative approach to their behavior would be more appropriate than a punitive one. However, my requests urging the non-punitive approach were ignored and since the Executive Committee urged me to bring those charges out in the open, I did so by writing a letter to Dr. Ray Heisey, Faculty Ombudsman, about these behaviors. That letter to Dr. Heisey was written on February 6, 1975, and was, in full, as follows:

(Note: the full letter is found on pages 65
and 66 and should be inserted about here)

Rehabilitation Counseling Program,
311 Educ. Bldg., Kent St. University
Kent, Ohio 44242: Tel.(216)672-2662

Dr. Ray Heisey, Faculty Ombudsman
101 Bowman Hall, Kent St. University
Kent, Ohio 44242

February 6, 1975

Dear Ray:

On Oct. 9, 1974, I indicated to the CPSE Department's Executive Committee that I possessed evidence regarding the misuse/misappropriation of federal funds by one or more members of our department. I have been reluctant to present this evidence because I feel that the persons guilty of these illegal and unethical behaviors are persons who need therapy and rehabilitation rather than punitive action (part of which might lead to dismissal from the university and/or imprisonment). However, my requests urging help for these persons have been ignored and I have been asked by Dr. Saltzman to put my charges in writing by Friday, Feb. 7, 1975. Since I am deeply concerned about how these charges will be used (I hope they will be used wisely, non-punitively, therapeutically), I am putting them in this letter to you so that you may be the one (the fair, just ombudsman) to present them to the Provost and Assistant Provost, Drs. Snyder and Keller.

Charge 1. Dr. Keith Palmerton in August, 1974 took a week's vacation on KSU time and at the federal government's expense allegedly for the single purpose of checking on the performance of one of our students doing an internship in a questionable type of agency. Although he spent less than 6 hours of his professional time with the student and his supervisor, Dr. Palmerton received \$241.08 to support his vacation expenses (See Attachment A). This week, spent with a girlfriend, was devoted largely to sailing in his boat. Since this was an unauthorized trip to an unauthorized internship site with a questionable type of internship experience, I charge Dr. Keith Palmerton with misuse and misappropriation of federal funds for personal gain. In legal terms, in the state of Ohio, Dr. Palmerton is guilty of a felony.

Charge 2. In August, 1973, Dr. Keith Palmerton told me he would like to attend the national meetings of the American Psychological Association in Montreal, Canada and take his two children along with him. However, because it would be too expensive and since I wasn't going to the meetings and hadn't spent the federal monies allotted to me, he wanted me to write up false travel expenses for myself and give him the money to help subsidize this vacation trip with his children. When I told him I wouldn't do it, he was very upset and for weeks went around with a long face because I had turned him down. I, therefore, charge Dr. Palmerton with attempted embezzlement and fraud. I should, I realize now, have reported this incident then but, softy that I am, I felt sorry for him and repressed the whole thing. Dr. Palmerton freely used my writing talent to get himself graduate faculty status, promotion to the associate professor rank, and tenure. When I became coordinator of the HEW-SRA grant, he was quick to try to exploit me here also. His dishonest reports about me, his slanderous statements to my colleagues and students, all provide increasing evidence that Dr. Palmerton is a status-ridden man who would do almost anything in order to maintain and enhance his status regardless of the ethics and legality involved.

Charge 3. Dr. Robert Sakata, in April, 1974, attended the national meetings of the American Personnel and Guidance Association convention in New Orleans, Louisiana. His main purpose, if he is honest about it, was not educational and/or professional development but rather to seek employment

elsewhere through the APGA's job placement service. While there he spent \$29.82 per night for his room, allegedly for himself alone (See Attachment B). I think this kind of unauthorized luxury is inexcusable and deserves a sound explanation. I, therefore, charge Dr. Sakata with the misuse of federal funds for personal gain (attempting to seek a job elsewhere and undue extravagance in room accommodations). His misuse of federal funds is not as serious as are the actual and attempted behavior of Dr. Palmerton, in my estimation. It is unfortunate but also nevertheless, true that Dr. Sakata has been guilty of making slanderous and libelous statements about me. Like Dr. Palmerton, Dr. Sakata too is a status-ridden person who will engage in unethical kinds of behavior in order to maintain and enhance his status at the university. However, he is not as dishonest or as impudent as Dr. Palmerton.

The above charges are only some of the many possible ones against Drs. Palmerton and Sakata which might be made. When I tried to examine past travel and expense statements on file in our office during the Fall Quarter, 1974, they suddenly and "appropriately" (?) disappeared. What a strange but timely coincidence.

I think these charges only scratch the surface because it is only since the Summer of 1973, when I became the coordinator of the Rehabilitation Counseling HEW-SRA Grant, that I have become aware of the great many opportunities that dishonest people might have if in the positions which Drs. Palmerton and Sakata have held.

I am sure some of these charges, perhaps, all of these charges, will be denied and/or "explained" by Drs. Palmerton and Sakata. Charge 2 is difficult to prove because there is no witness (save the Man upstairs) to Palmerton's requests. Charge 1 and 3 are more easily proven. I have checked reliable sources both in Delaware and Louisiana about the behaviors in question.

My feelings about this situation are still that Drs. Palmerton and Sakata should not be punished as much as they should be helped to change their behavior to more responsible kinds. These charges do, however, point to the fact that these men are less fit to be on the faculty than I am. They need some personal rehabilitation before they might become fit to train responsible rehabilitation counselors.

Sincerely,

Robert M. Frumkin

Robert M. Frumkin, Ph.D.
Associate Professor of
Rehabilitation Counseling

cc: Dr. G. Keller
Ms. Odessa Fellows
FBI et p.r.n.

My February 6, 1975 letter needs some explanation. Some people might regard it as petty, unsophisticated, and even puritanical. Like everything in this book it must be placed in context. The CPSE Department is a graduate department in applied counseling. Its official philosophy has been centered in the belief that people could be helped to make better, more meaningful, more productive lives/through competent counseling at any stage of their lives and particularly during critical periods. I believe in this philosophy. I have tried to live by it. I have tried to apply it to all people I come in contact with, whether they be handicapped clients, students, colleagues, friends, or even a stranger. I have tried to apply it to my life. I expected my colleagues to treat me in the same way. Therefore, when my colleagues ruthlessly voted for my removal from the department at the August 27, 1974 departmental meeting I began to fight back by pointing out that if I am imperfect, and I acknowledge that fact, so are my colleagues who have castigated me. It is human to err, to be imperfect. However, as counselor educators and counselors, as a helping profession, our basic aim is helping others and not punishing others for their imperfections. Our professional orientation is therapeutic rather than punitive.

I demonstrated that I had lived by that philosophy when I defended several students in our program when my colleagues wanted to dismiss them because they were imperfect in some way. I felt that we had an obligation to

approach the imperfections of those students in a helping and not in a punitive way, to give them a chance to complete the program.

The reason I brought up the problems relative to Sakata and Palmerton was to demonstrate that they were human and imperfect and that we should not dismiss or punish them but rather try to help them. Only if they were unwilling to accept help and change their behavior should the department even consider any kind of action which might be punitive in nature.

All I wanted was to be treated in the same way. I WAS NOT GUILTY OF ANY SERIOUS MISCONDUCT, GROSS INCOMPETENCE, OR MORAL TURPITUDE. MOST OF THE CHARGES MADE AGAINST ME WERE TRIVIAL AND INVALID. On the other hand, the charges I made against Palmerton involved serious misconduct and the charge against Sakata , in the February 6th, 1975 letter, at least questionable conduct. Nothing was done to Palmerton and Sakata for their misconduct. Their behavior, as you will soon discover, was completely whitewashed by the University power elite and, instead, that power elite made phony charges against me and threatened a police investigation of my activities at the University.

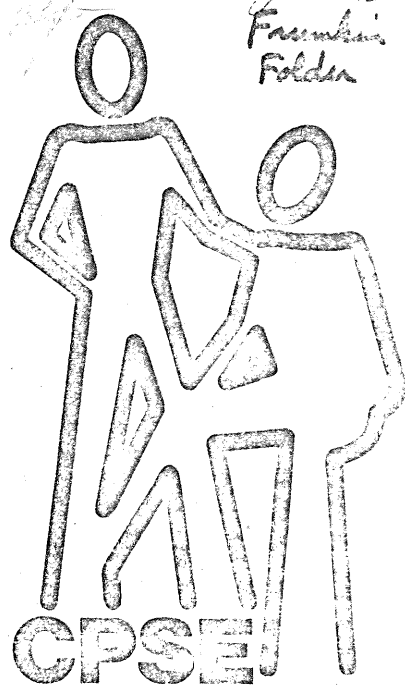
I strongly objected to this violation of my right to equal protection under the U.S. CONSTITUTION. I felt sad about the fact that my colleagues in the helping profession of counseling did not pay much attention to the philosophy about people we all profess to hold and live by. My letter was a somewhat desperate attempt to change this condition.

After hearing about the February 6, 1975 letter to Dr. Heisey, the Executive Committee of the CPSE Department invited me to its February 10, 1975 meeting to acknowledge the fact that I sent the February 6, 1975 letter and to talk about the federal grant proposal I had written for the summer of 1975. The next day, February 11, 1975, the Executive Committee met without me and produced the following set of minutes after their meeting:

(Note: these minutes are found in full on pages 68, 69, and 70, and should be inserted about here)

D. Saltzman
Frumkin's
Folder

EXECUTIVE COMMITTEE MEETINGS
MINUTES
February 10 & 11, 1975



Present: G. Saltzman, Chairman
D. Benshoff, R. Getson, M. Kaplan,
K. Palmerton, A. Woldt

Guest: R. Frumkin

1. G. Saltzman reported to the Executive Committee that R. Frumkin had notified him that he had documented his charges of misappropriation of federal funds, and had forwarded his charges to Dr. Ray Heisey, with copies to Ms. Odessa Fellows (HEW) and the FBI.
2. R. Frumkin submitted a "Teaching Grant and Traineeships in Rehabilitation Counseling" proposal. (Executive Committee members hold copies of proposal.) The Executive Committee and R. Frumkin discussed various aspects of the proposal. Following this discussion period, R. Frumkin was excused and the Executive Committee continued to discuss this proposal. Discussions were held by the Executive Committee on the afternoon of February 10, 1975, and during the morning of February 11, 1975.

The following decision was unanimously made by the Executive Committee:

The Executive Committee endorses the need for summer stipends for students. The Executive Committee does not, however, endorse the submission of this proposal with R. Frumkin as Project Director for the following reasons:

- A. R. Frumkin's employment with the University is being terminated on June 15, 1975, and to continue to include him in Departmental class programming will not contribute to the continuity of education being received by students in this Department.
- B. R. Frumkin's past performance as a Rehabilitation Counseling Grant Project Director has not been consistent with Department policies and procedures; i.e.
 - (a) During Fall Quarter 1974, R. Frumkin received two supplementary grants of \$3,000 and \$12,797 without submitting these program modifications through the CPSE Executive Committee, as is required by Departmental policy. The Department Executive Committee was notified of the receipt of these proposals in a February 4, 1975, memo from R. Frumkin, which had been requested by the

Department Chairman.

- (b) R. Frumkin has selected students to be assigned stipends, without consulting his Rehabilitation Counseling area colleagues.
- (c) R. Frumkin has consistently developed project proposals, without the knowledge of his Rehabilitation Counseling colleagues (e.g., this particular proposal had not been seen by K. Palmerton until given to him by the Department Chairman for Executive Committee action).
- C. The current summer Rehabilitation Counseling class schedule already provides for the basic class needs of Rehabilitation Counseling students. If, because additional stipend monies are available, additional students need to schedule Rehabilitation Counseling classes, additional sections can be added to the summer schedule. (The Rehabilitation Counseling summer proposal provides stipend monies for 20 students--no more than 10 of whom can be new students--and it is conceivable that all 20 of the recipients of the summer stipends may be current students.)
- D. When questioned by the CPSE Executive Committee, R. Frumkin had no idea of the courses that would need to be added to the summer schedule, nor any idea of how the Rehabilitation Counseling faculty loads would need to be modified as a result of the receipt of this funding. R. Frumkin could not make a statement to the Executive Committee as to how the educational program for Rehabilitation Counseling students would be improved upon the receipt of this grant, other than to say that some students not being able to afford to attend school full time, might now be able to attend school full time, and that "If we have more money for summer, we can now teach more courses."
- E. The CPSE Executive Committee feels that it is not in the best interest of the Department to continue R. Frumkin's employment beyond his terminal date of June 15, 1975, in view of his acknowledged harrassment of a Rehabilitation Counseling student, his acknowledged harrassment of the Department Chairman, and his constant distribution of unproven charges of unethical behavior on the part of numerous Department Faculty Members. To endorse R. Frumkin as the Project Director would appear to the Executive Committee to endorse some of these earlier acknowledged behaviors, which have not contributed to Department harmony and/or productivity.

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February 10 & 11, 1975

Page 3

Lastly, the CPSE Executive Committee directs R. Sakata (Rehabilitation Counseling Coordinator) to contact Drs. Coogan and Buechner immediately to modify this Rehabilitation Counseling proposal (by excluding the request for faculty salary and by reassessing stipend needs) and to submit it to the proper funding agency, via the Dean of the College of Education and Provost.

Respectfully submitted,

Glenn A. Saltzman
Recording Secretary

GAS/lh

It was obvious from the tone and substance of what was stated in that Executive Committee memo of February 10 and 11, 1975, that the Committee was not going to support any efforts of mine to continue working on the Kent State University faculty after June 15, 1975. On February 28, 1975, I, therefore, wrote a letter to Dr. Saltzman requesting that the next department meeting discuss the August 27, 1974 CPSE Department meeting and my status in the department relative to the issues raised at that meeting. The letter read as follows:

"My letter to Dr. J. Snyder, KSU Provost, dated Nov. 13, 1974, stated briefly why I thought that the Aug. 27, 1974 CPSE Dept. Meeting was one in which your actions, wittingly or not, prejudiced the CPSE faculty against me and led to the 9½ to 1 vote asking for the retention of Drs. Sakata and Palmerton and the non-retention of me after June 15, 1975. Your letter to Dean Alfonso (8/30/74) stated that a 'lengthy discussion was held, regarding the rationale of the Rehabilitation Counseling Faculty in arriving at this decision,' the decision to retain Drs. Sakata and Palmerton. That is a downright lie. The vote concerning the matter of retention came after a very brief discussion in which very little of relevance to the issue at hand was discussed. When I raised the point that the July 31, 1974 memo on retention (the so-called Majority Report) was full of lies, half-truths, and numerous innuendos, my comments were ignored. Your 8/30/74 memo recommends that 'in the absence of federal funding...Dr. Frumkin be released.' That suggestion carries with it the idea that if federal funding were available that I would be retained. I say that that idea is a lie because the Executive Committee's rejection of my Summer, 1975 HEW-SRA grant proposal indicates that the CPSE Department has no real intention of retaining me if federal funds do become available. In the light of recent events, I therefore demand that the CPSE Department has another meeting in which to consider the retention issue and that the KSU Ombudsman, and other independent observers are present to insure that a fair, just meeting is held. That meeting should be held as soon as possible. My patience and my kindness are coming to an end. Please let me hear from you by 3 P.M. Friday, March 7, 1975."

Dr. Saltzman never openly responded to that letter in

writing but he told me face-to-face that "Your status will be discussed at the next meeting of the CPSE department, March 12th. You may bring along the faculty ombudsman and an observer." Dr. Saltzman never told me that the CPSE Department was planning to dismiss me for cause, that a dismissal document with charges against me was being prepared, and that that document was to be presented to the entire department on March 12th. The impression I got from Dr. Saltzman was that this meeting would be a routine meeting which would include, among other things, a discussion of my status in the department as determined by the August 27, 1974 meeting. I asked to bring the Faculty Ombudsman and an observer only so that they could be there, if needed, with reference to that specific issue and nothing else.

In the meantime Dr. Alan Coogan, Associate Dean for Research, the man in charge of administering KSU grants throughout the university, made a report on his "investigation" of the charges I made in my February 6, 1975 letter to Dr. Heisey. In that report, dated March 5, 1975, which has become known as the "Coogan Report;" Dr. Coogan completely whitewashed the charges made against Drs. Palmerton and Sakata and instead made a great effort to bring phony charges of wrongdoing and mismanagement against me. In this so-called investigation Dr. Coogan never once spoke to me or tried to contact me about the charges I had made or about the counter-charges he foisted upon me. In the conclusion to his report he stated that I did things in the grant management for "irresponsible motives" and that "Further investigation of

the dependency allowance problem may reveal perjury, misrepresentation, fraud, and conspiracy to defraud. I suggest this investigation be turned over to the police authorities."

Coogan was not alone in defending his coterie. After the Assistant Provost, Dr. Gordon Keller, read the Coogan Report, he wrote to Dean Alfonso and Dr. Saltzman about his interpretation of the report and its implications:

"Dean Coogan concluded that the charges against Professors Palmerton and Sakata are 'false and without merit.' He finds 'no effective business-like management of the SRS grant activities at the departmental level under R. Frumkin's directorship.' The report also states that there is some evidence to suggest mismanagement of grant money by the project director in regard to dependency allowances. Finally Dean Coogan suggests very tight control of this grant activity and fund investigation of the dependency allowance problem by the police authorities."

Dr. Keller then, probably sitting under the Thomas Jefferson portrait in his office while writing his comments, stated: "By a copy of this letter to Mr. Allen Adler (the lawyer at KSU representing the Ohio State Attorney General's Office), I direct that such police investigation be made." Like Dr. Coogan Dr. Keller never once spoke to me or tried to contact me about the charges I had made with reference to Palmerton and Sakata and he never tried to contact me about the charges which were foisted upon me by Dr. Coogan.

... March 12, 1975, ... to be a ... meeting at which ... of the ... was to ... of the ... department, ... Coogan ... Appendix C, pages ... See Appendix ... pages

CASE NO. 110 ... CASE ... DEPARTMENT OF ... PROFESSORS

as suggested by Dr. Saltzman , after my request, I had invited Dr. Ray Heisey, the faculty ombudsman, and Dr. Byron Lander, an observer from KSUFA.

To my surprise, but apparently to nobody else's, Dr. Saltzman, as the first item (and actually the only item) of business presented all members of the department with a 95-page, bound, indexed book entitled: RECOMMENDATION AND RATIONALE FOR THE DISMISSAL OF DR. ROBERT FRUMKIN. This book contained allegedly "just grounds" for my dismissal with accompanying documentary evidence.^{1/}

If complete surprise is a potent weapon of offense in warfare I now understand its full psychological impact. I was surprised! It was Commander Saltzman's "finest hour" in his battle against the putative enemy of the College of Education, the CPSE Department, and the University (Dr. Saltzman was, at that time, Commander of the Northeast Ohio Naval Reserve Center as well as chairperson of the department).

Along with the big green/^{dismissal}book was a single sheet of paper, a secret ballot which was to be returned by 12:00 noon, Friday, March 14, 1975 to Dr. Saltzman. On the ballot each member of the department was asked to vote either: Against dismissal of Dr. Robert Frumkin for cause, or For dismissal of Dr. Robert Frumkin for cause for reasons outlined in the RECOMMENDATION AND RATIONALE FOR DISMISSAL OF DR. ROBERT FRUMKIN documents, dated March 12, 1975.

1/ The entire dismissal book can be found in Appendix A, pages 363-456.

Before there was any discussion on the book and the ballot and the issues raised by them, I requested that at least one or more CPSE graduate students be present at the meeting and that the meeting be recorded on a cassette tape recorder. These pre-discussion conditions were reluctantly accepted. We thus obtained three CPSE graduate students and a cassette tape recorder and tapes for recording the meeting. The three graduate students obtained were: Dixie Benshoff, Michael Haro, and Ingrid Kunstel.

Dr. Saltzman then explained the real purpose of the meeting and I was given a few minutes to speak. I said that this whole procedure was unfair because I would not be given an opportunity to respond to the charges against me before the vote is to take place. I appealed to my colleagues in the name of justice and the basic guarantees of due process, found in the U.S. CONSTITUTION, to give me an opportunity to examine and discuss the charges with them, for me to have some semblance of a fair hearing before they voted on such a serious matter as the dismissal of a tenured professor, a counselor educator colleague who had been working with them at the Kent State University for eight years.^{1/}

My appeal fell upon deaf ears and closed minds. Dr. Saltzman said that the Kent State University ACADEMIC POLICY BOOK stated that the procedures the department had been using up to that point with reference to dismissing me violated no rights of mine and that all the significant ^{1/} For an excellent discussion on the essentials of due process see Barbara H. Richter, THE RIGHTS OF A PICKPOCKET --PROCEDURAL DUE PROCESS ON THE CAMPUS (Kent, Ohio: M.A. Thesis, Kent State University, June, 1970).

questions about my rights were satisfactorily answered by the University Administration, the University attorney, the Provost, the Dean of the College of Education, and many other responsible sources, including the Faculty Ombudsman. The fact that the Faculty Ombudsman knew ahead of time about the real purpose of the department meeting and did not tell me about it, that in the context of everything else going on, unnerved me to a disquieting degree.

In anger and frustration, I exclaimed: "That damned POLICY BOOK is unconstitutional! This whole procedure is unjust."

I left the meeting very tired. I felt trampled on but not defeated. That unbelievable department meeting had galvanized my sense of and passion for justice. I felt that if this could happen in America, could happen in American university, then we, as a nation, are in as much trouble as was Germany during the rise of Nazism.^{1/}

At noon on Friday, March 14, 1975, Ombudsman Heisey and I met with Dr. Saltzman to count the ballots. The results were predictable. All eleven colleagues, most of whom had spent some eight years working with me, voted unanimously "For dismissal." What was most troubling to me was the fact that one person, Dr. Ansel Woldt, whom I thought of a good friend, also voted for my dismissal.

Dr. Saltzman's memo to Dr. Alfonso, Dean of the College of Education, dated March 14, 1975, cleared up the background of the CPSE meeting on March 12, 1975. The memo, in full, is presented here: (Insert pages 77 and 78 about here)

^{1/} See Wm. Shirer's THE RISE AND FALL OF THE THIRD REICH (New York: Simon and Schuster, 1959).

Dean Robert Alfonso

-2-

March 14, 1975

that Mr. William Lyle (OAHE) attend this meeting. (Mr. Lyle sent Mr. Lander to represent him.) On Saturday, March 8, 1975, Dr. Saltzman asked Dr. Frumkin if he wanted to recommend the names of any other person(s) who should be present. He stated that he did not know of any other person(s) who should be present. At the commencement of the March 12, 1975, Department Meeting, Dr. Frumkin raised two objections to the way that the meeting was going to be conducted (namely: no audio taping was planned, and no graduate students had been invited). These issues were discussed and resolved--the entire meeting was tape-recorded, and three graduate students (with Dr. Frumkin's approval) were invited to attend the meeting. (Information regarding these two issues is outlined in the CPSE Department Minutes of March 12, 1975. The "Recommendation and Rationale for Dismissal of Dr. Robert Frumkin" document, dated March 12, 1975, was distributed and discussed. Ballots were distributed to each faculty member, to be returned by 12:00 Noon, Friday, March 14, 1975.

The CPSE Department vote on the Frumkin dismissal was:

For Dismissal: 10½
 R. Getson, V. Harvey, M. Kaplan, L. Litwack,
 J. Murray, K. Palmerton, R. Sakata, G. Saltzman,
 A. Woldt, D. Wonderly, J. Guidubaldi (½)

Against Dismissal: 1
 R. Frumkin

The CPSE Department recommends that Dr. Robert Frumkin be dismissed from Kent State University for cause.

Respectfully,

Glenn A. Saltzman, Ph.D.
 Department Chairman

GAS/hh

Enclosures: Copy Numbers 18 through 27 of "Recommendation and Rationale for Dismissal of Dr. Robert Frumkin," dated March 12, 1975.

cc: ✓ Robert Frumkin
 Ray Heisey

Thus it appears that the big green book was written, compiled, and put together in less than one week. I find that hard to believe. It is a possible task but I find it difficult to see that the whole task, including the collating and binding and indexing, was done within one week. A more realistic hunch is that shortly after the January 17, 1975 memo from Dr. Heisey to me, Dr. Gordon Keller, Assistant Provost, requested that Dean Alfonso obtain documentation to support the August 27, 1974 decision made by the CPSE Department about my status in the department if there is no federal funding for the Rehabilitation Counseling Program during the 1975-76 academic year. Instead of complying with this directive the CPSE Department then decided to document its case against me for dismissal for cause, since there was a possibility that continued funding for the Rehabilitation Counseling Program would mean that the 1974-75 academic year might not be my terminal year. It seems to me that this decision to document a dismissal case against me was probably tentative until I made my charges against Palmerton and Sakata in my February 6th, 1975 letter to the Faculty Ombudsman. The reasoning here is relatively simple. The first charge against me in the dismissal document is " UNSATISFACTORY PERFORMANCE AS REHABILITATION COUNSELING(SRS) GRANT DIRECTOR." Under this charge it stated that "The charges against Professors Palmerton and Sakata are 'false and without merit.'" The charge also suggested that the University attorney Allen Adler "initiate a police investigation of the irregularities in this case." Thus, the first charge against me apparently

was directly related to my February 6th, 1975 letter and it was apparently that letter which changed a tentative decision to dismiss me into a firm commitment to dismiss me at all costs. I feel that it was not an independent decision of the CPSE Department to dismiss. I feel that the University power elite, particularly men like Dr. Gordon Keller, Dr. Alan Coogan, and Dr. Robert Alfonso, men with strong drives for power and status and Machiavellian attitudes towards those who threaten their positions, actively supported the CPSE department in moving toward the dismissal solution. The March 14, 1975 memo from Dr. Saltzman to Dr. Alfonso supports this idea when it lists all those persons, offices, and agencies of the University giving their stamp of approval to the procedures being used in the dismissal process and emphasizing that none of my rights were being violated in those anti-democratic procedures.

The March 12th dismissal meeting and the March 14th secret balloting which ended with my colleagues voting unanimously for my dismissal prompted the creation of one of my best satirical cartoons. In a somewhat surrealistic mood I made 11 kangaroos seated around a table discussing my fate. There was a strong suggestion in the cartoon that this was a kangaroo court proceeding. The cartoon caption read: "Sorry, Dr. Frumkin, we have voted unanimously that you be dismissed." Some of the kangaroos were given things to wear or do so as to identify them with particular members of the department. Copies of that cartoon were widely distributed to students, faculty, staff, friends, and other interested parties, including the press. A copy of that cartoon appeared in a Kent State student newspaper in July, 1975. It looked like this: (Note: Insert cartoon on page 81 about here)



" SORRY, DR. FRUMKIN, WE HAVE VOTED UNANIMOUSLY THAT YOU BE DISMISSED. "

The kangaroo court cartoon (reproduced on page 81) precipitated a moderate furor on campus. My departmental colleagues were deeply offended. What an "unprofessional" thing for me to do, they cried. My reaction was clear and uncomplicated. I was delighted by their reaction and the warm reception the cartoon got from my supporters. Numerous requests came to me for copies of the cartoon which measured $8\frac{1}{2}$ " x 14". It should be mentioned that the publication of the cartoon became an added "dismissible" charge against me.

Like fierce mosquitoes after a fresh summer rain, there followed a series of biting, blood-thirsty occurrences in which the March 14, 1975 dismissal decision of my departmental colleagues was further supported by the recommendations of dismissal by the Executive Committee of the College of Education, namely, Drs. Alfred Friedl, Carl Gorman, Robert Pfeiffer, Edwin Podway, Wilber Simmons, and Keith Varney; also similar decisions by Dr. Robert Alfonso, Dean of the College of Education, by Dr. John Snyder and Dr. Gordon Keller, Provost and Assistant Provost, and by Dr. Glenn Olds, President of the University. Some 21 persons in all (including the 11 voting members of the CPSE Department) endorsed the proposal that I be dismissed for cause, cause being the charges spelled out in the dismissal document.

The apogee of hypocrisy was expressed in a special vote which the Executive Committee of the College of Education took. Believe it or not, that Committee, meeting in secret, without my presence or knowledge, without having consulted me concerning my view of the charges against me, voted 6-0

that the CPSE Department had not violated any of my rights in the procedures they had developed in bringing the dismissal process up to its current status. The minutes of that March 19, 1975 meeting of the Executive Committee of the College of Education is here reproduced in full:

(Note: insert page 84 about here)

[Meeting was from 3:00-4:40PM.]

KENT STATE UNIVERSITY
KENT, OHIO 44242

COLLEGE OF EDUCATION

DEAN'S OFFICE
(216) 672-2808

Minutes of the Executive Committee, College of Education,
March 19, 1975, Room 408A, Education Building

Members Present: Dean Robert Alfonso, (ex officio) Chairman; Professors Alfred Friedl, Carl Gorman, Richard Hart (ex officio), Lawrence Litwack, George Lucht (ex officio), Robert Pfeiffer, Edwin Podway, Wilber Simmons, and Keith Varney

Members Absent: Professors Marjorie Ramsey and Mary Verhoeven

The only item on the agenda for this meeting was the consideration of the Counseling and Personnel Services Education Department's recommendation for the dismissal of Dr. Robert Frumkin for cause. After some discussion, it was decided that the vote would be taken in two parts - the first having to do with the correctness of the procedure in bringing about the recommendation for the dismissal of Dr. Frumkin, and secondly - the actual recommendation. The two-part motion was moved by Professor Simmons and seconded by Professor Friedl. Part one of the motion reads as follows:

It is the finding of the Executive Committee of the College of Education that the process followed by the Counseling and Personnel Services Education Department and its Chairman, in the case of their recommendation for the dismissal of Dr. Frumkin, was appropriate and respected the rights of the faculty member concerned.

The result of the written secret ballot taken was as follows:

Yea - 6
Nay - 0

Part two of the motion reads as follows:

The Executive Committee of the College of Education endorses the recommendation and the supporting rationale of the Counseling and Personnel Services Education Department for the dismissal of Dr. Robert Frumkin from the Department.

The result of the written secret ballot taken was as follows:

Yea - 6
Nay - 0

(It should be noted that Professor L. Litwack and the ex officio members did not vote on either part.)

The meeting was adjourned at 4:40 p.m.

Respectfully submitted,
George Lucht
George Lucht, Secretary

With my knowledge of due process guaranteed by the U. S. CONSTITUTION, I began my counterattack. In a memo to Dr. Saltzman dated April 8, 1975 I pointed out that "one essential characteristic of proper due process is that the bill of particulars, the charges, have adequate specificity that is, details. In their present form, the charges lack such basic details as: the dates and places of the alleged behavior; the names and identification of the alleged victims; details of the alleged unethical and unprofessional conduct. Dr. Saltzman was eloquently silent in his response. He never answered my request for an adequate bill of particulars.

In the meantime, Dr. Gordon Keller was in his memos of March 31 and April 8, 1975 shoring up the dismissal proposal based on the grounds of a financial exigency and lack of federal funds. He seemed intent on making it clear to me that "absent external support for your position next year, your appointment will terminate in June, 1975."

During the period just following the CPSE departmental dismissal vote, I requested that Dr. Olds, University President, discuss the dismissal proposal with me as soon as possible. Dr. Olds, after a few weeks, finally consented to see me. Thus, on April 9, 1975, Dr. Ray Heisey, Faculty Ombudsman, and I met with Dr. Olds and I discussed most but not all of the charges with him. At that meeting, in spite of the fact that we had not discussed all of the charges,

See Appendix A.

See Appendix B.

Dr. Olds concluded, then and there, that there was a prima facie case against me. He asked if I want to resign or have a hearing. Of course, I said that I certainly want a hearing.

On April 12, 1975, Dr. Olds confirmed in a letter to me what he conveyed in our April 9, 1975 meeting. He said in that letter that if I wanted a hearing that he and the chairperson of the Faculty Senate would appoint a Faculty Hearing Committee of faculty peers to review my case. I informed Dr. Olds immediately upon receipt of his letter that I wanted a hearing. In my April 16, 1975 letter to Dr. Olds I made a number of procedural requests. A copy of that letter is reproduced in full below:

(Note: insert page 87 about here)

***** Note: Please acknowledge receipt of this letter with a phone call.

Rehabilitation Counseling
Program, Counseling & Personnel
Services Education Department
311 Education Building
Kent State University
Kent, Ohio 44242

April 16, 1975

Dr. Glenn A. Olds, President
Office of the President
101 Administration Building
Kent State University
Kent, Ohio 44242

Dear Dr. Olds:

Received your April 12, 1975 registered letter on April 15, 1975. I appreciate your granting me the opportunity to talk to you on April 9, 1975, in the presence of Dr. Ray Heisey, about the charges against me. I do, of course, wish to appeal your finding that there is a prima facie case for my dismissal for cause.

Of the types of hearing committee options open to me, I prefer the option which has you, in collaboration with the chairman of the Faculty Senate, appoint a hearing committee for the special purpose of reviewing my case. For me to have a fair hearing I think that the following requests should be included in the procedures which are to take place after you receive this letter:

1. Since many of the grounds spelled out in the document entitled RECOMMENDATION AND RATIONALE FOR DISMISSAL OF DR. ROBERT FRUMKIN (March 12, 1975) have some essential details missing I need a set of charges, that is, a bill of particulars, which meets minimum standards specified by due process. For example, in Charge # 1-B, page 2, there is a suggestion that the current state of the SRS grant administration is in bad shape but it does not state in what way this is so; in Charge 5-D, page 8, it states that there have been numerous reports which students are unwilling to document (a very nebulous statement); Charges 6-A, 6-B, 6-E, 6-F, and 6-G are wanting in basic details, etc.
2. I wish the power to reject any member of the hearing committee I think might be biased against me.
3. I wish a public hearing rather than a private one.
4. I wish graduate students at Kent State University represented on the hearing committee, at least one graduate student.
5. Since I am extremely allergic to smoke I wish smoking prohibited at the hearing.
6. I wish a reasonable number of copies of the revised charges against me, that is, the revised bill of particulars.
7. I wish permission to use the CPSE Department Zerex key to personally reproduce any documents relevant to my defense. Since March 12, 1975, Dr. Saltzman has not permitted me to use the Zerex key.

I feel the above requests are reasonable ones. I hope they shall be granted.

Thank you for your cooperation.

Sincerely,

cc: Bayer, Heisey, et al. Robert M. Frumkin, Associate Professor

In a certified letter to me dated April 25, 1975, Dr. Olds said he received my April 16, 1975 letter with its requests and said most of these will be considered by the Executive Committee of the Faculty Senate. He said that as far as he is concerned the dismissal document had enough specificity but that the Faculty Senate Executive Committee would decide on that issue as well as others which I brought up in my letter.

During the process of negotiating for acceptable procedures I was shocked to learn that the Faculty Senate Executive Committee made it clear to me that it would be "inappropriate" for me to be represented by a lawyer at the hearings. Up until this time I naively assumed that my right to an actively participating lawyer was a given condition of any fair hearing, and, hence, I never requested that condition.

My attorney, Eugene Sidney Bayer, of Cleveland(a former Case Western Reserve University law professor), was as shocked as I was by this restriction imposed on the hearings. On April 26, 1975 he wrote a letter to Dr. Thomas Moore, Chairperson of the Faculty Senate of the University, expressing his astonishment at the "no attorney" attitude of the Faculty Senate Executive Committee. Mr. Bayer stated that he was retained by me as counsel and requested not only approval of his full participation at the hearings but also that he be kept informed of all notices concerning my case. He asked, in short, that he "be allowed to participate without cavil!"

In appendix 1

Appendix 2

That letter by my attorney was followed by a strong letter by Dr. Frank Smith on April 28, 1975. Smith, chairperson of the AAUP Committee A (the Committee on Academic Freedom and Tenure), addressing his remarks to Dr. Moore of the Faculty Senate, stated that I have a right to counsel and that "in view of the seriousness of the charges raised, I think it appropriate to give Professor Frumkin all benefits of the doubt and as much latitude as possible. After all this is a dismissal of a tenured faculty member and could establish precedents for the future."

The very next day there was an interesting letter by a former KSU graduate student published in the DAILY KENT STATES the KSU student newspaper. It stated: "I felt last year and I think today that discrimination toward Frumkin is unwarranted. I am happy to see Frumkin continue his stand of resistance to the motion to have him dismissed. He must resist, not only for his own sake and principles, but also because without resistance from someone (him) there can be no change in the department's bigoted discriminatory conduct. I vote that Frumkin continue his resistance. There is an A-one educator. I say that his colleagues and department are the party in question, and they should be investigated, not him."

I was very touched and encouraged by this letter. The name of the writer was withheld. I found out who the writer was a few months following the letter's appearance and told him how much I appreciated it. The letter appeared at a time when I needed a lot of understanding and encouragement.

During the latter part of April, 1975 there was a notice in the Kent local daily, the RECORD-COURIER, that Sakata was

See App 1975, page

See App 1975, page

leaving KSU and had accepted a position at the University of North Carolina (Chapel Hill) which was to begin on July 1, 1975. One of my worst enemies was on his way out. Since he was a member of the Rehabilitation Counseling faculty his leaving removed the financial exigency excuse for my dismissal made in August, 1974. If KSU wanted me to go it now had to be on the basis of a dismissal for cause. When did Sakata know he was going to leave KSU ? When did his close colleagues like Palmerton and Litwack know about Sakata's plans and how did this knowledge affect the decision as to what was the most dependable way to dismiss me ? Only Sakata, Palmerton, and Litwack know the answers to these questions. No matter what those answers might be, it seems that Sakata's leaving had something to do with the decision to dismiss me for cause instead of on the basis of a financial exigency.

On May 6, 1975 Dr. Olds sent me a letter stating his belief that he thought the Executive Committee of the Faculty Senate would establish procedures acceptable to me because this hearing would be a professional one among colleagues and not anything like one might find in a court of law. That is, it would not be a legal hearing. In any case, he hoped that the statement or the latest procedures developed for the Hearing Committee now outlined in the letter would be acceptable and that dates for the hearings could be made. The letter in full is reproduced below:

(Note: insert pages 91, 92, 93, 94, and 95 about here)

TO Professor Robert Frumkin

FROM Glenn A. Olds, President

DATE May 6, 1975

SUBJECT

As I indicated in my letter of April 25, I had left with your duly elected peers, the Executive Committee of the Faculty Senate, the responsibility of determining procedures in accord with our academic policy. I regret their first draft of charge, principles, procedures, and conduct of the hearing is not acceptable to you. I had hoped, since this is a professional hearing among colleagues, and not a court of law, it would be easier to achieve accommodation. I write now to propose on behalf of Dr. Thomas D. Moore, Chairperson of the Faculty Senate, and the Executive Committee of the Senate and myself, a revised statement hopeful it will prove responsive to some of your concerns.

As indicated in the section on Dismissal found on page 81 of the Academic Policy Book, the Executive Committee of the Kent State University Faculty Senate and the President of the University are charged with the responsibility of establishing the procedures and membership of a Hearing Committee. The procedures were developed by the Executive Committee in consultation with the Faculty Ombudsman. Upon acceptance of the procedures by the President and the appointment of the members of the Hearing Committee by the President and the Chairperson of the Faculty Senate, the Hearing Committee will be charged and a date for the Hearing will be established.

A. Purpose of and Charge to the Hearing Committee

The Hearing Committee is established for the purpose of hearing the appeal by Dr. Robert Frumkin that a prima facie case for his dismissal from the University has been shown. As is indicated in the Academic Policy Book (Dismissal, page 81), the charge to the Hearing Committee is to:

1. Receive and consider all facts in evidence on the matter.
2. Issue a finding.
3. Forward its finding and recommendation to the President of the University.

B. Principles for Establishment and Selection of the Hearing Committee

1. Members of the Hearing Committee shall have tenure and shall be members of the teaching faculty at Kent State University.
2. Membership on the Hearing Committee should be drawn from the associate and full professor ranks.
3. The Executive Committee of the Kent State University Faculty Senate will nominate the members of the Hearing Committee.
4. The members of the Hearing Committee will be appointed jointly by the President and the Chairperson of the Faculty Senate.
5. The membership of the Hearing Committee shall consist of five members with one alternate to sit with the Committee, but who would not participate in the deliberations unless a member of the regular Committee is unable to continue.
6. Members deeming themselves disqualified for bias or interest shall remove themselves from the case, either at the request of a party or on their own initiative. Each party will have a maximum of two challenges without stated cause.

C. Procedures for Selection

1. A confidential list of prospective hearers shall be developed by the Executive Committee of the Faculty Senate.
2. After deliberation on the qualifications of the prospective hearers, the Senate Executive Committee will rank order the prospective hearers.
3. From the rank ordering, six will be recommended for appointment to the Hearing Committee by the President and the Chairperson of the Senate.
4. Screening for absence of bias or interest will proceed in collaboration with the Executive Committee and the appellant.

D. Conduct of the Hearing

1. Once the membership of the Hearing Committee has been appointed, the Chairperson of the Faculty Senate and the President will deliver the charge to the Hearing Committee.
2. The Hearing Committee will select its own chairperson.
3. The Hearing will be a professional Hearing, careful to guard confidentiality, without presence of the press.
4. On its own initiative or that of the appellant, the Hearing Committee may solicit pertinent information and/or request witnesses to appear.
5. The appellant may have a member of the Kent State University faculty serve as his academic counsel. He may retain legal counsel who will be restricted to advising him in the Hearing.
6. At the request of either the Hearing Committee or the appellant, no more than two representatives of professional education associations may attend the Hearing as observers.
7. The Hearings shall be taped. The taping arrangements and the tapes shall be under the control of the chairperson of the Hearing Committee. A copy of the taped procedure will be made available to the appellant. The cost of the taping will be borne by the University.
8. All persons involved in the Hearing shall keep the deliberations confidential. No public statement or publicity concerning the substance of the proceedings will be made by anyone until the matter receives its final determination by the Board of Trustees of Kent State University.
9. The Hearing Committee may establish upon its own initiative additional procedures for the conduct of the Hearing as long as they are in accordance with the University policy on Dismissal found on page 81 of the Academic Policy Book of Kent State University, and which do not contravene any provision contained herein.

Concerning your other requests directed to me in your letter of April 16, and not covered by the above, I would make the following response.

1. As indicated in my letter of April 25, I consider the list of charges sufficiently specific to serve as my description of grounds for dismissal. You and the Hearing Committee have ample latitude to expand, define, or challenge them in the Hearing proper.
2. For professional reasons having regard for you personally, and the University generally, we could not agree to a fully public meeting. We do, however, agree to the presence of legal counsel, representation from professional organizations, and your full right to summon for testimony anyone deemed appropriate to the case.
3. Since the Hearing Committee, established by approved academic policy, is a faculty committee, there is no way to provide graduate student membership within the policy.
4. I believe personal appeal to those present concerning your allergy to smoke should be sufficient on this request.
5. Additional copies in "reasonable number" of the charges will be provided.
6. Request will be made to permit your use of a xerox machine to develop documents relevant and appropriate to your defense.

Since normal AAUP policy permits 20 days notice in advance of the Hearing, the date of May 27, 1975 is set for the Hearing. You will be informed of the time and place for the Hearing.

The members of the Hearing Committee shall be:

Barrett L. Beer, Assoc. Prof., History
Robert A. Dyal, Assoc. Prof., Philosophy
Glenn W. Frank, Prof., Geology
Betty G. Hartman, Prof., Physical Education (Women's)
Joseph P. Schwitter, Prof., Administrative Sciences

Milton Manes, Prof., Chemistry, will serve as alternate.

If you wish to challenge any of these colleagues, please notify me no later than May 12, 1975.



Glenn A. Olds, President

nj

cc: Dr. Thomas D. Moore, Chairperson, Faculty Senate
Faculty Senate Executive Committee
Prof. Ray D. Heisey, Faculty Ombudsman
Prof. Glenn A. Saltzman, Chmn. Counseling & Personnel
Services Ed.
Dr. Robert J. Alfonso, Dean, College of Education
Members of the Hearing Committee

The most serious violations of my right to due process expressed in Dr. Olds' letter were that:

1. My attorney was not permitted to take an active role in the hearings, not to cross-examine witnesses, etc.
2. The charges were not made specific enough before the hearings to permit the best possible defense.
3. It was to be a private, secret hearing at which the participants were required to take an oath of silence until the Board of Trustees made a final determination.

In order to prepare for my defense, I requested various kinds of information from the College of Education. The College of Education refused to honor almost all of my requests even though (and maybe especially because) they were vital to my defense.

On May 8, 1975 my attorney, Eugene S. Bayer, wrote a very strong letter to Dr. Olds objecting to the stipulation he cannot really act as my advocate at the forthcoming hearings, that his role was reduced to whispering advice to me. He said that "Any attempt to limit the attorney role is a denial of due process to which Dr. Frumkin is entitled. The apparent fear that the presence of active role of an attorney will make the hearing less 'professional' is without merit."

To my attorney Mr. Bayer's letter to Dr. Olds, it was Allen P. Adler, Assistant Attorney General of the State of

See
Appendix

Ohio and assigned to KSU, who responded with a letter dated May 12, 1975. In that letter Adler states that KSU did not "wish to conduct a 'trial' or any type of adversary proceeding." He felt that that wish was supported by the ACADEMIC POLICY BOOK of KSU. It was the purpose of the Hearing Committee "to examine the facts and pass along a recommendation to the President. From his discussion with persons concerned, Mr. Adler felt the proceedings would be somewhat like "a legislative committee hearing."

On May 13, 1975 Mr. Bayer responded to Mr. Adler's letter. He demanded several ingredients of fairness for the prospective hearings, namely:

1. The right to cross-examination by Dr. Frumkin's lawyer.
2. The right to present own witnesses by direct examination by Dr. Frumkin's lawyer.
3. The right to limit the proof to events since September 1, 1973.
4. The right to subpoena documents and personnel under the control of the University.
5. The right to confront accusers.
6. The right to strike charges based on anonymous hearsay.
7. The right to object to improper actions or procedures of the Hearing Committee."

With another letter dated May 15, 1975, this time written to the Executive Committee of the Faculty Senate, Mr. Bayer requested a number of things in preparation for the forthcoming hearings, among them:

1. The documents or data used by Dr. Litwack in order to make a 1972-73 faculty evaluation of Dr. Frumkin.

See

See

2. That the hearings not only be taped but that a transcription of the hearings be furnished as such to Dr. Frumkin.
3. That certain, specific charges be struck from the charges presented in the big green book, namely, charges 6A,6B,6D, and 6F.

He also requested answers to questions about charges 6E and 6G. What in 6E is meant by "misleading information" and in 6G by "retaliation" ?

To Dr. James W. McGrath, Vice President for Graduate Studies and Research and Dean of the Graduate College, in a letter dated May 16,1975, I related the fact that Drs. Sakata and Litwack, from the CPSE Department faculty, were without a shred of doubt guilty of plagiarism, using a student's masters thesis to get themselves published in a professional psychology journal. The entire letter is reproduced below:

(Note: insert pages 99 and 100 about here)

The original letter was handwritten and hand-delivered to Dr. McGrath & others at KSU. It was delivered well before May 31, 1975, the first day of dismissal hearings.

311 Education Building
Kent State University
Kent, Ohio 44242
Tel.No.:(216)672-2662

99
Page

Dr. James W. McGrath, Vice President
for Graduate Studies and Research
101 Kent Hall, Kent State University
Kent, Ohio 44242 Tel.No.:(216)672-2660

May 16, 1975
Estimated Date of Delivery
Hand-delivered

Dear Dr. McGrath:

The FACULTY CODE OF PROFESSIONAL ETHICS adopted by the Kent State University contains, among other statements, the following articles and sections which are relevant to some gross violations which I have just, unfortunately, discovered in reviewing the research of our department in relation to a book I am doing, namely:

Article I, Section 5: "Neither in nor out of the classroom or office may the teacher take advantage of his relationship with the students to exploit them for his own private purposes."

Article I, Section 6: "It is the responsibility of the teacher to bear in mind (and act accordingly) that his own personal deportment and intellectual style may be taken as a model by the student."

Article IV, Section 6: "The teacher will neither practice nor condone plagiarism in lectures, publications, or other public presentations, nor should he attach his name for credit to a paper or publication toward which he has made no professional contribution."

parts of it

In 1971 two persons in the Counseling and Personnel Services Education Department violated the above parts of the CODE by taking an M.A. Thesis written by a student in our department and publishing as their own. The persons did not ask permission of the student to write such a work base directly on that thesis. Although the article published by these two persons was published in October, 1971, it was not until June 6, 1975 that the student was made aware of this misuse of his thesis. Since the article published was a data-based research article and used by the two persons in order to help them attain and/or maintain full membership on the graduate faculty, obtain raises, promotions, etc., secure funds to support their publication, etc., there also exists some serious fraud in their behavior. The published article I refer to is entitled:

"Recidivism among Juvenile Parolees," PSYCHOLOGICAL REPORTS, 29 (October 1971), pages 351-355.

The article was written and published by: Dr. Robert Sakata, Associate Professor, and Dr. Lawrence Litwack, Professor, both tenured professors in our department, both full members of the graduate faculty.

One of my two major fields for the Ph.D. at the Ohio State University was Research Methodology. I have had five years of full-time research experience and more than 11 years part-time research experience. For 12 years I was the Research Editor of the JOURNAL OF HUMAN RELATIONS. I am a Fellow of the American Association for the Advancement of Science and have won numerous grants and fellowships for research, including the John Ericsson Society of N.Y. Fellowship in Science, grants from the National Institute of Mental Health, Cleveland Foundation, etc. In short

I feel qualified to comment on the certainty of the unmistakable plagiarism involved in ^{the} Drs. Sakata and Litwack publication.

The name of the student whose thesis was plagiarized is: ~~John~~ R. Cullen
 The title of his thesis is: A STUDY OF RECIDIVISM AND NON-RECIDIVISM AMONG PAROLEES FROM CLEVELAND BOYS SCHOOL (Kent, Ohio: Unpublished M.A. Thesis, Kent State University, 1967), vi, 59 pp. KSU Library Call #: HV/6049/C654. Non-circulating copy: K-G/C9672 in the Microform Center, O17-A Library, Tel. # 672-2177, hours: 8-5, M-S.

The most obvious proof that the article was lifted from the thesis is as follows:

1. On page 352 of the article, the nature of the sample described is exactly like that described in the thesis. See pages 24 and 25 of the thesis.
2. On pages 352, 353, and 354 of the article the tables contain figures which are exactly like those found on pages 34, 35, 37, and 38 of the thesis.

In my view, and in the view of other colleagues on the KSU campus with whom I have discussed this situation, there is not excuse for this kind of behavior on any reputable university campus.

In a memo to Dr. Glenn Saltzman, Chairman of the Counseling and Personnel Services Education Department, dated November 15, 1974, I strongly recommended that Drs. Robert Sakata and Lawrence Litwack were in very great need of psychotherapeutic attention. For many months I have been ridiculed for making such a recommendation. However, now that this undeniable plagiarism has been discovered, I think that my November 15, 1974 recommendation is more valid than ever. These men need not so much punishment as they need psychotherapeutic care. In any case, their gross violation of the CODE should be made public, the journal informed of the violation, and the student informed officially that the Kent State University is aware of the assault on his rights and the necessity for doing something about this unethical behavior.

Please let me know what you intend to do about the situation I describe above. How might I be of help in dealing with situation? Since I was a consultant on the thesis, see Mr. Cullen's acknowledgements, p. lii, I would be willing to co-author an article with Mr. Cullen for some other journal and, of course, Mr. Cullen would be made senior author of the article. How about that?

I am sorry to have to call this situation to your attention but I feel an obligation to do so in the light of recent events in our department.

Sincerely,

Robert M. Frumkin

Robert M. Frumkin, Ph.D., FAAAS
 Associate Professor of Rehabilitation
 Counseling; Coordinator, Rehabilitation
 Training Grant (HEW-SRS), 1974-75

P.S. My statistician friends tell me that the probability of two population samples and two population results being exactly alike, as in the thesis and article is > 1 billion to 1.

cc: Heisey, Alfonso, Coogan, Cullen, et al., p.r.n.

Dr. McGrath officially ignored my letter. Unofficially, however, I suspect, he shared his feelings and opinions about the letter and charges I had made against Sakata and Litwack with at least one person and maybe more persons. I am sure he, at the least, shared my letter with Dr. Alan Coogan, the Associate Dean for Research, whose office was just across the hall from that of Dr. McGrath's. I think this suspicion is confirmed by the reaction of Dr. Coogan when I also sent him a copy of my letter on the Sakata-Litwack plagiarism.

Dr. Coogan's reaction was most unusual. He refused to open the letter and returned it to me with a note on the outside of the envelope, in his own handwriting, stating: "Refused. Return to sender unopened." How could he have known that he should refuse it? He had never refused any previous letter I had sent him. Why this particular one?

A few days after Dr. McGrath received my letter and acknowledged the fact, in a telephone conversation, that he planned to do nothing about it, I went to see him in person about the issues raised in my letter. His attitude toward me and the issues I raised perplexed me. He said, in effect, "Leave me alone, I can't help you. Go away and don't bother me." When I walked closer toward him to talk to him, he literally started running away from me and had what could only be described as a fearful look on his face. He seemed as if he was afraid that I was going to hurt him physically, that I was going to assault him. He seemed as afraid of me as was Dr. Coogan.

Early in April, 1975, Dr. Coogan interrupted my counseling practicum in Akron, Ohio, some 20 miles away from Kent, with a telephone call in which he threatened to stop the payment of student stipends to students who were my responsibility under the terms of the Rehabilitation Counseling Training Grant which I was administering if I did not send him immediately a detailed explanation justifying why each student was getting the particular stipend which he or she now received. I told Dr. Coogan that that was not fair to these students who need their stipends to pay their bills, rent, buy food, etc. I said that I would get the information he requested to him as soon as I could but that he should not penalize these students. He answered in a disdainful manner: "No information, no stipends!" I then hung up the phone in disgust (the phone was located in this seminar room where the practicum students were meeting with me) and turned to Dr. Coogan's work-study girl, Rebecca Gurlea, who was also a student in the Rehabilitation program, and said to her, trying to convey to her my sense of frustration: "Your boss makes me so angry I could kill him!" At the time I made this remark, the other students were either engaged in quiet conversation, reading, and not paying any particular attention to me because I had been busy talking to Dr. Coogan on the telephone. Rebecca Gurlea, however, was intensely interested in what was going on in my telephone conversation with her boss and that is probably the reason, after finishing my conversation with Dr. Coogan, I turned to her and expressed to her how I felt about her boss at that moment. After getting the attention of the students again,

the practicum seminar continued from where we had left off before Dr. Coogan had interrupted us with his phone call. I did not discuss my phone conversation with the students because there were too many important things which we had to discuss relative^{to}/the practicum. When I returned to the University that day, I gathered the information necessary to fulfill Dr. Coogan's request as best as I could and gave no further thought to the passing remark I had made to Rebecca Gurlea.

The next day Rebecca Gurlea dropped my practicum and switched to another practicum for no apparent reason I was able to discern at the time. I in no way connected my passing remark to her about Dr. Coogan the day before with this unusual move on her part.

Two days after my phone conversation with Dr. Coogan, I received a late evening call from Dr. Heisey, Faculty Ombudsman. "Glad I found you home," he said. "I thought you might be in jail."

"You thought I might be in jail. For What?" I asked him, having no idea what he was talking about.

"Did you threaten anybody's life recently?" he said.

"Not that I recall," I said, still very puzzled.

"Well, Dr. Coogan has been telling everyone that you threatened his life and was talking about having you arrested before you have a chance to carry out your threat," Dr. Heisey informed me.

"Where did he get this idea?" I inquired.

"His work-study girl, Rebecca Gurlea, told him that you talked about seriously wanting to kill him in your class the other day," Dr. Heisey said.

At this point I remembered our phone conversation and my passing remark to Rebecca Gurlea. I explained what had happened to Dr. Heisey and he was amazed as I was that such a remark, under such circumstances, would be taken as a bona fide homicidal threat. When Dr. McGrath, Dr. Coogan's superior, manifested such obvious fear of me when I came to ask him about my letter, I thought that Dr. Coogan must have convinced Dr. McGrath (as well as others) that I was some kind of homicidal maniac that one must be fearful of.

I later learned that the real reason Rebecca Gurlea dropped my practicum and switched to another was because she was seriously afraid that because she had told Dr. Coogan that I had said " I could kill him" that I would also be so angry at her that I might kill her too!

From these events there developed a new charge against me: that I had threatened Dr. Coogan's life and, perhaps, other persons' lives(such as those of Rebecca Gurlea). Thus, following the March 12, 1975 book of charges against me I now had two additional charges: 1. Unprofessional conduct in the publication of my satirical kangaroo court cartoon. 2. Moral turpitude: threatening Dr. Coogan's life.

During the weeks prior to the hearings which were now set in motion to begin on May 31, 1975, I had the occasion to meet with Professor Glenn Frank, Chairperson of the Hearing Committee. Our initial task before the hearings took

place was to decide on which persons to call to testify and in what order they should appear.

After we had met a couple of times Professor Frank remarked that the big green book had initially made him think of me as some kind of monster for whom dismissal was inevitable. That is, without having ever met me this is what reading the dismissal document did to his view of me. "You don't seem like a monster at all, now that I've gotten to know you a little," he said very frankly. When I heard this from Professor Frank I wondered if everyone else who had read the big green book came away with the same kind of view. If so, I had a very tough fight ahead of me.

From a list of 44 persons which I had given Professor Frank, we had selected 16 persons to begin the hearings. The first 16 witnesses included 5 hostile administrators, 4 hostile professors, 5 friendly students, 1 extremely hostile student, and 1 friendly non-administrative staff member, a KSU accountant. Therefore, of those initial 16 witnesses, 10 were hostile, that is, 62.5 percent, or almost two-thirds. This fact should be kept in mind because there were no further witnesses called after the initial 16. Thus, only 32 percent of the witnesses requested were called to testify, that is, almost one-third of those I had requested. Consequently, more than two-thirds of the witnesses were not called. This is what one might call lopsided due process.

It should be kept in mind that from the time of the CPSE Department's presentation of the big green book on

March 12, 1975 until the hearings begun and ended that I was teaching full-time at the Kent State University. In fact, during the Spring Quarter, 1975, I had one of the largest teaching loads in all my eight years at KSU. I was teaching four different courses, plus administering the Rehabilitation Counseling Training Grant, and trying to prepare for the hearings which seriously threatened my academic career. For health and relaxation during this period I was running on the average about $6\frac{1}{2}$ miles every day of the week, playing tennis occasionally, and taking a course, one evening per week, in the Ling Nam Style of Chinese brush painting with Windsor Chen, a very fine teacher and human being from the KSU School of Art.

When it became generally known that there was a serious attempt on the part of certain members of the University staff to dismiss me for cause, many students and faculty offered their support. First of all, both of the professional faculty organizations on campus, the AAUP and KSUFA (an affiliate of the Ohio Education Association and National Education Association) offered advice and financial support and provided observers for the hearings. Secondly, students and a faculty member wrote letters in the DAILY KENT STATER supporting me. Some persons wrote supportive letters directly to Dr. Olds asking that he not dismiss me.

With this kind of support and encouragement I could surely not resign. I looked forward to the start of the hearings on May 31, 1975.
