

RECEIVED
NORTHERN MICHIGAN
UNIVERSITY

Mr. Jordan E. Kurland

American Association of University Professors

'69 JUL 1 AM 8:52

June 27, 1969

Page Two

June 27, 1969

OFFICE OF THE PRESIDENT

Mr. Jordan E. Kurland made that I was informed of the pending action against Dr. Associate Secretary and that the Dean was not informed until late in the following American Association of University Professors. I was expressly told not to discuss this matter with Washington, D.C. 20036

Dear Mr. Kurland: June 13 confidential.

I received your letter of June 12 enclosing the draft report on the McClellan Case, for which I thank you. I have studied it carefully and I should like to take advantage of your invitation to comment. Lest you become persuaded to dismiss what follows as simply the voice of an administration hatchet-man (an identification which, it is alleged, some segments of the university community have saddled me with), let me hasten to assure you that I have neither the intention nor the desire to act as an administration spokesman. Certainly, I have not been asked to by either the old or the new administration. Let me further add that my own career here at Northern has been damaged, perhaps beyond repair, by my inescapable involvement with the McClellan Case in which, though I may not always have seemed to all persons to have been on the side of the angels, I did at least try to do a difficult job with honesty and integrity.

As far as the facts are concerned, they seem, from my point of view, to be accurate. I think the Ad Hoc Committee should be complimented at the skillful way in which they have extrapolated a coherent narrative from often contradictory and frequently emotionally charged testimony. Whether or not the tone of the report is completely unbiased, I leave to persons less involved than I am to determine. There are some matters which I feel might well be clarified in order to place my own role in proper perspective.

On page 3, I should like to point out that my amended recommendation was supported by the then Vice President for Academic Affairs, Dr. Milton Byrd, now President of Chicago State College. I should like to emphasize, in connection with this amended recommendation (copies of which were in the possession of the Ad Hoc Committee), that the reason for my amended recommendation was that I regarded Dr. McClellan's action as "unprofessional," an opinion which I still hold.

On page 6, there is a list of people whom President Harden did not consult. I think it only fair to add my name as well since otherwise the implication is that I agreed with the President's recommendation. I would like it to be perfectly clear that when,

at my meeting with President Harden on June 13, I asked him if his decision was open to discussion, he said that his mind was made up and there would be no discussion. I was told not to discuss this matter with anyone.

On page 21, the point is made that I was informed of the pending action against Dr. McClellan on June 13 and that the Dean was not informed until late in the following month. This seems to imply a "conspiracy" between myself and President Harden. Again I should like to point out that I was expressly told not discuss this matter with anybody. My own faint hope was that the President's mind might not have been as firmly made up as he indicated to me and that this was the reason he told me to keep our conversation of June 13 confidential.

On pages 28 and 29, my original evaluation of Dr. McClellan is classified as "relatively uncomplimentary." I am inclined to question this evaluation of my evaluation. I pointed out some problems which, in my judgment, affected Dr. McClellan's effectiveness as a member of the faculty. I recognized his excellence as a teacher and his great potential as a member of the faculty at Northern Michigan University.

On page 34, there is a mention of two earlier cases in the History Department "in which faculty members who dissented from the 'proper opinions' were nudged out." This may be the view of some members of the faculty (and even some members of the Department of History) who were not aware of the facts. The facts here in these cases were very different. It needs to be noted that both individuals left voluntarily and moved on to better positions. To allow this statement to stand as it is, is to imply that the administration habitually conducted dragonades against the faculty.

There are certain conclusions reached in the draft report which I feel are open to some question. For example, much is made of the failure to grant Dr. McClellan a salary increment for the 1967-68 academic year as I and the Dean had recommended. The conclusion is that this was "punitive." It seems to me that the gravamen of the "crime" against Dr. McClellan was the decision to terminate his employment at the end of the 1967-68 academic year. It is hardly likely that a person given a terminal contract under circumstances such as those faced by Dr. McClellan would be given an increment which is ordinarily regarded as an indication of approbation. It is an axiom of law that a lesser crime is absorbed by a greater crime--the act of shooting a man with premeditation is both assault and murder in the first degree; a conviction for murder in the first degree precludes a simultaneous conviction for assault. I think the emphasis given to this aspect of the case is uncalled for in view of the conclusion, later reached, that Dr. McClellan's dismissal was "improper." To belabor the point is patently unfair.

I do not agree with the conclusion drawn on page 33 that to terminate Dr. McClellan for the reasons adduced in the previous pages (even assuming that the Ad Hoc Com-

Mr. Jordan E. Kurland
American Association of University Professors

June 27, 1969
Page Three

mittee's assumptions are correct) was "a violation of academic freedom." It seems to me that the recent trend in academic freedom cases has been to extend the doctrine of academic freedom far beyond its reasonable meaning. I do not think that even the most biased member of Northern's faculty would have asserted that there was any interference with Lehrenfreiheit or Lernenfreiheit. Nor was this the case of a penalty being imposed on a faculty member for espousing unpopular political views--for example, supporting Henry Wallace for the Presidency or opposing our involvement in Vietnam. In my six years at Northern, never was anyone prevented from exercising his privileges as a citizen of the larger community in which Northern Michigan University is located. I still feel that the real issue in the case was what I told the Ad Hoc Committee when it was here: Does the President, with the consent of the Board of Control, have the right to terminate the employment of a non-tenured member of the faculty for a course of conduct which he regards as hostile to the University and opposed to the policy and plans of the University, even though no one single act, standing alone, would be regarded as grounds for dismissal? The clear implication of the draft report is that there is no way in which the responsible administration of a university can defend itself against this type of attack by someone whose salary it pays without being called to task for a violation of academic freedom. The right of self-preservation applies to a university as well as to any other body corporate or individual.

The comments about the "loyalty statement" on page 35 of the draft report gives, I submit, a totally erroneous impression of the situation which existed at Northern. The implication is that the administration pressured people to sign the statement which appeared as an advertisement in the local paper. This implication is utterly false. I did not sign, nor was I asked to sign. The report itself points out that a considerable minority of the faculty were opposed to the uproar being created by the McClellan Case. They took this method of expressing their disapproval. How this advertisement could have created a climate of "terror" which made faculty members fear for their Lehrenfreiheit or Lernenfreiheit escapes me.

Finally, I am distressed at the decision of Committee A to publish this report. My reasons are as follows:

1. The publication of this report is, in my opinion, a disservice to Dr. McClellan. His first book is about to be published, a circumstance which makes him highly mobile. The publication of this report, while exonerating him and declaring that he was far more sinned against than sinning, cannot help his image when Deans and Department Heads consider the possibility of inviting him to join their staffs.
2. The publication of this report is, in my opinion, a disservice to Northern Michigan University. The report itself points out that the new administration

Mr. Jordan E. Kurland
American Association of University Professors

June 27, 1969
Page Four

has taken great strides towards increasing the voice and role of all segments of the academic community in the decision making process. This report, highly critical of a situation which has admittedly been remedied, or which is well on the way to being remedied, unfairly handicaps Northern in its efforts to recruit first-class students and first-class faculty by implying that there is no academic freedom here.

3. The reasons advanced by Committee A for authorizing publication are not convincing, at least to me. It may be that the issues here raised are of interest to the academic community but, since the matter was settled, any conclusions reached in this report can, at best, be regarded as obiter dicta.

It is probably unnecessary, in view of my first paragraph, to re-emphasize the fact that I am writing this letter in my individual capacity as an associate member of the American Association of University Professors and as one intimately associated with the case at bar. I can assure you that I would rather have written "a plague on both houses" across the face of the draft report. I hold no brief for either side. But these were things I had to say.

Very truly yours,

Anthony H. Forbes, Ph.D., LL.B.
Professor of History
Director of Summer Session

AHF:PK