

The following is an exchange of letters between the Dean of the Graduate School and the President. It was the result of discussions with deans and faculty members throughout the year but was not submitted for faculty consideration until April 17, 1969 when it was the basis of discussion with the Yale College faculty by the President, and the next day by the Provost with the Graduate School faculty.

April 2, 1969

Kingman Brewster, Jr.
President
Yale University

Dear Kingman:

While you were away Secretary Finch reminded all colleges and universities about the legislation which withdraws federal aid from students found to have violated criminal laws during student disruptions. He also asked for further discussion on all campuses about both the protection of dissent and the prevention of disruption.

The Corporation made it clear last fall that it did not intend to treat students on federal funds any differently from those on other funds or on their own. Also, you have made it clear that Yale intends to continue the protection of dissent, no matter how radical. Finally, your recent Annual Report and other public statements have made it clear that disruption at Yale should expect to be met by suspension or dismissal.

In view of Secretary Finch's letter, do you plan to make any further formal statements?

Sincerely,
John Perry Miller
Dean
Graduate School of Arts and Sciences

April 6, 1969

John Perry Miller
Dean
Graduate School of Arts and Sciences

Dear John:

Thanks for your note about Secretary Finch's letter concerning the withdrawal of federal aid from disruptive students.

I had not planned to add to the statements I have already made; but your letter prompts me to give you my own current thinking.

First of all, I am sure we were right to respond to the legislation which seeks to discipline disrupters by withdrawing their federal loans and grants by saying that Yale students would be disciplined by Yale standards wherever their financial support came from. In all likelihood we would have suspended or dismissed any student whose action involved criminal liability for campus violence or disruption anyway, but the fact he was on federal funds shouldn't affect either his rights or our decision. Also I have stated on several public occasions that the effort to use loans and scholarships to regulate local conduct seems to me repugnant to the spirit of the United States Con-

stitution. I don't think that the spending power should be used as a subterfuge for extending the federal police power. In the particular case of educational institutions there is the special concern about academic freedom and institutional autonomy. While I wish President Nixon had opposed this kind of legislation, I was glad to see that his recent statement put the responsibility for campus government on the institution not in Washington.

So, if it is up to us, what are we going to do about it? We have thus far followed two lines, and I think we shall continue to.

First, we have not only protected but we have encouraged controversy and have indulged dissent no matter how extreme, whether by students, faculty, or visitors. This has applied to all forms of verbal demonstration, protest, and criticism, whether directed at national or local policy or at Yale. When Yale policy has been at issue we have done our best to make it possible for the message to get through to and be responded to by the person whose ideas or actions were in question. Often the criticism or suggestion has found resilient response, especially in the case of curricular flexibility, course load, grading system, and the development of experimental courses (in the residential colleges) and experimental programs such as African-American Studies. While I think the faculty has to have the right to meet alone on academic and appointments matters if they are to be uninhibited in their job of setting and maintaining standards for degrees and for their own ranks, I think that we do have to continue to experiment with ways in which the great variety of student views can be taken into account, even on such matters. Also I am aware that there has to be some pro-

tection of professional legal, financial, and architectural advisers against being second-guessed by amateurs or neophyte professionals if the University is to get on with its administrative decisions competently. Nevertheless, those most directly affected by an action based on professional advice should have a chance to make their views and interests known, not as professional advisors but as parties directly affected.

Finally, the more opportunity for basic reappraisal of the ends and means of a University, the better it will be, both for the education of our students and for the quality of Yale.

So, proposition one is the encouragement of controversy, no matter how fundamental; and the protection of dissent, no matter how extreme. This is not just to permit the "letting off of steam" but because it will improve Yale as a place in which to be educated.

Proposition number two is a convincing intention to deal speedily and firmly with any forcible interference with student and faculty activities or the normal use of any Yale facilities. Lest anyone should be surprised at this "hard line" approach to disruption, I affirmed it explicitly in my Annual Report. More important, I have encouraged Deans to call this policy to the attention of any individual students or groups who seemed disposed to risk possible resort to disruption.

I see no basis for compromise on the basic proposition that forcible coercion and violent intimidation are unacceptable means of persuasion and unacceptable techniques of change in a university community, as long as channels of communication and the chance for reasoned

argument are available. The principle involved is so basic that I could not imagine trying to discharge my responsibility as presiding trustee and chief executive officer if I were required to stand aside while any of Yale's activities or facilities were forcibly interfered with, even if the rest of the University might, as a practical matter, continue to operate.

At the same time I am quite aware that the faculties have a special responsibility to be sure that students are not disciplined unfairly as a result of administrative pique or under political or alumni pressure. Even though only the trustees can, legally, confer a degree of the University and invite a student or faculty or staff member to use its funds and facilities, no ultimate disciplinary action should ever be taken without giving presumptive weight to the recommendation of the faculty involved.

So, the dilemma is how to act speedily and firmly, hopefully to prevent, at worst to bring to a stop, any forcible disruptive interference with Yale activities or facilities; and at the same time honor the faculty's crucial role in any final disposition of sanctions against a student or faculty member.

I have been reluctant to spell out any "scenario." First, Yale's almost unique good fortune in the avoidance of any resort to violence or disruption makes me reluctant to stir up the atmosphere. Almost anything I might say would to someone seem either provocative, defensive, or smug. Also, I am quite aware that no amount of forethought will ever anticipate the event, and intuitive reaction is part of the risk of responsibility. Also, we learn by our own experience and thought as well as by the experience of others.

Subject to these caveats, however, my present instinct would be to react as follows in the event of a forcible interference with Yale activities or facilities.

First, I would make a clear and precise invitation to meet with the disrupters at some stated place and some stated time in the immediate future where discussion could be held without limit of time and without interfering with the conduct of any University activity or access to any useful facility.

Second, assuming this invitation is spurned, I would inform the disrupters that if they did not desist within a stated period of time they would be subject to immediate suspension. This suspension would remain in effect until terminated, modified, or extended; or superseded by dismissal on recommendation of the appropriate faculty. If I had a definite view about the appropriateness of suspension or dismissal as the ultimate disposition, I should in fairness try to inform the disrupters of what I proposed to recommend to the appropriate faculty.

I would hope that a brief time to ponder this prospect would persuade those involved to abandon their wilful persistence in disruption.

Third, if the wilful and forcible interference persisted after such warning, I would declare the suspension of those involved and feel under an obligation to use whatever University or public legal resources seemed necessary to enable the activities and facilities of the University to be restored to their normal course and use. If legal authority were to be invoked, a court order might be obtained first. The resources of the campus police would be exhausted before considering, as a last resort, any request for assistance from authorities outside the University.

Fourth, each faculty whose students or colleagues were involved would be asked immediately to proceed to make their own recommendation about how the interim suspension should be disposed of. Obviously this would involve a review of the appropriateness of the interim suspension and a consideration of the administrative recommendation for ultimate disciplinary action. Whatever the procedure traditionally resorted to by the particular faculty it would obviously be necessary to assure those whose cases were under review full opportunity for a fair hearing.

I am not unaware of the risks of this way of proceeding. It focuses the burden on me for swift and decisive response, subject to the second guessing of a more calm and deliberative process later on. It is even possible that a faculty reversal of a President's judgment would seriously impair the President's usefulness and fitness to continue. I personally find that risk much more acceptable than the risk of being unable to take speedy and unambiguous interim action against anyone who would wilfully persist in trying to intimidate Yale into following his will by seeking to disrupt its normal activities.

Also, of course, to the extent it seemed appropriate I might delegate any of the powers involved in any stage of these proceedings to a fellow officer or dean; except that resort to public legal authority, I think, should be reserved to the officers of the University in order to be sure that such unwelcome resort is clearly a last resort.

Throughout this letter I have talked about what *I* would do. Obviously this is no one man band. Most important, the Yale Provost is a Deputy President in the full sense. Charlie and I have talked about this a lot. Any powers I can exercise, he can too. I know he would take exactly

the same position, not only in principle, but in detail. (Although being an English Professor he might state it with more felicity than can be expected of a Law Professor.)

Sincerely,
Kingman Brewster, Jr.
President
Yale University