

Academic Senate,
Berkeley Division
Roger W. Heyns
December 5, 1966

In the 15 months since coming to Berkeley I have spoken in all parts of the state interpreting, defending, and expressing faith in Berkeley students. I expect to continue to do so.

I have also talked to alumni, to legislators, and to friends of the University. Many of these are helping us to provide new cultural, recreational, and intellectual facilities by launching a fund drive that will further enrich student life on this campus. I hope they will continue to do so.

In most of these talks and from time to time in my announcements to the Berkeley Division and to students, I have tried to set forth my views of the nature and meaning of a university and to state our objectives at Berkeley. I have reaffirmed my belief in the ancient idea of the university as a center of learning, and have inquired into the meaning of this idea in modern times. I have repeatedly affirmed that the values of teaching, learning, scholarship and research are the paramount values of our community, and that other objectives must be pursued within the context of these values.

The groups to which I have brought these affirmations have accepted our belief that a University must accommodate the social and political interests of students and provide opportunity for their expression. Simply stated, this means: a free forum, providing broad opportunities for students actively to express their views, with the understanding that our major purposes are educational and that our time, place, and manner rules must protect these educational functions; they must also be fair and protect the free forum.

The intelligence, vigor and moral concern of our students and faculty give us the potential to take advantage of the free forum. I know the pitfalls of labeling a whole generation of youth, I have been struck by their seriousness and their moral sensitivity. They are a generation gravely concerned with injustices; a generation profoundly troubled by the problems of war and peace; a generation courageous enough to place conscience above personal interest. It is a generation remarkable for its intellectual ability, but one which also asks that learning be made relevant to life and which is dissatisfied with the slow process of effective change in a democratic society.

These concerns can be served by the existence of the free forum. Berkeley students are free to assemble on the campus, to invite speakers, to speak their own minds on all issues; they are free to advocate ideas on all subjects. They are free to form groups of every political persuasion, and they have in fact done so; they are free to distribute literature, collect funds, solicit memberships, support candidates, and participate in political campaigns. As a university, we are above all dedicated to the principles of free inquiry, and the exploration of ideas in the classroom as well as in the free forum. Berkeley can stand with any university in the world in its regard for the exercise of constitutional freedoms. Indeed, it should be obvious to any objective observer that Berkeley has come to symbolize and to represent one of the most vital intellectual centers in the world. It should also be said that these characteristics are accepted and understood in the State of California.

Yet, as a University we find ourselves today beset by conflict and distrust that go far beyond the proportions warranted by the objective events that gave rise to them. The configuration of events was unique, but it has evolved according to a pattern of confrontation which by now has become familiar to us all.

Since returning to the campus on Thursday, I have heard more than a dozen conflicting versions of what are alleged to be the exact facts of the events of last Wednesday. It therefore seems pointless for me to add yet another detailed account. (Even though I enjoy the singular advantage of not having been an actual eye witness to those events.) Most observers agree, however, that non-students attempted in violation of our rules to set up a table and picket indoors to protest the Navy recruiters. They further agree that as a result of these actions and the sit-in which followed, the ASUC bookstore was forced to close. I have reviewed the actions taken in response to these violations and am satisfied that over a period of several hours my staff made repeated efforts to ask them to leave peacefully and to discuss the issues in a calmer atmosphere. Only after it had become obvious that the situation required extraordinary measures was the decision made to arrest the non-students involved.

Several other provocations, all of which have occurred since I addressed you last, served as the background for the "confrontation" that has now developed. I mention only a few: the disturbance at the Veterans Memorial services; the rude behavior shown toward a visiting Soviet diplomat; the disruptive behavior directed toward representatives of the Dow Chemical Company who visited our campus to interview our students for jobs. We are dealing, then, not with a single incident but with a chronic condition.

Of course, an incident of this sort ignites a conflagration only if there is fuel to be ignited. Much of the fuel is to be found, in the students' moral preoccupations with their political and social environments and with their impatience for improvement. Paramount among these preoccupations is the war in Vietnam. Anxiety and controversy over Vietnam has spread throughout the entire nation. We may differ in our views on the war, but for all of us it is a frustrating war. I sympathize with those who wish to express their confusion and despair, and even their anger. Add to this their preoccupations with civil rights, the persistence of poverty in an affluent society, and the heightened feelings generated by a heated political campaign, *the application of the quarter system.* Our times are troubled, and we cannot expect young people of moral conscience to remain silent.

The tragedy is that young people who are looking for solutions to all these problems apparently believe that they cannot find solutions through any existing channels. They appear to be ready to believe people who tell them this. And the idealism, energy and impatience characteristic of youth -- coupled with their anxieties -- lead them to strike out. The confrontation technique has great appeal for them.

While we understand this appeal, it is our job as administrators and faculty to reaffirm our commitment to the alternative of enlightened discussion and to encourage the students to use this alternative. We cannot avoid this challenge though it is the most difficult to meet in times of unrest and distrust.

But the sense of crisis is exacerbated by the presence of an indeterminate number of non-students, who have made the campus itself one of their targets for protest. This conflict will undoubtedly go down as one of the most unusual town-gown antagonisms in history. Unfortunately they are aided and abetted by some of our

own students who share this hostility toward the University. It is apparent that we have lost some of the ground we had gained in our efforts over the past two years to build a genuine campus community. It would take too long to search out and discuss all the reasons for this development, that all of us, including the administration, through misunderstandings or errors, have doubtless contributed.

The one feature of the Navy table incident that led to the escalation of the present crisis was the decision to summon the police to arrest the non-students. In a difficult and charged situation of the sort that faced us on Wednesday, opinions will differ as to the best course of action, but I can assure you that the decisions were not taken precipitously or lightly, or in a belligerent spirit.

By Thursday morning the conflict had escalated to a new level of confrontation -- continual disturbance, rule violations, and a strike. All of these undermine community confidence in the decision-making apparatus and in the people who have primary responsibility for the orderly governing of the campus. These methods would be disturbing to any community, but they are especially harmful to an academic community. We are vulnerable for several reasons, and it is worthwhile to reflect on them:

1. The intellectual life traditional among academics carries with it a distaste for open quarreling. Most of us make every effort to avoid conflict, especially of a public nature. Nor, as academics, are we very skillful in hand-to-hand combat. I am not saying we do not have our quotient of hostility. But we tend to express it by those methods in which we excel -- the scholarly innuendo, the verbal onslaught and the art of one-upmanship -- rather than by the methods of direct or physical confrontation.

2. At Berkeley many of us have felt that we could not afford another widely publicized disruption. We have been eager to avoid a disturbance, not only because of the trauma it produces internally, but also because it invites interference from outside forces eager to gain influence over the University. We have been given the freedom to handle our problems in our own way and have been left free to decide even our most controversial and difficult issues. The only significant outside interference we have had to contend with has come not from the Governor, the Governor-elect, the legislature, the alumni or The Regents, but ridiculous as it may seem -- from the aforementioned non-students who have attached themselves to the campus and the small number of allies in the student body who subsist on the legitimate preoccupations and moral concerns of our student body. I also want you to know that the one element that does invite outside interference is the continued disorder on the campus and the repeated efforts to disrupt the functioning of the institution. Despite what some may believe, disorder and confrontation will not increase the power of any group on the campus. On the contrary, they will diminish the power of all of us, -- students, faculty, and administrations -- by diminishing our autonomy and by opening us to intervention and assaults on our independence.

3. As academics, we are also vulnerable because of our proper reluctance to involve the police in the settlement of our internal difficulties. In the past several days, a great many of you have told me of your disgust and horror at the thought of the police entering the campus area to make arrests -- an occasion that always carries with it the danger of violence as the police carry out their duties. My administrative colleagues and I -- almost all of whom are after all also academics -- share this

distaste. I am proud of the academic tradition that honors reflection, deliberation, and rational discussion as the means for resolving issues. A university lives or dies by its reliance on these means. No institution can survive if it is forced to employ either confrontation politics or police actions as regular devices to resolve differences. These methods are inimical to the traditional status of the university as a sanctuary -- a status, I might add, that can be successfully defended only if the standards of academic civility within its boundaries are exceptionally high.

If it were at all possible to promise that we will never again call upon the police to assist us in the management of campus affairs, I would eagerly do so, but if we want our rules and the laws of the land to be enforced, we cannot shut our eyes to the possibility that it will be necessary to require such assistance. If we will the end, we must at least be prepared to contemplate the means. The refusal to risk this possibility would only serve to escalate every incident into a crisis, and its ultimate effect would be exactly contrary to its intention. Freedom presupposes order, and order presupposes rules and the ability to enforce them.

The Academic Senate has recognized that freedom, while inviolate in principle, must be exercised under regulations assuring that the time, place, and manner of their exercise will not interfere with the University's educational functions. These rules, it should be observed, arose from the very processes of the free forum. Far from being simply the product of tradition, far from being pronounced ex cathedra, they were initiated and formulated by faculty members and students who were closest and most sensitive to the issues of free speech -- those who had been most active in

the movement of the University to a new campus after the one on which it had been established

in 1862. The University's history is a record of its growth and development. The University

the events of 1964. They were issued after the most exhaustive consultation with students and faculty. In enforcing the rules we have tried to lean toward their liberal interpretation, and to avoid punitive or rigid applications. I believe the evidence will bear out that no restrictions on the content of speech have been imposed. The faculty on March 22, 1966, endorsed by an overwhelming vote a resolution introduced by the Academic Freedom Committee, which stated that our Time, Place, and Manner rules are fair, protect the free forum, and should be obeyed and enforced. It is my urgent hope that we can work toward the goals of academic civility and mutual confidence, so that regulation of behavior will flow from our commitment to the university community rather than from reliance on discipline.

With all that I have just said as a background, I want to address myself to the specific issues confronting the campus.

The strike: I want to re-emphasize that I disapprove strongly of the strike as a means for resolving differences in a University community. The students themselves are its victims. We have had unhappy calls from students eager to prepare for finals, but whose sections have been cancelled by a teaching assistant. Vice Chancellor Connick has notified all deans and department chairmen to assure that all classes be conducted; that if any classes are not met by teaching assistants or faculty members, the deans and chairmen arrange for substitutes; and that they inform the Chancellor's office of any failure to meet classes. My personal conviction is, and I know it is shared by most of you, that failure to meet classes in the interests of a strike is a violation of professional ethics. I call upon those participating in the strike to return to their normal class activity. Since the strike began we have talked to many students and faculty members. As you know, we have refused to talk or negotiate with non-students, but we have had several very fruitful meetings with the officers of the ASUC to examine the concerns of the students and the questions posed by the strike. Four topics have been the focus of attention.

1. The students have asked that the rules governing military recruiting tables should be assigned to usual recruiting facilities of the campus, and given access to the plaza only under sponsorship of a student organization. I agree. This latter proposal was tried by the Navy last Thursday, and apparently worked well. It seems reasonable to assign these recruiting agencies to the campus placement center, and to afford them use of the plaza under student sponsorship.

2. What is my view about the use of police on campus? I have already indicated that, in my view, use of police force, like mass coercion, runs counter to academic tradition, and that a resort to police should come only after all means of resolving conflicts by discussion and persuasion have been exhausted.

3. The third topic deals with the subject of amnesty. Under the circumstances, this is something of a misnomer and the demand is unnecessary. No disciplinary charges have been brought against any student. Following his usual procedure, the Dean of Students, Arleigh Williams, has reviewed the cases of those students who participated in the original disruption of last Wednesday and has reached the decision that charges should not be brought against them. This decision was based upon his personal conviction that the immunity he offered to those students at the time would have been accepted by them had they not been dissuaded by doubts about his authority raised by a non-student. A number of alleged rule violations have occurred since that original demonstration. They will be investigated in the usual manner and disciplinary proceedings will be initiated if the facts and circumstances make that appropriate. We have no intention of accepting a pattern of granting general immunity to all violators of student rules merely because the situation gets confused or passions are aroused.

There are hundreds of faculty members and thousands of students, indeed the majority of both groups, who are heartily sick of the unrest, turbulence and the tenuous control we have over our community who yearn for the stability essential for a climate of productive learning. They want me to enforce the rules and I intend to do so as long as I am in this position.

4. Our student government has asked that there be a review of our mechanisms for insuring due process in rule enforcement. I believe that our present system meets the highest standards of procedural fairness! A student charged with a significant violation has a choice of a public hearing before a faculty hearing officer or a private closed hearing before the Faculty Committee on Student Conduct.

AAUP & ACHA regard us Bohley as meeting the usual rules for student discipline.

In either case he has the following guarantees:

(1) Prior to a hearing, the student must be given a written notice of the charges against him.

(2) The student is entitled to an impartial hearing. In this connection, I should point out that the Committee on Student Conduct and the Faculty Hearing Officer function in a completely autonomous manner and exercise full independence in reaching a conclusion in every case.

(3) The student is entitled to hear the evidence against him and to know the identity of its sources. He is entitled to present evidence in his own behalf. If a student denies that he has committed the offense with which he is charged, he is given the right to confront his accusers, and to question them before the hearing agency.

(4) No ex parte communications will be received by the Hearing Officer and hence the agency will not act on information of which the student is not apprised.

(5) The student may be accompanied at a hearing by an attorney or other adviser. The adviser need not be a member of the bar but may be a relative, friend, professor, or teaching assistant, whatever.

(6) The student will not be required to give self-incriminating evidence.

In addition, when a student denies that he has committed an offense, the administration bears the burden of establishing guilt.

Our procedures also provide opportunity for review. If a student claims that the rule he is charged with violating is unconstitutional or otherwise invalid, the Regulations provide that he may submit a challenge in writing to the Chancellor. As Chancellor, I shall seek advice from the University attorneys. If a constitutional issue is resolved against a student, he may take the issue to the courts, and obtain judicial review of the University's conclusion. If a student maintains that the rule is inconsistent with the December 8 resolutions or for that matter, any other Senate policy, I shall refer the question to ^{the Academic Freedom Committee} the Policy Committee of the Academic Senate. From time to time the Academic Freedom Committee has made recommendations about the rules. Two are before me now for action.

5. Another issue posed is will we drop charges against the persons involved in the disturbance? I have already stated that we will not ask that charges against those arrested be dropped. The legality or illegality of their actions will be determined by the courts.

6. Are our rules concerning non-students appropriate? I strongly believe so. They were recommended by the Rules Committee after lengthy consideration, Ordinarily we have little difficulty in maintaining a distinction between students and non-students. Students are allowed to attend class and earn degrees, non-students are not; students may use the University libraries while non-students may do so only in restricted ways and by special permission; students are permitted to participate in intercollegiate athletics, non-students cannot. Behind the distinction lies the notion that student status is not automatic, that it must be earned and conferred, and that it entails not only privileges but obligations. Although we enforce this distinction, we have tried to take a generous attitude toward non-students in their use of the campus facilities; non-students may speak on campus at the invitation of students; they may man tables when students are present to assume responsibility; they may be inactive members of student organizations and speak at their meetings. In most cases these arrangements have caused no difficulty, since most non-students are able easily and graciously to accept the regulations that attend the granting of these privileges.

A special problem arises, however, when a non-student chooses to violate our regulations, for our ordinary procedures do not enable us to compel them to observe the rules. There is, in short, a gap in our system of rule enforcement which we have so far been unable to correct, and which has been a continual source of aggravation.

7. New mechanisms for building a more viable University community.

Many people have been looking ahead beyond the problems of the moment toward creating the kind of mechanics that help to build the community and its processes of rational deliberation. Two recent proposals have been called to my attention. Because I indicated my interest in one of them, it has been mistakenly assumed that I offered it as a solution to the strike. This is not my intention.

One idea -- of student origin -- proposes a Campus Council in which all of the segments of the university constituency would be represented. It would offer a highly visible and open means of identifying and debating issues, with opportunity for meaningful involvement of students and faculty in the exchange of ideas. The other, a faculty proposal suggests a commission of faculty and students which would consider changes in the structure of the university and in the means by which we approach our goals. Doubtless each has its special merits. Other proposals will almost certainly be advanced. All should receive our consideration. Through some such approach we may achieve better understanding and diminish the tendency to resort to methods that are inappropriate to a university and destructive of its fundamental values and purposes.

8. Let me raise some other long-range considerations.

In the months to come I need your continuing support in pressing forward with the work to which all of us have dedicated ourselves -- the work of improving the climate and institutional structure of the campus community.

We must continue our efforts to incorporate educational reforms and increase student participation in decisions affecting their education.

We must redouble our efforts to deal with the impersonality of life on a large campus, to increase intellectual stimulation, and to integrate the students' academic experience with his community experience.

We must work toward the more effective decentralization of authority, especially with respect to discipline. As matters now stand, many disciplinary cases -- even minor ones -- involve a direct confrontation between students and the Chancellor's office. We should make it possible for most disciplinary cases to be handled within the several colleges and schools.

We must return to work to strengthen student government. We began a few weeks ago to discuss with the ASUC the question of delegating authority to it to administer campus regulations pertaining to the use of the plaza, and to assume responsibility for enforcement. These discussions will continue.

I see all these endeavors as moving us toward a more healthy emotional climate and a more viable set of social arrangements for our campus.

9. Let me end on a personal note. As Chancellor, I have the formal power to take appropriate measures for dealing with the problems that face us. What I need in addition, however, is the support of this faculty in the fulfillment of our obligations. The Regents have delegated sufficient powers to me to enforce the rules of this campus. These rules -- under which we have lived for the past 15 months -- have proven fair and workable. I intend to enforce these rules in an equitable, just, and firm manner.

In asking support from you, my academic colleagues, I want to be candid. Because of the history of this campus there is a special meaning to the commonplace

observation that administrative power in an academic community must have widespread faculty support. The power of a chief administrative officer on any campus has limits but nowhere is it more limited than it is here. These limits arise not from any deficiency in my institutional power but from tradition and the past erosions of the Chancellor's authority. Hence, the key to effective governing of the campus is the support of the faculty.

Not threatening in this to resign.

The situation calls for decisive leadership with firm faculty support. The Chancellor must be prepared to account for his stewardship from time to time. He must expect to be criticized and evaluated. But, in the interest of conserving our collective energies, he must be given the support to do what he has to do. This support cannot be ephemeral, quickly withdrawn, and at the first sign of trouble, I am asking no more from you than I have been given by The Regents -- the chance to go ahead and make decisions that I and my advisers (and that includes you) have deemed appropriate. I can assure you that The Regents have allowed me to exercise this power in fact as well as in law. I need an equivalent expression of confidence from you if I am to govern the campus effectively. In my first speech to this body I said that the most important task was to establish the fact that we can live an orderly life and resolve our problems in an orderly way. I have been given the freedom by the President and The Regents to do this. I want to say as earnestly as I can that, if we fail now, no other Chancellor will have as much independence as I have been given. Our time is short.

50-60% standing ovation