

Statement of President Lewis Webster Jones of Rutgers University on the Heimlich-Finley cases, January 24, 1953.

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On December 12, 1952, the Board of Trustees of Rutgers University announced its decision in the cases of Professor Simon W. Heimlich and Professor Moses I. Finley, who had refused to answer questions concerning communist affiliation put to them by the Senate Subcommittee on Internal Security, on the grounds that their answers might incriminate them, relying on the privilege provided in the Fifth Amendment to the Constitution of the United States.

The cases involve issues in which the public, the members of the University, and the academic community at large are deeply interested.

Acting on my own responsibility as President of the University, I offer the following explanation and amplification of the necessarily brief statement made by the Board in announcing its decision.

Review of procedure.

The cases have been under consideration by the trustees since September 26, 1952. It was obvious from the first that they raised questions of the gravest concern to this University, and indeed to the entire academic world. They should not be decided hastily, nor in response to the balance of pressures. The facts were not in dispute. It was clearly a matter of formulating a policy in a situation both new and serious, in which the Rutgers decision might have the effect of setting a precedent for the larger university community. For these reasons, my main concern was to invoke procedures which would insure thorough, fair and judicious deliberation by those responsible for University policy. No clear line of procedure is provided in the Statutes for cases of this kind; the situation is a new one, not envisaged when the Statutes were agreed upon.

the two vice-chairmen of the Board as to their willingness to testify; or severing their connection with the University as of December 31, 1952.

The issues.

A great deal has been said and written by those members of the University community who disagree with the action of the trustees. The statement of the trustees was necessarily brief, since it was impossible for so large a group to draft a detailed reply to the report of the Faculty Committee of Review. I feel constrained, therefore, to point out some of the issues which were not involved in the cases of Professors Heimlich and Finley.

First, freedom of teaching and research was not an issue. In their statement of December 12, the trustees reaffirmed that the teacher "has the privilege of freedom to search out and teach the truth", and that "this University will protect him in the exercise of that freedom." The issue was rather that of the definition of the obligations on which freedom rests.

Second, the right to hold unorthodox opinions was not in question. The tolerance of heterodoxy is an essential element in freedom of thought. It is platitudinous to point out that creative changes in thought and action have come from heterodox views. The questions Professors Heimlich and Finley refused to answer did not relate to their opinions, but to their membership in the Communist party. Such membership is not compatible with the freedom of thought and inquiry on which American teaching and research are based. It is no invasion of that freedom, but a necessary measure of protection of the freedom of all of us, to seek to determine whether teachers and others in positions of trust are committed to the discipline and program of the Communist party. Professor Heimlich has been willing to make a full explanation of his position, and deny

any past or present connection with the Communist party, to me and to the press. There would seem to be no additional "invasion of privacy", therefore, in asking him to reconsider his refusal to answer the questions put to him by the Senate Subcommittee.

Third, professional competence was not in question; nor did the trustees attempt to inquire into this matter, which is clearly the province of the faculty and administrative officers. No suggestions of lack of professional competence, or of improper conduct, had been made. The inquiry into the teaching records of the two professors was irrelevant to the issue.

Fourth, the legal right of any citizen to refuse to testify, on the grounds of possible self-incrimination as provided under the Fifth Amendment, is not in dispute, though the legal as well as the moral wisdom of exercising it is open to serious doubt. Again, the central question was one of the obligations of citizenship.

The sole issue before the Faculty Committee of Review, and before the trustees, was whether, under all the circumstances, a university teacher, and a representative of this University, has an obligation to answer the questions of a legally constituted investigatory body concerning membership in the Communist party. It is on this issue that the conclusions and recommendations of the Faculty Committee of Review are contrary to the considered convictions of the trustees.

The premises.

The peculiar importance, and the newness, of this issue arise out of the nature of communism, and the world conflict between our own country,

any duly constituted public body. If, as a result of forthright testimony, a member of the faculty or staff should incur unjustified charges of contempt or perjury, his defense would become a matter of concern to the entire university community. I have no doubt that substantial aid as well as moral support would be forthcoming; it was indeed available to Professors Heimlich and Finley. To get such cases before the courts, where established rules of evidence prevail, would seem to be the most constructive method of clarifying these issues, and combating malicious, vague or unfounded accusations.

The trustees' decision.

The responsibility for decision in these two cases, which involved a crucial matter of University policy, clearly rested with the Board of Trustees. The relevant University Statutes had been formulated jointly by the faculty and the Board; the original committee considering these two cases was a joint faculty-trustee-alumni committee; its recommendations for further procedure in a type of case not fully covered nor envisaged in the Statutes--was followed. The functions of the Faculty Committee of Review were advisory. The trustees could not agree with its advice, which was that no further action should be taken.

The trustees expressed their appreciation of the conscientious work of the faculty committee, but were reticent in stating their criticisms in any detail. The main criticism was this: that the faculty committee's report established at some length the legal right of the two professors to invoke the Fifth Amendment in refusing to testify, a right which was not in dispute, though the legal wisdom of its exercise is questioned; but it did not deal adequately,

in the opinion of the Board, with the central issue: namely, the obligation of a member of the teaching profession, and a representative of the University, entitled by his position to freedom of teaching, research, thought, and expression, to state his position with respect to the Communist party in the spirit of truth and courage upon the basis of which intellectual freedom is justified and valued. The faculty committee completely endorsed the stand of the two professors, a stand which the trustees felt to be wrong, and undermining to the integrity of this and other universities.

It is a matter of sincere regret that, on this central issue, the trustees found themselves in unanimous disagreement with the Faculty Committee of Review. It is further a matter of sincere regret that Professors Heimlich and Finley could not accede to the request of the trustees to reconsider their stand, and make themselves available to testify.

Requests for reconsideration.

The Board of Trustees has considered the requests for reconsideration of the two cases which have been received from groups within the University and elsewhere, and has taken cognizance of the votes of the University Assembly, as well as communications in support of the decision announced on December 12. It has also received and considered the oral and written representations of the Emergency Faculty Committee.

No new considerations relevant to the fundamental issue of policy have been introduced at this time. I have made a detailed commentary on the memorandum of the Emergency Faculty Committee, which will be available, together with the Committee's memorandum, to all members of the faculty, if

such is the desire of the Committee. Suffice it to say here that the memorandum did not deal with the broad issues which have been discussed in the foregoing statement; it dealt narrowly with technical questions of professional self-regulation which were not at issue.

On the broad question of policy, I affirm the decision of the trustees to be right, and the only decision possible if they are to fulfill their obligations under the Charter of this institution.

These cases have been heard at length; the decision is final; and the cases are closed.

May I call on the entire University community to turn their attention to the constructive tasks which lie ahead.