

RESOLUTION OF THE RUTGERS UNIVERSITY BOARD OF TRUSTEES ADOPTED AT ITS MEETING -
December 12, 1952

The Board of Trustees of Rutgers University, The State University of New Jersey, has given full and careful consideration to the cases of Associate Professor Simon W. Heimlich* and Assistant Professor Moses I. Finley**, who refused to answer questions concerning their membership in the Communist Party put to them by the U. S. Senate's Internal Security Committee***. In arriving at its decision, the Board has reviewed all of the pertinent evidence, including the contents of the following documents which are hereby read into the minutes of the Board:

1. The statement of President Lewis Webster Jones on September 26, 1952. This led to the appointment of a committee of trustees, faculty and alumni to advise Dr. Jones as to the course of action he should follow in order to protect the University against any possible subversive influences and to protect the rights of the professors concerned.

2. The report to the president of the trustee-faculty-alumni committee, dated October 14, 1952. This report advised the president that the refusal of Professors Heimlich and Finley to answer the questions of the Senate Committee, on the grounds of possible self-incrimination as provided in the Fifth Amendment to the Constitution, did "raise a real question as to their fitness to continue as teachers on the University faculty." It was recommended that appropriate proceedings be instituted to resolve the question of their fitness.

3. The University Statutes which govern the "appropriate proceedings."

* Simon W. Heimlich, Associate Professor of Physics and Mathematics, College of Pharmacy, Newark, testified September 24, 1952.

** Dr. Moses I. Finley, Assistant Professor of History, College of Arts and Sciences, Newark, testified March 28, 1952.

*** The complete title: Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws of the Committee on the Judiciary, U. S. Senate, Eighty-Second Congress.

The applicable statute (3.92) states in part:

The teacher is a citizen, a member of a learned profession, and a representative of this university--Since the public may, because of his position, give special attention or credence to his utterances and tend to judge his profession or this university by his conduct his position imposes on him the following special obligations:
(1) that he bear these possibilities and his responsibilities constantly in mind and seek at all times to conduct himself appropriately..

4. The report of the Special Faculty Committee of Review selected by the faculty Committee on Committees to review the two cases, and advise the president and the trustees in the determination of the question raised by the trustee-faculty-alumni committee; namely, whether the refusal of Professors Heimlich and Finley to answer the questions constituted unfitness to teach at this University. The report presented orally by the full committee states the unanimous conclusion of the Special Faculty Committee of Review that "on the basis of the evidence available to the Committee, no charges should be preferred against Mr. Heimlich or Mr. Finley", and recommends that "no further action be taken."

5. A letter dated December 11, 1952 from Joseph A. Fanelli, attorney for Professor Finley.

The Board of Trustees is appreciative of the conscientious and responsible study of these two cases by the Special Faculty Committee of Review. The burden of passing on a colleague's fitness to continue to teach is a heavy one. The faculty committee has presented carefully considered conclusions, which it deems fair both to the University and to Professors Heimlich and Finley

Nevertheless, the Board of Trustees cannot agree with the Faculty Committee of Review that no further action should be taken, for the following reasons:

The Faculty Committee of Review has urged that to plead the protection of the Fifth Amendment is a recognized constitutional right, and that it carries with it no implication of guilt.

However, there is here no question of legal right of Professors Heimlich and Finley as citizens to refuse to answer on the grounds of the Fifth Amendment. The question here concerns their special obligations as members "of a learned profession, and as representatives of this University."

The refusal of a faculty member, on the grounds of possible self-incrimination, to answer questions as to his present or past membership in the Communist Party, put to him by a properly constituted investigatory body, impairs confidence in his fitness to teach. It is also incompatible with the standards required of him as a member of his profession. He has the privilege of freedom to search out and to teach the truth. This University will protect him in the exercise of that freedom, but he has corresponding obligations.

It is therefore

RESOLVED, that this Board consider that it is cause for the immediate dismissal of any member of the faculty or staff of the University that he refuse, on the ground of the Fifth Amendment to the Constitution of the United States, to answer questions propounded by any duly constituted investigatory body, or in any judicial proceeding, relating to whether he is, or has been, a member of the Communist Party; and further,

RESOLVED, that Professor Finley and Professor Heimlich, having refused, on the ground of the Fifth Amendment to the Constitution of the United States, to answer questions of this character asked them by the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws of the Committee on the Judiciary, United States Senate,

Eighty-Second Congress, shall, effective December 31, 1952, be dismissed from the faculty of this University, unless, in the case of either of them, he shall, prior to that time, have tendered himself ready to answer the questions of the Senate Committee and otherwise, to the satisfaction of the president of the University and the vice-chairmen of the board, and shall have conformed to the policy expressed in these resolutions.

Resolution by the Board of Trustees of Rutgers University, Dec. 12, 1952

Resolved, that the Board approves the manner in which Dr. Jones has conducted the matter and, specifically, the Board endorses and affirms the policy stated by President Jones on September 26, 1952, that there is no place on the faculty of Rutgers University for a member of the Communist Party, or for anyone who is under its discipline.