

THE BRUCE FRANKLIN AFFAIR

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Last January 22, after a year of delays and deliberations, Stanford University fired H. Bruce Franklin from his job as associate professor of English. Franklin, who is known as an outstanding Herman Melville scholar, is the first tenured faculty member to be fired from a major university since the 1950s. The Stanford administration, several hundred faculty members, forty-five per cent of the students who voted in a campus referendum, and numerous newspaper editors across the country justify Franklin's firing on grounds that he incited illegal acts, including acts of violence, and was a threat to the continued existence of the University. The Northern California affiliate of the American Civil Liberties Union disagrees, and has decided to represent Franklin in a court appeal. "If this decision is allowed to stand," according to Robert Meyers of ACLU, "it is likely to become the standard of speech in all private universities and even in public universities. We just could not ignore our responsibility to see to it that a standard like this does not exist."

Whatever the eventual outcome, the Franklin case will go down as one of the sadder episodes in Stanford's history. Many of those who watched it unfold see it as an affair that will never quite be duplicated anywhere else—an affair filled with ambiguities to which otherwise impressive men responded with fear rather than courage, and with caution rather than wisdom.

Franklin, thirty-seven, has been an avowed, outspoken Maoist for six years. The Stanford administration insists that it was his acts, not his beliefs, that were at issue in the decision to fire him. These acts took place on two separate days during January and February, 1971. On January 11, Henry Cabot Lodge was unable to give a scheduled speech on campus because of sustained clapping, shouting, and chanting from the audience. The next day President Richard

Lyman charged Franklin with having led the disruption and ordered him to be tried before a faculty board. Franklin denied the charge but insisted at a press conference that he considered disruption too mild a treatment for Lodge, whom he regarded as a war criminal deserving of imprisonment.

Before the case could be heard, the invasion of Laos took place. On February 10, Franklin was the final speaker at a campus rally to protest the invasion. Several previous speakers had urged that the group march to the Computation Center, where a Palo Alto research organization was conducting a project called Gamut-H, which was known to involve plans for carrying out an amphibious invasion, possibly of North Vietnam. Franklin endorsed the proposed demonstration, urged a "strike" at the Computation Center, and ended his speech by saying, "Shut it down." When the group arrived at the Computation Center, Franklin remained outside on the lawn while about 150 students milled about inside. In mid-afternoon the police arrived, the demonstrators left the building (having done no major damage), and the police ordered the lawn area cleared, declaring the demonstrators to be an illegal assembly. Franklin protested loudly to the police lieutenant that the assembly was not illegal, urged other faculty members who were there as observers to remain, and refused to leave. The police charged, clubbed, and arrested a few stragglers (no charges were ever brought), and the group agreed to meet again that night.

At the evening rally Franklin spoke in protest against the continued presence of police on the campus and in effect urged that they be kept busy. He suggested a "people's war," specifically that students go back and speak to their dormitory mates, play touch football (a tactic that had annoyed the police on earlier occasions), and generally do "whatever, as late into the night as possible." Immediately after the rally a fight broke out between members of Venceremos, a radical organization to which Franklin belongs, and members of the right wing Free Campus Movement (FCM). A

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few hours later two boys, one the son of a faculty member, were shot and slightly wounded while standing outside FCM headquarters. No one has ever discovered who did the shooting or why.

The next day President Lyman fired Franklin for having disrupted the Lodge speech and for inciting illegal activity at the Computation Center and violence at the rally of the previous evening. Franklin requested a hearing before the Faculty Advisory Board, a procedure due him as a tenured faculty member but which had never yet been used at Stanford. Meanwhile he was suspended with pay and barred from the campus except for the hours between one and five p.m. daily, during which time he would be permitted to gather evidence to be used at the hearing.

Seven months later, on September 28, a seven-man board elected by the faculty began the process which ended in Franklin's discharge. All of the board members were prominent in their academic fields, and at least four were nationally eminent: Wolfgang Panofsky, director of Stanford's linear accelerator and a Government consultant on arms control; Robert McAfee Brown, a liberal theologian who has written and spoken extensively against the war and recently served a five-day jail term for blocking the entrance to a draft board; Donald Kennedy, chairman of the biology department (and of the advisory board) and once a leading candidate for the presidency of Harvard; and David Hamburg, chairman of the department of psychiatry.

The hearings, lasting six weeks and involving the testimony of more than a hundred witnesses, took place in a physics lecture hall and were broadcast over the campus radio station. The situation provided a heaven-sent opportunity for campus radicals. Most of the witnesses were called by Franklin, who acted as his own counsel. Wearing fatigue jackets and jeans, or occasionally exotic dress, they paraded to the stand to explain with surprising articulateness Franklin's political position, what his words meant in the speeches cited in the charges, why certain actions were taken, what the "movement" hoped to achieve. They effectively dispelled the myth that Franklin was a campus Svengali who had only to speak and the mob would follow. The witnesses clearly knew just what they believed and why. Often they pointed out their own doctrinal disagreements with Franklin. He, in turn, seemed frequently to be conducting the hearings as if they were a class, held for the benefit of the observers.

In a three-hour opening statement Franklin described at length Stanford's position both as an exploiter of the oppressed within the United States and as an instrument of "imperialist aggression" abroad. Over the defense table was a large sheet of paper on which someone wrote in the number of Vietnamese casualties each day, as they mounted during the trial. Posters of Mao and Stalin hung down from the table and

during slow periods Franklin occasionally browsed in his little red book of quotations from Chairman Mao.

Franklin believes the future lies with the people of the third world—the Chinese, the North Koreans, the North Vietnamese, and revolutionaries everywhere. He has been a Communist since he returned in 1966 from a term at Stanford's French campus in Tours. In 1967 he helped to harass some recruiters from the CIA who were using the Stanford administration building for recruitment interviews, and in the same year he joined a student sit-in to protest against the campus judicial system (which was changed shortly afterwards). But on the whole, his radical activities on campus have consisted only of occasional speeches. While he discussed Marx in the classroom, none of his colleagues ever found fault with either his teaching or his scholarship. He survived as a minor campus phenomenon under two presidents, J. E. Wallace Sterling and Kenneth Pitzer.

Richard Lyman, a former history professor who became president in 1970, was reputedly a political liberal who had worked actively for civil rights legislation in California. As president he tightened up the administration, hired a full-time "prosecutor" to help handle campus disturbances, and called the police on at least three occasions when students "sat-in" and refused to leave a building. Lyman was clearly outraged by the Lodge incident, which he saw as a clear threat to freedom—a situation in which the mob prevented an individual from exercising his right to speak.

It is probable that Lyman's anger over the Lodge incident had not yet cooled when the events of February 10 took place. In his view, Franklin had not only endangered freedom of speech on the campus but had, at least indirectly, caused two persons to be injured. He had also advocated a demonstration that might have ended in the destruction of a \$5 million computer. So he ordered Franklin's discharge and no one was especially surprised. Only a few protested, including fifty-five professors who signed a petition urging that Franklin be permitted to teach until his case could be heard. Many of these also signed a "statement of intervention" in Franklin's behalf, which they submitted to the advisory board.

On January 5, 1972, after studying the evidence for two months, the advisory board agreed unanimously that Franklin should be acquitted of the charge of preventing Lodge from speaking. They agreed unanimously that he *was* guilty of advocating an illegal action, the demonstration at the Computation Center. On the other charges, defying the police order to disperse and thus endangering others' safety, and inciting to violence, the board split five to two, with Robert McAfee Brown and Donald Kennedy voting to exonerate Franklin. They recommended that Franklin be suspended, while the majority voted to sustain the firing.

Reaction on campus to the decision can probably best be described generally as one of mild surprise, although some cheered and others were outraged. A

tenured professor had not been fired from Stanford since 1900, and the hearings had revealed enough ambiguity in the evidence to make the outcome far from assured. But protest was not widespread. A couple of hundred students held a march around the campus after the decision was announced, and later in the day they established the "Stanford Rehabilitation Movement." The name was based on an unfortunate sentence in the advisory board report. After describing Franklin's hostile view of the University, and pointing out the "high likelihood of future transgressions" on Franklin's part, the report went on, "We are highly dubious whether *rehabilitation* is a useful concept in this case." (Emphasis in the original.) SRM held a few rallies and teach-ins, briefly invaded the faculty club, and twice occupied the Student Service Center until police were called. None of these events attracted more than two or three hundred participants. The protest reached its peak on January 24, when 800 people attended a rally to hear Franklin speak. A few days earlier, before a crowd of 550 spectators, forty-seven professors had lined up before an outdoor microphone to deliver short, often bitter, denunciations of the majority decision.

On January 20, the student government held a referendum on the decision to fire Franklin. In a record turnout of 4,700 students, fifty-five per cent voted in favor of his continuing to teach at Stanford.

The American Association of University Professors has not intervened in the case, since Franklin never went through the procedure of filing a formal complaint with their national office. He did, however, ask ACLU to represent him in an appeal to the courts, and on March 9 the board of directors of the Northern California affiliate voted unanimously to take the case. Board member Robert Meyers commented after the vote, "As we read [Franklin's] speeches—and under any theory of First Amendment constitutional protections of free speech that the ACLU has ever supported—it was clear to us that this was advocacy, not direct incitement." There is considerable question, of course, as to whether Franklin even advocated acts that were illegal.

A central issue before the court will probably be whether or not Stanford, as a private institution, must abide by constitutional limitations in dealing with its employees. On the other hand, a court might find that a community of more than 12,000 people, containing stores, schools, and homes, and relying heavily on public funds, cannot legally be considered a "private" institution. This issue aside, the court case could raise some embarrassing questions for Stanford: If Franklin advocated an illegal act when he urged a "strike" at the Computation Center, why were none of the actual participants ever charged with any offense? Why were no charges brought against those professors who, in 1969, had advocated a strike on campus after the invasion of Cambodia? If the police order to leave the grounds of the Computation Center was legal, why

were no charges brought against those who were arrested? If, on the night of February 10, Franklin actually incited the violence that took place after his speech, why didn't the University ask that criminal charges be brought against him? If the violent acts that followed his speech bore no relation to the acts that he suggested, can he be said to have incited them?

President Lyman continues to insist that free speech for Franklin was not the issue here. On January 22, he hailed the trustees' ratification of the advisory board's decision as a "landmark." It is "difficult but essential," he said, "to distinguish between the protected free expression of ideas . . . and a license to wield any weapon and exploit any opening to attack and bring to a halt the functioning of one of the greatest strongholds of free expression in the world today—the American university."

Lyman's statement raises the final question: Can a single individual, no matter how charismatic, really pose such a threat to a major university that \$180,000 and thousands of precious man-hours must be spent seeking justification to fire him? Professors Brown and Kennedy, in their minority report, expressed concern that the Franklin decision might set a dangerous precedent, that "less well-buffered institutions may become more vulnerable to outside pressures to get rid of controversial faculty members." But they described an even greater danger when they wrote, "The University thrives on diversity and challenge. When we lose a prominent symbol of these qualities, we lose not only the substance of the challenge but also the external perception that we can take it in stride."

Stanford lost something of its quality, perhaps forever, when the leadership of the faculty deliberately came to the conclusion that a single thorny individual could endanger the University's existence. The decision not only attributes to Franklin powers he never enjoyed, but ignores what may be the real causes of campus problems: two invasions by a President who had promised to end the war, continuation of the draft, and Stanford's close and continuing involvement with the Defense Department while it is inflicting one of the most relentless and vicious bombing attacks in history on the people of Indochina.

Franklin is today far more of a campus hero than he could have dreamed of being before the charges were brought, a result which could have been predicted and which will probably pass in time. But what will not pass from the campus for a long time is the sense that the University responded to a challenge with fear rather than greatness of spirit. The decision to fire Franklin, while understandable perhaps, was a small-minded one. As one professor commented, "We trembled on the edge of greatness for a time, and lapsed into failure of nerve."