
DOW-CIA: November 18, 1969–November 18, 2004 A.D.

(Rev.) Emmanuel Charles McCarthy.

Friends,

The enclosed brief is the defense that I wrote with ten students who were expelled from the University of Notre Dame in December of 1969 for nonviolently protesting the presence on the Notre Dame Campus of DOW Chemical and the CIA (recruiting students). It is somewhat lengthy, written over a generation ago within the context of a conflict within an academic world. Therefore, it is possibly boring in its parochial details. However I send it to you today on the 35th anniversary of the event that precipitated its writing, because it has pertinence at this hour, not only for Christian institutions of learning at all levels but also for Christians and Christian Churches, as well as, their leadership—who today seem to have fallen into a state of moral stupor regarding the catholic compassion and universal salvific mission of Jesus Christ. A compassion and mission for which they have been chosen to be messengers and participants.

The gods of nationalism and institutional survival, as well as, personal comfort spend their illusionary existences tempting Christians to follow their “truths and values” and to set aside the Eternal Truths and Values proclaimed by Christ God—or at least to set their “truths and values” above those taught by Jesus. On November 18, 1969, Notre Dame, knowingly or unknowingly, yielded to these gods and this temptation. Today, in the face of the human slaughter house that the United States Government has made of Iraq, Christian Churches and institutions of every denomination are succumbing to the same temptation, either by calculated pusillanimous silence or by praising the Lord while the ammunition is passed from 1500 Pennsylvania Avenue into the hearts or heads of hundreds of thousands of God’s infinitely beloved children in Iraq. There have been times in the past when Christians have refused to kowtow to these murderous false gods and stood firmly with Jesus and His Way. The document that is herein attached is a piece of the record of one of those times.

The defense is divided more or less into two areas: 1) that the students acted in conformity with the nature and purpose of the American University Community; 2) that the students acted in conformity with the nature and purpose of the Christian Community. Since Notre Dame is a Catholic university, it and those who are part of it are morally held to the purposes and standards of both communities. If a conflict of allegiances should ever arise between the two interlocking community value systems the Christian would have to choose. By the dictates of both faith and reason, the Christian would be morally required to follow the truth embodied in the Christian Community, since it is rationally and spiritually absurd to choose the temporal, the totally perishable, over the eternal and imperishable. However, the position of this brief is that in this instance the protesting students were faithful to the nature and purpose of both communities and therefore should not be excommunicated from a Catholic university.

When the students were excommunicated, I chose on December 22, 1969, to send in my letter of resignation from the faculty and as Director of THE PROGRAM FOR THE STUDY AND PRACTICE OF NONVIOLENT CONFLICT RESOLUTION effective upon the termination of my contract the following summer. The issue was, “Who do you stand with: the excommunicators or the excommunicated?” The excommunicators had my livelihood. (I had just bought a small farm.) The excommunicated had the truth about the “overwhelming moral atrocity” (Thomas Merton’s words) that the U.S. Government was perpetrating in Vietnam—in which DOW and the CIA were major-league players. So major, that both had by 1969 become international symbols of the murder, mayhem and misery that was mercilessly being poured out on the people of a nation the size of New York State 7500 miles away.

Contrary to what has been published about this event in various places over the last three decades, all the students who were expelled did not eventually graduate from Notre Dame. And, many of those who did still paid an awful price for speaking truth to murderous power and to those it manipulates. Every word of this document is embedded in suffering.

I send it out on the 35th anniversary of the event because the “silence” on U.S. Catholic and Christian campuses in the presence of the U.S. Government engaging in another “overwhelming moral atrocity” at this hour in Iraq. This silence is the clearest statement possible that U.S. Churches and U.S. Christian educational institutions, including parish religious education programs, have lost their way. They simply are not seriously nurturing the empathic catholic consciousness and conscience that Jesus and His Way absolutely require for fidelity. Silence is not neutral. Silence can be as violent, as merciless and as morally corrupt as propagandizing abortion as the moral equivalent of an appendectomy. Both can be the moral support system without which murder could not take place.

Ten students were thrown out of a Catholic school because each insisted with his whole person that blatant evil, as determined by the teachings of Jesus, had no right to recruit on a Christian Campus. When asked by their children and grandchildren today, “What did you do in the face of the moral abomination called the Vietnam War?”, they can say, “I was not silent. I called murder by its right name: murder. It cost me much pain to do this, but I knew that compared to the horror being endured by the Vietnamese people in their homes and fields 7500 miles away, it was very little.” When the U.S. butchery in Iraq becomes as clear to the children and grandchildren of today’s students, what will most of them have to say? “I did not know what was really going on.” Or perhaps, today’s students (and others) will say as poor Cardinal O’Connor said to Nat Hentoff in an interview about his famous book (*A Catholic Chaplain Looks at Vietnam*, 1968), which was used throughout the U.S. Catholic Church to morally defend the Vietnam War and to justify recruiting and sending Catholics and others over there to kill people: “I wish I never wrote it. I didn’t know they [the government] were lying to me.” (Evidently he was as unaware as most of today’s Church leaders appear to be of being under a moral obligation to seriously consider the universally known truism that, “The first casualty of war is truth.”) It would of course be worth more than perhaps anything else if today’s students could say 35 years from now, “I saw mass murder and spoke out against it. I tried to stop it.” I say “worth more than perhaps anything else” because “Whatever you do for the least you do for Me,” is intrinsically tied to eternal well-being. “The least” in a society’s war consciousness and conscience are always the enemy. The enemy, be it he or she or they, is “the least” either by active hate or by indifference to the misery and plight of the enemy.

The Vietnam War is history. The Iraq War is history repeating itself—except those tricked into the National Guard and the poor are the disposable people (cannon fodder) this time around, instead of drafted college students and the poor of the previous generation. The Notre Dame 10 are history. Where is THAT history repeating itself on Christian college campuses today? In Christian Churches? Among Christian leaders?

Peace

in, through and with Christ-God and His Way,

(Rev.) Emmanuel Charles McCarthy

NOVEMBER 18, 2004

This letter and the brief are available for download at:
www.centerforchristiannonviolence.org

NAPALM. The most effective “anti-personnel” weapon, it is euphemistically described as “unfamiliar cooking fluid” by those apologists for American military methods. They automatically attribute all napalm cases to domestic accidents caused by the people using gasoline instead of kerosene in their cooking stoves. Kerosene is far too expensive for the peasants, who normally use charcoal for cooking. The only “cooking fluid” they know is very “unfamiliar”—it is delivered through their roofs by U.S. planes.



Some of its finer selling points were explained to me by a pilot in 1966: “We sure are pleased with those backroom boys at Dow. The original product wasn’t so hot—if the gooks were quick they could scrape it off. So the boys started adding polystyrene—now it sticks like shit to a blanket. But then if the gooks jumped under water it stopped burning, so they started adding Willie Peter (WP—white phosphorous) so’s to make it burn better. It’ll even burn under water now. And just one drop is enough, it’ll keep on burning right down to the bone so they die anyway from phosphorous poisoning.”

DEFENSE OF THE TEN ACCUSED STUDENTS INVOLVED IN THE DOW-CIA DEMONSTRATION OF NOVEMBER 18, 1969

PRESENTED TO THE TRIPARTITE APPEALS BOARD DECEMBER 12, 1969

Our actions on November 18 were necessitated by the political position assumed and steadily maintained by the University of Notre Dame Administration. In the following we will try to discuss that position, the rules that defend it, and its relation to the University as an academic community. It should become clear that the situation which we describe is, *mutatis mutandis*, generally applicable to the American University today and is not peculiar to the University of Notre Dame, although there are of course special aspects of the problem here.

I. The Political Stance of the University

1. It is important to realize that the origins of the current imbroglio lie in the political position assumed by the University of Notre Dame. Now it is often argued that universities do not—and should not—take political positions: that they are “neutral” on political questions. But we argue that universities, as significant institutions in our society, cannot avoid having a political effect; and since the administrative decisions that determine the nature of that effect cannot be considered to be taken blindly or capriciously, they clearly represent a political position. For example:

- a) It is obvious that the investment policy followed with regard to an endowment has a definite social and political effect. In recognition of this fact, church groups and others in recent years have been withdrawing their investments from companies whose policies on race, war, or social conditions they cannot condone,
- b) The university in its cooperation with the military for the production of junior officers is at the very least professing that it is not unreasonable to affirm the moral acceptability of the current activities of the military, a position that can hardly be described as anything but political.
- c) The university in its modern function as a knowledge factory in cooperation with industrial, governmental, and military organizations must assume that these organizations are engaged in morally acceptable activities.
- d) Finally, the university as a supplier of manpower actively channels its second major product – educated men into positions of government and industry. It must accept as reasonably ethical the arrangements that it facilitates, for it is obvious that only some organizations are allowed to recruit on campus (e.g., it is hard to imagine the Placement Bureau’s scheduling interviews for the Ku Klux Klan, the progressive Labor Party, the Lawyer’s Guild, a local Brothel, etc.).¹

2. Now the point of these examples is to show that the University acts in a political fashion and manifests a coherent political position. And the position the University Administration has chosen by its actions is to affirm the structures and assumptions—indeed, the very institutions, (such as the Dow Chemical and the Central Intelligence Agency) which are responsible for the Vietnamese wars and the Conspiracy Trials; for

¹Such discrimination shows that the defense that “invitation to placement interviews in no way implies approval by the administration” cannot be seriously maintained. Cooperation and acceptance in action is perhaps more important than verbal approval.

Song My “incidents” and Fred Hampton “affairs”; and for a systematic exploitation of the poor and repression of legitimate desires for social reform both at home and abroad in the name of profit, competition and anti Communism.² Consider just the Vietnamese War—a war abhorrent on principle to Christian pacifism and not even reconcilable with any one of the several requirements of the Catholic “just-war” theory (e.g., proper authority, just cause, act of defense, last resort, proportionality of means and ends, etc.), as Gordon Zahn has pointed out.³ This war, as well as the other items mentioned above is not an unfortunate accident or a “terrible mistake”: it is a logical outgrowth of the political system represented by Dow and CIA. And instead of exercising a critical function over this system, this university chooses to cooperate with and even avidly seek favors from that system!⁴

3. The placement interviews of Dow and the CIA are therefore merely symbols of this political stance of the University—the stance we refer to when we speak of “University complicity.”⁵ But these are indeed symbols “which contain and communicate what they signify”—the subservience of the University to a vicious political, and economic system.⁶ We therefore find them intolerable to the extent that we find subservience intolerable.

4. Now it is surely incumbent on all of us to put up with evils in an institution of which we are part for the sake of good order in the community; but there is as surely a point where the institution is so corrupted, so turned from good ends that to put up with the evils accepted by the institution is cowardice and hypocrisy. We are all haunted by the specter of the “good Germans.”

5. And is it so surprising that the perversion of the University to the service of the evils of our society should be so repulsive to us? *Corruptio optimi pessima* is the scholastic maxim—the worst is that of the best thing; the University, which should be the mind and conscience of society, abdicates that responsibility and follows the worst inclinations of that society.

II. The “15-Minute Rule”

1. Now let us turn to the rule under which we have summarily suspended and expelled. The rule combines in the over-burdened person of a single administrator the functions of police officer, prosecutor, judge, jury, and academic firing squad. The parallels between this procedure and martial law have been pointed out frequently. What is the reason for this severity?

²Archbishop Helder Camara of Brazil points out the unitary nature of this system: “The United States is a living demonstration of the internal contradiction of the capitalist system: it has succeeded in creating underdeveloped strata within the richest country in the world—30 million Americans live in a situation below the dignity of the human condition; it has succeeded in provoking a fratricidal war between whites and blacks: under the guise of anti-communism, but in fact driven by a lust for prestige and the expansion of its sphere of influence, it is waging the most shameful war the world has ever known. The dominant system in the United States is so irrational in its rationalization, as they call it, that it has succeeded in creating a one dimensional, ‘robot’ existence, to such an extent that young Americans of different cultural traditions feel called to build a more just and more human society by transforming the social context and humanizing technology.” *The Church and Colonialism: The Betrayal of the Third World* (Denville, N.J., 1969), pp.104-105.

³Vietnam and the Just War, Gordon Zahn, (pamphlet).

⁴Examine, for example, Notre Dame’s “Industrial Associates Program” (see the letter and enclosures from Vice President Frederick D. Rossini to faculty members, 1, October 1969)

⁵In order to obtain its injunction, the Administration has to aver in court that a property right or an “essential business relationship” is in danger!

⁶As the author (not one of us) of a letter to the editor of the South Bend Tribune expressed it, “Dow Chemical by its production of war material profits from the misery and destruction of war. The CIA by its involvement in the internal affairs of foreign nations, particularly in (Latin) America, supports governments most likely to favor American business interests...these governments allow the exploitation of their national resources, and... resist reform, especially land reform, necessary for the improvement of their nations’ standards of living.” *South Bend Tribune*, 3, December 1969.

2. It is perhaps the most “innocent until proven guilty”—that there be a temporal and personal separation in the process of apprehension, prosecution, judgement, and execution of sentence. This procedure is understood to apply at every level of our society, even for the most heinous crimes—murder, rape, the destruction of essential property. It is ludicrous to compare our action to crimes like these; yet the Administration has denied us the protection of this fundamental procedure. What is the reason for this severity?

3. Finally, it should be clear that not all “disruptive” actions but only those with certain objectives are intended as the object of this rule. One may block a door-way, “substitute force for rational persuasion, “ or “impede normal University operations” in the course of a party-raid, a weekend drunk, or an over-exuberant pep rally without fear that the “15-Minute rule” will be used against him. But the rule was immediately conceived and employed in response to actions of this sort when those actions were directed to political ends: specifically, ending University complicity.

4. What, then, is the reason for the severity of the rule? The only answer we can surmise is that the Administration sees something much more important at stake when these actions are directed at the political stance of the University than when they merely “infringe on the rights of others” (often much more seriously than we did) with no overt political motive. And what is at stake is the perpetuation of the University as a service station for a system that lives on domestic and foreign countries’ repression. The 15-minute rule is designed to protect the University’s complicity. The Administration seems to believe that the financial life-blood of the University as a research and development installation flows only with the political subjection of the University to military, governmental and industrial organizations; the Administration must therefore prevent any effective threat to its political alignment and cater to the political opinions of these organizations and of those (wealthy) parents and alumni who share these opinions. It must prevent “embarrassing incidents” as well as any effective interference with its political stance. The University’s constituency is, in short, not the community of teachers and students within it but rather that “outside constituency,” the political and represented by the Board of Trustees!

5. The Principal audience therefore, for the promulgation of the 15-minute rule was not the University community but rather that “outside constituency,” for whose purpose the University is being run. It is being told in no uncertain terms that Notre Dame is a “safe” place and that the Administration will brook no interference from students or faculty with the cooperation of the University and that constituency. Of course the Administration must be ever wary of the slightest occasion for the use of that rule in order to demonstrate its resolve and prove in the face of critics from the outside it is no “paper tiger.” Now we contend that a rule (a) promulgated unilaterally and by fiat, obviously haste, (b) to repress, in the harshest possible fashion,⁷ any effective interference with the political function of the University, is no rule at all when the political stance which it protects becomes so evil as to be intolerable.

6. November 18, 1969, the Notre Dame Administration, fully cognizant of the year-long debate concerning University complicity,⁸ presented us with an ominous alternative: either (a) we must acquiesce in the administration’s endorsement of Dow, the CIA, and the structures and assumptions that they represent by the simultaneous scheduling of recruiting by these two organizations—squarely under the Golden Dome, literally and figuratively; or (b) we must prevent this affirmation of a vicious system, even if it meant that the Draconian rules for the protection of this perverse political relation would be used against us. We could find no third alternative; we therefore chose the latter course.

⁷Expulsion and delivery to the secular arm are the harshest penalties presently available to the University. It is attempting to provide harsher ones by the obtaining of an injunction.

⁸Our opposition has been, at least since last year’s demonstration; and the issue is hardly confined to our campus.

III. Academic Freedom: An Issue?

1. It has been asserted that, by our action against Notre Dame's complicity, we somehow threatened someone's academic freedom. The seriousness of this charge in a University community requires an answer. The "1940 Statement of Principles on Academic Freedom and Tenure" of the American Association of University Professors defines academic freedom as follows:

(a) The teacher is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of his other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

(b) The teacher is entitled to freedom in his classroom in discuss subject, but he should be careful not to introduce into his teaching controversial matter which has no relation to his subject...

(c) The college or university teacher is a citizen, a member of a learned profession and an officer of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. As a man of learning and an educational officer, he should remember that the public may judge his profession and his institution by his utterances. He should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that he is not an institutional spokesman.⁹

It is difficult for us to see how our action violated any part of this definition. The recruiters were certainly not here as teachers and can hardly claim the privileges of teachers. Furthermore it was we who sought an open discussion of Dow and CIA with the recruiters. In accordance with the Student Senate Resolution which demands open discussions with recruiters requested by one hundred students, we presented the Placement Bureau with the required petitions: the Administration chose to ignore these "proper channels" and proceed with the interviews. On November 18, we asked the recruiters themselves to talk openly with us: the Dow recruiter was amenable, but the administration was not. Moreover, the Placement Bureau violated the "corollary (to the 'open speaker's policy) of an 'open listeners' policy'" enunciated by the Student Life Council on December 2, 1968 by refusing to schedule appointments for students who were known to be politically unsympathetic to these organizations!¹⁰

2. We agree with Professor Donald Kommers (who agrees with us a little else!) on his distinction between the "university structure" and the "academic community." He describes the relationship between the two as, "The structure houses the community. Now it is surely the "academic community" which can be called an "open system of intellectual exchange"; which is "incapable of taking a position on anything" (because, assumedly, of the "open system" it represents); and to which the above statement on academic freedom applies. But can the "university structure" shelter its political position behind the shield of academic freedom?

⁹AAUP Bulletin 53 (1967), pp. 246-7. This is the standard statement on academic freedom, endorsed by some 50 other learned societies.

¹⁰We were responsible for the violation of any right on 18 November? Since no right to academic freedom was violated, and since we deny that anyone, has a right to participate in the activities of Dow and the CIA—or even to interview for them, the only rights that could conceivably have been violated by our action were the rights of our fellow students to be free from vigilante interference. For even if one does something which he has no right to do, nonetheless the right to be free of the correction and interference of others, at least to a certain extent If I am boating my wife, I surely have no right to do so, and my neighbor may disapprove, but I probably do have the right to be free from his interference; however, if I am about to murder my wife, my neighbor has not only the right but the duty to intervene. Analogously, we feel that it is possible that one can argue that our fellow students, although they have no direct right to interview with Dow and the CIA, nonetheless may have the right to be free from our interference. But this point is moot because, as was pointed out above, with full knowledge of the crisis which it was provoking, the university presented us with the unpalatable alternative of violating this putative right or allowing the (much more serious) affirmation of complicity.

The structure is hardly an “open system of intellectual exchange”; which is “incapable of taking a position” (we have soon how it does so), and to which the freedom of a teacher belongs. The direction of investment policy, financing of research for outside purposes, and. procuring officers for the military, government, and industry are hardly decisions protected by any postulate of academic freedom.¹¹

3. If the modern American university were similar to the medieval *universitas societas magistrorum discipulorumque*—the whole fellowship of teachers and students (alone)—then the “university structure” would be sparse at best and the university (as “academic community” alone) would truly be able to avoid political involvement. But now the structural tail wags the academic dog. In the contemporary university (perhaps particularly at Notre Dame) the faculty have become employees and the students, products. The university structure arrogates to itself the protection that the principles of academic freedom properly afford only to the academic community.

4. It is our contention that the real enemy of academic freedom is the political stance of the university structure—its complicity with the economic and political powers of the state.¹² For example:

(a) The right to “full freedom of research” also has financial implications; research in most fields requires money. How will that money be allocated when the university structure is bought and paid for by the system responsible for the evils in the society?

(b) The teacher is cautioned against introducing “controversial matter which has no relation to his subject.” How broadly will that be interpreted by a university structure that is not critical of but complicit with the political structure? (Note the fate of those who dealt recently in controversial matter at Yale, the University of Chicago, and UCLA.)

(c) As an “educational officer” the teacher is required to show “appropriate restraint... when he speaks or writes as a citizen.” What “restraints” will be appropriate” in the eyes of a university structure with a vested interest in Dow and the CIA?

In sum, then: (1) The University assumes a political position by its mutual support for the social and economic system represented by Dow and CIA and is responsible for repression and exploitation at home and abroad; (2) it uses rules to protect the “normal activities of the university”—ostensibly in defense of individual rights—which are invoked only against effective interference with political stance; and (3) it invokes the name of academic freedom to defend not the intellectual activities of the academic community but the political position of the university structure, while denying in practice the openness implied by academic freedom.

The political position which the university has assumed is intolerable: we are bound in conscience to oppose it.

¹¹Kommers’ letter of 24 November was a response to the 19 November statement of the faculty “University Committee for Human Rights,” which supports us.

¹²In a statement on “Academic Freedom in a church-related Institution” circulated by the Notre Dame Charter of AAUP, Prof. John L. McKenzie, S.J., remarks in passing, “The college and the university cannot be an arm...of the government. If they are the arm of anything, they lose the academic freedom which makes it possible to pursue an communicate learning.”

By the remainder of what we say here today we hope to show those who have the responsibility of determining whether we are to be allowed to remain at Notre Dame that we have done nothing which is inconsistent with Notre Dame as a academic community or Notre Dame as a Christian community. Even stronger than this— it is our purpose to show that what we have done is totally productive of the ends of both communities. No, let us go one step further and say from the innermost depths of our consciences that if we did not do what we did we would have been complicit in the destruction of the University of Notre Dame as an academic community and as a Christian community.

Now there is no one, in or out of the university scene today, who would seriously propose that students who demonstrate against individual industrial companies, e.g., Dow Chemical, have as their ultimate purpose the destruction of the company qua company. Since the first protest against Dow at Brown University in January, 1967, the avowed purpose of these demonstrations has been to allow the university administration to perceive that they are actively and unnecessarily cooperating with outside agencies which are in direct opposition to university interest and in direct opposition to the general interest and well-being of humanity. In passing it should be noted that if this University's administration had respected the desires of the student community as manifested in the Student Senate resolution, which would have allowed open discussion with any recruiters who were allowed to use university facilities, the present demonstration would not have occurred. We mention this in passing in order to raise the question of who was the cause of the occurrence of the present demonstration— those students who found it necessary to demonstrate because the administration arrogantly dismissed a reasonable student body request for a means of rational persuasion, or those individuals in the administration who through malice or incompetence defied the Student Senate's Resolution? We mention this not because we wish to hang our hat on some ancillary issue but in order to explicitly raise the serious problem which exists at all levels in the University as well as in our society in general, that is, the total injustice of X punishing Y for a failure for which X is primarily responsible. Indeed we feel that in our present situation not only was the administration the primary cause for the demonstration by blatant defiance of the Student Senate resolution but that they were equally a cause of the demonstration by their continual refusal to engage in a genuine dialogue which would encourage the use of rational persuasion. For the most part those in power at this University have engaged only in a benign monologue in which they listen to us in abashed and grateful awe. This is a necessary activity for preserving one's power. This is a cause; it is not of our making—yet we are expected to suffer. We are being prosecuted and persecuted by the perpetrators of the "crime" much as the criminals of 127th Street are punished for their crimes by the "law and order" respected citizen of Wall Street and Madison Avenue.

Authority, secular or Christian, should be obeyed. This is only a rational and reasonable attitude of mind. However, authority in a Christian community by a secular community is more than a policy of "might makes right" hidden behind an esoteric philosophy or, in the case of a university, an educational theory that can only be perceived by those whose interest is being served! Authority by definition is the moral use of power and therefore obedience to authority is morally good and disobedience to authority morally bad. But authority exists in a society for a society; it therefore loses its moral base when it exercises what power it has in a fashion which deviates from the ends of society. When authority acts toward the ends of a community (Christian or secular) it has a moral base and disobedience attacks both the society and the ends of the society. But when authority acts in opposition to the end of a society (Christian or secular), then disobedience becomes not only a right but a duty owed to the community.

The immoral use of power, the non-authoritative use of power corrupts not only the man who uses it but the man who obeys. Complicity in immorality is hardly the way to holiness or to humanness—regardless of what the "silent Majority" doesn't say.

It is our contention that the manner in which the now famous 15-minute rule was promulgated and the manner in which it was applied in the instance of the Dow-CIA demonstration of November 18 is totally inconsistent with the ends of an academic community and a Christian community. We know that the President of Notre Dame, Theodore Hesburgh, will ultimately make the decision as regards our membership in this community. We therefore are directing all our comments to him in order to help him truly meditate and reflect on the humanness and holiness of his “15 minute rule” and the humanness and holiness of its application in this instance.

Father Hesburgh, in your letter of February 17, 1969, you quote in the most favorable context another unnamed university president who said “who wants to dialogue when they are going for the jugular vein?” Pages of exegesis would barely suffice to untangle the explicit and implicit jungle mythology of such an attitude. The statement does not become any less dreadful when adopted by the president of a Christian university. (It was originally made by the president of a secular university) That it smacks of something other Spirit of Christ Crucified and the spirit of the early Christian martyrs almost need not be said. That it is the product of a moral system that has been devised as if the Incarnation had not occurred needs most emphatically to be said. That it cannot be adopted by a Christian or by a Christian university also needs to be emphatically proclaimed. The spirit of your letter is the spirit of the above-quoted statement. We call upon you as a fellow Christian and as President of our University to disclaim that statement and to disclaim that spirit.

If there was ever a sign to show a Christian that his stance is inconsistent with Christianity, it was the “total” public acceptance of your letter. Public morality is not Christian. Public ethic as well as the ethics of your letter of survival. The supreme good of the University of Notre Dame as stated in your letter is that it continue to exist. This means that no other goods can be maintained if the “good” of survival is threatened. We suggest that if the University of Notre Dame is to continue to exist as a Christian university that it subject its decision to the test of the Gospel of the Prince of Peace and not some quasi-Promethean ethic based on self sufficiency. There is no moral action in Christian life except the act of Christian love, and there is a direct antithesis between Christian love and the ethics of survival or self maintenance. There is an antithesis between the ethics of survival and the Sermon on the Mount. The rational ethic of survival does not turn the other cheek; it does not walk two miles when forced to walk one; it does not give the tunic when the mantle is taken; it does not love its enemies. Love, not law is the basis of the constitution of the Christian community; if love fails, law is no substitute. Christian love fails only when I refuse to love. It is an undeniable “fact of Christian life” that justice under law is compatible with hatred. Laws governing individual conduct as composed by the president of a corporation and approved by the Board of Trustees of a corporation are something which a Christian community can totally do without. In fact, this “fly by night” law-making of a few is totally inconsistent with not only the ends of a Christian community but also with the end of a highly intelligent university community.

“Authority cannot coerce or compel the Christian to fulfill his destiny. It cannot by an imposition of its will command love. What authority can do is to, show the Christian what Christian life is and move the Christian to desire that fashion of life... Authority will do this not by control but by proclamation of the gospel...Proclamation by action (active love in the spirit of the life of Jesus Christ) is true leadership.”¹³

“The story of the temptation of Jesus touches upon our problem. Only Matthew and Luke have the story of the three temptations and the order of the three temptations differs in the two Gospels. The offer of power over the kingdoms of the world is placed third (and presumably in the climatic position) by Matthew (4:8-10)second by Luke (4:5-9). Jesus rejects the offer with a quotation from Deuteronomy 6:13 in which it is commanded that worship to Yahweh alone. Certainly the story means that secular power is not to be

¹³Authority in the Church, John L. McKenzie, S.J., Sheed and Ward, 1966.

acquired at the price of the worship of Satan; but we do grasp the import of the story fully if we think that only wrong with the offer of secular power is that it came from Satan? In the New Testament “the world” in the pejorative sense is the realm of the power and the authority of Satan; the reign God is opposed to this power, and the struggle between the two reigns is constant and deadly. St. Ignatius Loyola made this the theme of the meditation on Two Standards in the Spiritual Exercises Like most Christian interpreters from early times, St. Ignatius did not question the implicit assertion in the temptation narrative that secular power is Satan’s to give. The offer is not rejected because Satan is unable to deliver what he promises; it is rejected because the use of secular power is hostile to his mission.¹⁴

“Luke alone (12:13-14) has preserved a saying in which Jesus refuses a request to act as arbiter in a dispute of two brothers over the inheritance. The refusal is brusque; Jesus asks who has constituted him judge or arbiter. This was the type of problem which the scribes solve professionally; it is a legal problem with moral aspects. Yet Jesus will not touch it. He disclaims interest or competence in secular disputes. He will not take that position which the scribes occupied in the Jewish community, because this position entitled the scribes to make personal decisions which belonged to others. The disputants able to settle the dispute themselves. A solution imposed from outside would have been no solution.”¹⁵

The Jewish community furnishes no model of authoritarian structure either. The discourse of Matthew 23 sums up most of the animadversions of Jesus upon Jewish leadership. He tells the disciples to do as the scribes and Pharisees say, but not as they do—which is as complete a condemnation of authority has ever been compressed into a single sentence. They lay heavy obligations others which they themselves will not bear. They love vain display and the recognition of their authority. They are obstacles to those who wish to enter the reign of God. They are casuists who evade sacred obligations’ by verbal hairsplitting. They lay Great stress on the trivial, and neglect the vital, duties which involve persons.¹⁶

Jesus left no direction on how Christian community should be governed; he only left directions on how it should not be governed, i.e. not according to the model secular power, the corporation model in our time. This is only important if we want to be a Christian university (96% Catholic undergraduate population plus the plethora of Proclamations that we are indeed a Christian university, would lead to one to the conclusion that we want to be one). But by definition a Christian university is radically different from all other kinds of community.

“There is scarcely any point in the New Testament which is less ambiguous than the proposition that the Christian life of the members of the Church is achieved through the personal decision of each member. No one, neither those in authority nor anyone else, can make this decision for another. The Christian realizes his destiny as a Christian because he wills it, not because someone else has willed it for him,

But the Christian cannot achieve his Christian destiny by himself, for the fulfilment of the Christian life is simply beyond the powers of nature, One is enabled to live as a Christian by his incorporation in Christ. This means that he achieves his personal destiny in and with the community of the Church; each member assists the other members, and each member has it within his power to make it difficult for other members to realize their destiny. Jesus spoke severely of scandal.¹⁷

Finally, one need not worry about a Christian university collapsing into anarchy without a hard core legislative program, if it remains organized about it’s true center—Christian love infused by the dwelling of the Holy Spirit.

¹⁴Ibid., p.28.

¹⁵Ibid., p. 29.

¹⁶Ibid., p. 31.

¹⁷Ibid., p. 91.

If one is excommunicated from a Christian or academic community it should be because he is not living in consistency with the ends of those communities. It is our position that our action of November 18 was totally consistent with the end of a Christian community as well as the end of the academic community, and therefore we should not be excommunicated.

As regarding the Christian community, the standard for excommunication is that one no longer wishes to live individually and collectively in the spirit of the life of Jesus Christ; i.e. he no longer desires to be a Christian. We emphatically state that we were trying to live in the spirit of the life of Christ. We firmly and unequivocally state that his spirit was and is our motivation. We ask all those who will be involved in judging us—each member of this appeals court as well as Fr. Riegle, Fr. Hesburgh and whoever else in the administration will be involved with determining whether we are to be excommunicated—to read the following material:

The Power and the Wisdom, John L. McKenzie, S.J., Chapters 11 and 12

Authority in the Church, McKenzie, Preface, Introduction, Chapters 1, 7,9,11,13.

The Politics of Protest, President's Commission on the Causes and Prevention of Violence, Chapters II and III.

Faith and Violence, Thomas Merton, Part I and II.

The Non-Violent Cross, James Douglass, Chapters 1, 2, 3 and 8

in order to determine if our motivation or judgement was consistent with the end of a Christian university. Our university careers three of four years are on the line. Please do not just read this material—study it—reflect on it—pray for it. For if we were consistent with this community's ends, then you possess no authority to dismiss us from this Christian community! If upon reading this material you feel that we were not acting in good faith and consistent with the spirit of Jesus Christ, that we were not acting consistent with the ends of this community, than we want you to feel free to excommunicate us.

Michael Bresnahan

Christopher Cotter

Ronald P. Domingue

John Eckenrode

Mark J. Mahoney

Brian McInerny

Jim Metzger

John R. Molitor

Edward Roickle

John P. Wiltz

Addendum 1

Statement of the University Committee for Human Rights.

“The authorities of the University of Notre Dame must understand that the fundamental and political issues of our time will continually be presented on this campus so long as the University recruits students and employs personnel who take the ideals to which the University is dedicated. The events of the last twenty-four hours presents these fundamental issues in an inescapable way. Accordingly, we would like to make the following points:

1) We deplore this university’s subservience to the political and economic system represented by the Dow Chemical Corporation and the Central Intelligence Agency. We Content that this subservience is the central point at issue in the demonstrations.

2) The Administration have refused to consider the impropriety of allowing organizations engaged in the sale and export of death and repression to recruit Notre Dame student—with the complete cooperation of the University. They have ignored a Student Senate resolution on the subject of open recruitment, thereby subverting the “proper channels” and calling into question the value of “non-disruptive” procedures when a substantive political and economic issue is at stake. Consequently, they have forced undergraduates and faculty members into direct action to prevent this abuse of a self-proclaimed “Christian” university. Neither an injunction nor the summoning of police nor other forms of repressive action can obscure the moral and political issues involved.

3) We therefore call upon the President of the University to end university sponsored recruitment, to quash all civil and university proceedings against participant demonstrations, and to begin the reform of the University to oppose rather than to serve the outrages perpetrated by our society at home and abroad.

In support on these points and to manifest our continuing concern for the principles they involve, we, the undersigned members of the faculty of the University committee, hereby form a permanent organization, the University Committee for Human Rights. We invite other members of the Notre Dame community to join with us in defending and advancing this continuing concern.”