Analysis
of Amended Substitute House Bill No. 1219
1970th Ohio General Assembly
Effective September 16, 1970

This new legislation vitally affects the operation of colleges and universities in Ohio, and particularly the operation of all state-assisted colleges and universities.

First, a new Section 2923.61 is added to the criminal code of the State of Ohio under the heading of "Offenses Against Society." The new section of the Revised Code specifies that no person, in circumstances "which create a substantial risk of disrupting the orderly conduct of lawful activities at a college or university" shall wilfully or knowingly engage in the following activities:

a. Enter upon the land or buildings of a college or university without permission to do so or refuse to leave such land or buildings upon request of proper authority.

b. Violate any restriction on access, curfew, or restriction on assembly imposed during a state of emergency declared by the board of trustees or by the president of a college or university.

c. Engage in conduct which urges or incites others to violate any restriction upon access to a campus or to refuse to leave a campus or building of a college or university.
d. Wilfully or knowingly, with force or violence, disrupt the orderly conduct of the lawful activities of a college or university, or engage in conduct which threatens or involves serious injury to persons or property at a college or university.

Violation of this new section establishing the criminal offense of campus disruption is a misdemeanor subject upon conviction to a fine of not more than $100 or imprisonment for not more than 30 days, or both, for a first offense, and for subsequent offense a fine of not more than $500, or imprisonment for not more than 6 months, or both.

It appears that this new section of criminal law applies to offenses on any college or university campus, public or private.

State of Emergency at Public Institutions

A new Section 3345.26 of the Revised Code authorizes the board of trustees or the president of a college or university receiving state funds to declare a State of Emergency when there is a clear and present danger of disruption of the orderly conduct of the lawful activities of the institution through riot, mob action, or other substantial disorder.

In order to preserve order and discipline at a college or university during the period of emergency, the board of
trustees or the president may take any or all of the following actions:

a. Limit access to university property and facilities
b. Impose a curfew
c. Restrict the right of assembly by groups of five or more persons
d. Provide "reasonable measures" to enforce these limitations

It is necessary that action to declare and enforce a state of emergency shall be posted or published in such manner as is reasonably calculated to reach all affected persons.

Offenses Subject to Special Procedure

Under a new Section 3345.23 of the Revised Code, several offenses which may be committed by a student, a faculty member, or a staff member are made subject to a special suspension and dismissal procedure. It is important that the criminal offenses subject to this special procedure be clearly understood. The offenses involved are these:

Section 2901.19 Maiming or disfiguring a person
Section 2901.23 Intentional shooting, cutting, or stabbing
Section 2901.25 Assault and battery and making menacing threats
Section 2901.252 Assault and battery upon law enforcement officers and firemen

Section 2907.02 Arson

Section 2907.021 Manufacture, distribution, and possession of fire bombs

Section 2907.05 Burning property of another person

Section 2907.06 Attempt to burn property

Section 2907.08 Malicious injury to property

Section 2907.082 Intentional injury or damage to public or private property

Section 2901.01 Malicious destruction of property

Section 2909.09 Injury to or committing nuisance in buildings

Section 2909.24 Destruction of public utility fixtures

Section 2923.01 Carrying of firearm or similar weapon

Section 2923.012 Carrying other concealed weapons

Section 2923.43 Interference with authorized persons at emergency scenes

Section 2923.52 Second degree riot

Section 2923.53 First degree riot

Section 2923.54 Inciting to riot

Section 2923.61 Campus disruption

Special Procedure for Suspension

A student, faculty member, or staff member of a public college or university arrested for any one of the offenses
listed above shall be afforded a hearing to determine whether or not he shall be immediately suspended from the college or university. This hearing must be held within five days after arrest. There may be reasonable continuances for good cause shown, not to exceed a total of ten days.

The hearing shall be held in the county where the college or university is located by a referee appointed by the Ohio Board of Regents. The referee must be an attorney admitted to the practice of law in Ohio and may not be attorney for or a faculty or staff member of any college or university. Immediate notice of the time and place of the hearing must be given to the arrested person.

The referee may administer oaths, issue subpoenas to compel the attendance of witnesses and the production of evidence, and shall preserve order and decorum of the proceedings by means of contempt proceedings in the court of common pleas.

The hearing shall be adversary in nature and shall be fairly conducted, but the formalities of the criminal process are not required. The accused may be represented by counsel but counsel need not be furnished him. The accused may cross-examine witnesses and present witnesses or evidence in his own behalf. In the absence of a waiver of the right against self-incrimination, any testimony of an accused person may
not subsequently be used against him in any criminal proceeding.

The referee may bar any person whose presence is not essential to the proceeding from a hearing, except that members of the news media shall not be barred.

If the referee finds by a preponderance of the evidence that the arrested person did commit any one of the offenses listed above, the referee shall order the person suspended from the college or university. If the good order and discipline of the institution will not be prejudiced or compromised thereby, the referee may permit the suspended person to return to the college or university on terms of "strict disciplinary probation." Any subsequent violation of the terms of the probation means automatic suspension.

A suspension is in effect until a person is acquitted or convicted of the crime for which he was arrested. If a person is acquitted, or upon any final judicial determination not resulting in conviction, of the charges for which he was arrested, then his suspension is automatically terminated. The person shall be reinstated in good standing by the college or university, and the record of suspension shall be expunged from the institutional records.

A person afforded a hearing who does not appear at the hearing must be declared suspended by the referee.
The order of suspension by a referee is subject to appeal within 20 days on questions of law and of fact to the court of common pleas in the county where a public college or university is located. If the court determines that the good order and discipline of a college or university will not be prejudiced thereby, the court may permit the suspended person to return to the college or university campus on terms of strict disciplinary probation.

Dismissal Upon Conviction

Any student, faculty member, or staff member arrested for any one of the criminal offenses listed above is expected to be tried in a court of common pleas in accordance with the usual requirements of criminal procedure. Section 3345.23(E) of the Revised Code directs that criminal cases resulting from arrests for offenses listed above shall take precedence over all civil matters and proceedings and over all other criminal cases.

Upon conviction of a student, faculty member, or staff member for any one of the listed offenses, in addition to criminal penalties determined by the court, the individual must be dismissed from the college or university. The contract of a faculty member is terminated by such conviction. A notice of dismissal must be provided by the institution in writing.
and be dispatched by certified mail to the person's address shown in court and university records. The period of dismissal shall be from the date of suspension.

A student may not receive a degree, honors, course credit, grades, financial assistance, or wages while under suspension or dismissal. A faculty member or a staff member may not receive any salary or wages while under suspension or dismissal.

If conviction is reversed on appeal, the person involved shall be reinstated and the record of dismissal shall be expunged.

In the case of classified civil service employees of a college or university, disciplinary action for suspension and dismissal must be taken in accordance with civil service law and procedures.

A student dismissed from a public college or university for a criminal offense listed above may be considered for re-admission or admission at any Ohio public college or university upon the lapse of one calendar year following his dismissal. Such readmission or admission lies entirely within the discretion of the board of trustees and may be extended only upon terms of strict disciplinary probation.

A faculty or staff member dismissed from a private college or university may be re-employed by a public college or
university of Ohio, in the discretion of the board of trustees, only after the lapse of one full year following dismissal.

**General University Authority**

Section 3345.23 and Section 3345.24 of the Revised Code make it clear that colleges and universities must carry out the provisions of Sections 3345.22 and 3345.23. But these sections are not to be construed to limit the authority of boards of trustees, administrative officials, and the faculty of a college or university to take disciplinary action in accordance with the regulations and customary procedures of the institution. Nor are the provisions of Sections 3345.22 and 3345.23 of the Revised Code to be construed as limiting the authority of the board of trustees or the president of a college or university to provide for the summary dismissal of a student, faculty member, or staff member when necessary to preserve the good order and discipline of the institution, provided that the person is given notice of the suspension with the reasons therefore, and is afforded a fair and impartial hearing within a reasonable time thereafter.

Section 3345.24 explicitly declares that the duty and authority of a board of trustees or of a president to impose summary suspension shall not be abrogated or limited in any way by any rule or regulation.
Any student, faculty member, or staff member under suspension or dismissal may not enter or remain upon the land or premises of the college or university from which suspended or dismissed without the express permission of the board of trustees or of the president (Section 3345.25 of the Revised Code).

**Arrest**

Section 3345.22 of the Revised Code mentions arrest for any one of the enumerated offenses and refers to the arresting authority. Presumably the arresting authority may be campus special police as authorized by Section 3345.04 of the Revised Code, or any other duly authorized police officer of local government, county government, or state government concerned with the enforcement of state law.
Ohio State Disruptive Rule Called Unconstitutional in Court Suit

Five men have asked the U.S. District Court in Columbus to declare that Ohio State University's disruptive rules and hearing procedures are unconstitutional.

The five, all of whom were censured by the university after last spring's riot, held a press conference Thursday to explain their action.

THOSE FILING the suit were William Taft Kilgore of 444 N. Ohio Ave., Jerry Alan Roberts of 160 Norwich Ave., Paul Joseph Cook of 1710 Kenmore Rd., David Alan Sweet of 36 E. 11th Ave. and Roman Melnyk of 226 E. 10th Ave.

Kilgore said the university's disruptive rule is vague and that persons tried under the rule are denied rights guaranteed by the Constitution.

He explained the hearing officer and the prosecutor are both paid by the university and Vice President John Mount is the person who decides who is to be charged and also is the appeal officer.

KILGORE CHARGED that hearings sometimes are held while the defendant is absent.

Melnyk said the university uses the rule against political activists. He said more than 1,000 persons were arrested during the riot and only political activists were charged by the university.

Melnyk said he received a suspension and the conditions for his reinstatement were that he would not participate in any major extracurricular activities and would not be eligible for assistance loans.

AFTER THE spring disruption, Kilgore, Cook and Roberts were dismissed and Sweet and Melnyk were suspended.

The students said they also want the court to make the university exonerate any one

convicted under the disruptive rule.

Jerome Friedman, the newly elected president of the OSU student body, appeared at the press conference and said, "I will do everything to support these gentlemen."

MELNYK, SPEAKING for the plaintiffs, said he and the others were not opposed to a "fair and equitable disruptive rule at the university."

Named as defendants in the suit were President Novice Fawcett, the Board of Trustees, vice presidents Mount, Edward Moulton, Charles Gambs, hearing officers John Edwards, Larry Snyder and A. Charles Tell and prosecutors Huntington Carlile and Jacob Davis.

The plaintiffs said attorneys Ted Fisher of Columbus and William Kunstler of New York will represent them.
University officials face suit

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By ROBERT MILES

Claiming the University disruption rule and disciplinary hearing procedures are unconstitutional, five persons involved in last spring's demonstrations are suing University officials.

William Kilgore, Jerry Roberts, Paul Cook, Roman Melnyk and David Sweet filed a class action suit in federal court Thursday on behalf of themselves and "all Ohio State students who have faced or will face punishment under the disruption regulations."

The suit asks for both a temporary and permanent injunction to stop the University from enforcing the disruption rules and for a decree that the rules are unconstitutional. It also asks that plaintiffs be reinstated in the University and their records be cleared of any reference to their prosecutions.

Named as defendants in the suit are President Novice G. Fawcett; the Ohio State Board of Trustees; John T. Mount, vice-president for regional campuses and former vice-president for student affairs; Edward Q. Moulton, executive vice-president for administrative operations; John W. Edwards, Lawrence H. Snyder and Charles Tell, University hearing officers; Charles R. Gambs, Jr., University discipline officer; Huntington Carlisle, former legal counsel for the University; and Jacob Davis, Gov. Gilligan's newly appointed legal counsel for the University.

Kilgore, Roberts and Cook were dismissed from the University for a minimum of four academic quarters. Melnyk and Sweet were suspended for one quarter but both have now been reinstated.

Constitution violated?

The plaintiffs listed several areas in which they felt the University had violated the constitution at a press conference at the Neil House Thursday.

According to Melnyk, the disruption rules are vague and "place you in double jeopardy because you are tried both downtown and at the University." He charged evidence allowed at University hearings would not be admitted in a regular court.

"There is also a conflict of interest with hearing officers who are appointed and paid by the University," he said.

Cook, who was denied a continuance and did not appear at his University hearing, claimed hearings in absentia are unconstitutional.

"There was little or no evidence as to whether or not I was guilty, but because I did not attend I was found guilty," he said.

Plaintiffs make charges

Sweet said he views a lack of trial by jury as one of the main problems with the hearings and a violation of civil rights.

Kilgore charged that the hearings seem to be racist since blacks were dismissed while others who were found guilty were just suspended.

Melnyk also charged the disruption hearings were "political prosecution.

"About 1,100 people were arrested last spring," he said, "but the only ones brought up before the hearing officer were those who were politically active such as the leaders of Afro-Am and the Third World Solidarity Committee.

"Even though I have been reinstated in the University I cannot participate in any major political activities or receive any financial aid," Melnyk said.

Melnyk disqualified

Melnyk was Jerome Friedman's vice-presidential candidate but was disqualified because he is on disciplinary probation. University rules prohibit persons on probation from participating in major campus activities.

President-elect Friedman also attended the press conference and said he thought the suit was "completely justified."

"Ohio and particularly Ohio State University have written their own laws for too long and it has to stop," he said.

"Melnyk was told there were right ways and wrong ways to do things," Friedman said, "but when he tried to do things through legitimate channels he got the door slammed on him."

Melnyk said he had nothing to gain by putting his name on the suit, but "I don't want my friends or brother or maybe in 20 years my kid to have this rule hanging over them."

Kuntsler on list

Among the list of counsel for the suit was Chicago Seven attorney William Kuntsler, who provided the defense at the disciplinary hearing of Ronald Cade, a senior from Akron, in October.

According to Sweet, Kuntsler was more than willing to be involved in the case and "has offered us the use of all of his resources."

When contacted, Fawcett said he had received no notice of the suit, but that "if they (plaintiffs) think the rules are unconstitutional, the matter would have to be resolved in the courts."

Gambs said he would not speculate on what a judge would decide on a pending case but agreed the matter would have to go to court.

Mount and Moulton were unavailable for comment.

Kilgore said, "We hope the court will respond with all due haste," but he could not predict when action would be taken on the suit.
Court recommended for disruption cases

By SUE GILLER  
S-6-71

A student-faculty court system recommended by the committee on disruption hearings is expected to be discussed at the Faculty Council meeting Tuesday.

The recommended University court system would handle all possible disruption cases and "make every effort to avoid sending such cases to municipal and state courts," the report said. It would consist of hearing officers, appointed by the Council on Student Affairs (CSA) and a hearing panel of three faculty members and three students chosen at random.

CSA would also be responsible for appointing a student advocate, who would arrange legal counsel for any student facing the procedure, according to the report.

Eliminate double jeopardy

The report also recommended "whenever a criminal court exercises jurisdiction, the University shall not exercise jurisdiction, except in extraordinary cases, where there is a clear and present danger."

Robert Solomon, a senior from Columbus and the only student member of the five man committee, said separating the authorities is an attempt to prevent putting a student in "double jeopardy."

In the case of "clear and present danger," the student may only be put on disciplinary probation, the conditions of which are specified by the hearing officer, "until the danger no longer exists."

The report also recommends an appeal process with the cases reviewed by the Chief Hearing Officer.

Old disciplines dead

The report stated the present University role in the enforcement of discipline is unsatisfactory. "The paternalism of the past is discredited; the principles of "in loco parentis" is dead; the formal hearing in the Dean's office is no longer adequate," it stated.

Solomon said the administration's appointment of the prosecutor as well as the hearing officer is not favored by today's student.

The committee was established in March following a request from CSA to investigate present disciplinary procedures.

Reginald Jackson, a professional student from Toledo, proposed the investigation because the disruption rules and procedures disturbed both faculty and students.

The committee met twice weekly, in closed sessions and open hearings, interviewing administration, faculty and students involved in the procedure, according to R. Clayton Roberts, professor of history and committee chairman.

Define disruption

Included in the report was a recommendation for Faculty Council to establish another committee to rework disruption rule, 51.03 and 51.05, to clearly spell out what will constitute disruption.

The major complaint of several committee witnesses was the charges were vague. "Students should not be faced with a disruption rule, the language of which can be stretched to punish actions which are not regarded as disruptive," the report said.

The report also recommends that a set of rules be established that would have to be followed in disciplinary procedures. The rules would include notification of the hearing, right to know witnesses' identities and the right to subpoena witnesses.
Student guilty under disruption rule

By Ellen Gardner
S-15-71

An Ohio Board of Regents referee released Tuesday the finding and order of the first case to be heard this year under House Bill 1219 (HB 1219), more commonly known as the campus disruption law.

Terry L. Miller, a freshman from Cleveland, was found guilty by the referee of aggravated menacing charges stemming from his arrest on April 26 by the Department of Public Safety.

Aggravated menacing is listed as a trigger offense in the Ohio Revised Code which makes a suspect subject to academic discipline. In the form of a hearing and ruling by a referee appointed by the Board of Regents, as well as criminal proceedings by the court.

Hearing date moved

The hearing was scheduled within five days of the arrest, as specified in the disruption law, but was moved to May 2, to "make certain" Miller received official notice of the hearing date, the report said.

The hearing was again rescheduled after Miller requested a further continuance "so that he might seek legal counsel," and the date was set for May 8, the report explained.

Thomas Palmer, the appointed referee, stated that a third continuance requested by Miller was denied because it was not "for good cause shown." Miller said he needed more time to secure an attorney, but the report stated Miller had been given reasonable time to do so.

The hearing consisted of testimony from the complainant, the University, presented by Charles R. Gambus, Jr., assistant to the vice president of business administration.

Began April 22

Palmer said the case involved a series of events occurring the week of April 22 where the complainant charged that she had to seek aid in removing Miller from her dormitory room and received menacing telephone calls. She later was threatened by Miller with an "open knife" and had dirt and ones thrown at her by Miller.

"Accordingly, I find by a preponderance of the evidence presented at the hearing that Terry L. Miller did knowingly cause (the complainant), to believe that he would cause serious physical harm to her person or property and therefore committed the offense of 'Aggravated Menacing' as defined by Section 2903.21, of the Ohio Revised Code," Palmer concluded.

Palmer then placed Miller on "strict disciplinary probation" pending the outcome of the Franklin County Municipal Court's ruling at an undetermined date.

On probation

The terms of the disciplinary probation state that Miller shall not enter Morrill Tower (residence of the complainant and place where the incidents were said to have occurred).

The probation ruling also said Miller shall not call or write to her, cause anyone on his behalf to contact her, directly or indirectly threaten or intimidate her, touch in any manner her person or property, attend any function (except a registered University class) where she is present or discuss the incident or hearing with anyone not an attorney, officer or official of the court.

Palmer said that any violation of these conditions would result in suspension of Miller as outlined in the disruption law.

The probation will continue until the acquittal or other judicial determination not resulting in a conviction of Miller on the charge, Palmer added.

Should Miller be convicted of the charge in Municipal Court, he will be automatically dismissed from the University as outlined in the disruption law.

With the implementation of the new criminal code (House Bill 511) on January 1, a host of offenses were included as "trigger offenses" which cause action by the Board of Regents under the disruption law.

Trigger offenses

Besides aggravated menacing, the list includes aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, extortion, rape, sexual battery, aggravated arson, arson, disrupting public services, vandalism, aggravated robbery, robbery, aggravated burglary, burglary, inciting to violence, aggravated riot, riot, inducing panic, intimidation, escape, aiding escape, carrying concealed weapons and having weapons while under disability.

Further provisions in the law state that these crimes must occur on or affect the campus to be responsible to the Board of Regents action.

Before the enactment of HB 1219 in September, 1970, the list of offenses triggering the law was even more extensive.

Eric R. Gilbertson, a special assistant to President Harold L. Enarson and former Ohio Assistant attorney general, said the list cited such things as theft.

"It's my understanding that there was a effort made by some of the state universit presidents to try to reduce the number and type of offenses listed in the bill," he said.

Although some of the offenses were dropped from the disruption law, the new Ohio Criminal Code which went into effect Jan. 1 states that any offense listed in the Ohio Revised Code, or any offense "substantially equivalent" to those offenses in municipal ordinances or other state law may also trigger disruption law action.

Gilbertson explained that the previous criminal code did not include the municipal ordinances, and only persons arrested under those Ohio Revised Code regulation were affected by the disruption law.
Reviews Proposed In OSU Disruptions

By RON ISHOY

Ohio State University students found guilty by the University of causing disruption during last year's turmoil will be eligible for a review of their cases if the Board of Trustees approves a Faculty Council proposal.

Each case would be reviewed, if a convicted student wishes, under a new system of hearing officers and panelsists worked out by the council during three days of debate.

THE REVIEW recommendation was proposed by economics professor Herbert Parnes. It, along with a revised disruption report, now goes to the council's rules committee then back to the entire council for approval.

Vice president for academic affairs James Robinson told the council the report, originally compiled by the Committee on the Disruption Hearings, will then be presented to university attorneys for a legality ruling.

Robinson said the proposal probably would not be presented at the June meeting of the Board of Trustees because of time needed for all considerations.

ALSO PASSED during Monday's meeting were provisions that a student legal referral service be set up through the Council on Student Affairs, that a student not be deprived of university-sponsored financial aid or employment unless convicted of disruption in university hearings; and that a student be informed immediately of any decision of the hearing panel in his case.

Clayton Roberts, professor of history who chaired the disruption committee, said he was pleased with the acceptance of the revised report, but he would not predict its success before the trustees.

Other provisions of the Roberts' report stipulate that:

- The university promptly and in writing inform a student of any charges against him.
- The right of a student to know the prosecution's witnesses and have access to any evidence in the possession of the prosecution.
- A student charged by non-university police not be tried for the same crime in university hearings.
- Student cases be heard by hearing panels including three students, two faculty members and an administrator.
- A resolution by former undergraduate student body president Stephen P. Kling that all currently suspended or expelled students be readmitted to the university in good standing was soundly defeated.

Roberts' report states that the 22 students found guilty in university hearings following last year's disturbances received suspensions of from one to three quarters.

The report, which took nearly six weeks to prepare, Roberts said, showed there were approximately 95 potential cases of disruption. Eighty-two of those came from arrests on campus areas according to the report.

The university also heard a report on Donald Hanna, university director of public safety, on the reorganization of the university police department since he took over last fall.

Several proposals by student members of Faculty Council were withdrawn until the June meeting, including a resolution asking for the deletion of the "teaching the technology of killing" in the ROTC curriculum.

Campus Unrest Law Restudied

The chief sponsor of Ohio's campus unrest law, said Friday the legislature will study amendments to clarify the law and to expand it into the areas of elementary and secondary school disturbances.

State Rep. Richard Reichel, R-Massillon, referred to the dismissal Thursday of charges filed under the law against Charles Ross, director of black studies at Ohio State University.

REICHEL said the decision of Thomas E. Palmer, referee, was "very judicial and well reasoned."

The Stark County lawmaker said it was the "intent of the sponsors to deal with campus disruptions. We intended for the law to apply to property adjacent to universities but the bill is unclear when you get to localities quite removed from the universities."

He emphasized that this was the first case under House Bill 1219 that involved an off-campus situation. He also said it marked only the third acquittal in many cases.

REICHEL commented, "The decision should convince students and faculty members they will obtain a fair hearing under the law."
Laws enforced in riots

By Mark Bollinson

Laws that are not normally enforced are enforced during riotous situations, according to Gary R. Wilson, assistant director of the department of public safety.

The minor charges that have been particularly discussed are the harassment charges, such as wearing a mask in a riotous situation and displaying a black flag. Both are violations of state law.

The black flag has been noted as symbolic of anarchic society. "This is against Ohio Revised Code 2921.07," Wilson said. "The code states that carrying or displaying a red or black flag of an anarchistic society or faction shall not be permitted."

Wilson also said that 3761.12 of the Ohio Revised Code prohibits the wearing of a mask in a riotous situation. The article states that no person shall unite with two or more persons to commit a misdemeanor while wearing white caps, masks or other disguises.

Wilson admitted that simply because a person is wearing a mask is "not to say that he would be intent on committing an illegal act." However, Wilson still feels that the law is validly enforced.

According to Frank Titus, community relations officer, "Concealing of identity is critical. Why would they wish to disguise their identity unless they are participating in an illegal act?"

Wilson said that anyone could be legally arrested at any time for violation of either of these two acts. However, in most cases the violators "probably came to the attention of the arresting officer for some other reason first."

Wilson said that neither of the arrests are forms of harassment. These acts are usually committed only during a riotous situation and are most often enforced at that time, he added.

"As far as legality goes, they are valid. Some people consider charges of second degree rioting as harassment," Titus said.

Titus feels that people are unhappy with these acts because they are not aware of their existence.

Neither of these charges are found in House Bill 1219. The bill requires that a "stipulated offense" be committed before a person can be brought before a hearing. Some of the 22 stipulated offenses that apply are: manufacturing or possession of firebombs, malicious destruction of private property, carrying of a concealed weapon and inciting to riot.

Committee defines disruption terms

Four important terms in the proposed disruption rule introduced Oct. 12 in Faculty Council have been defined in an interim report of the committee writing the rule.

The new disruption rule, which emphasizes the "intent" of the offender, will be introduced at Faculty Council's next meeting in November, according to Charles W. McLarmont, secretary to Faculty Council.

The proposed rule deals with seven major forms of unlawful obstruction, occupancy, interference, violence and damage committed by persons "with the intent to disrupt authorized University activities."

The four terms and the definitions given by the committee chaired by R. Clayton Roberts, professor of history:

- "The phrase 'with an intent to disrupt' shall be taken to mean that a person knows or reasonably should know that his act or acts will have the consequence of preventing others from carrying out University-authorized activities."
- "The phrase 'to obstruct' shall be taken to mean making the movement of a person or vehicle from one place to another difficult or impossible; it shall not be taken to mean making that movement inconvenient."
- "The phrase 'University-authorized activity' shall be taken to mean any activity that the University either sponsors or permits to be carried out on the campus or in any University building or facility."
- "The phrase 'an authorized University official' shall mean any person (whether faculty member, staff, or student) to whom the University has delegated authority to superintend that building or facility, or any part of that building or facility."
Campus disruption law widens Jan. 1

By R. Michael Kerr

Ohio's campus disruption law, upheld as constitutional last week in Columbus by a U.S. District Court, will be broadened, effective Jan. 1.

The expansion could result in students, faculty or staff of state-supported universities being dismissed for one year if found guilty of such misdemeanors as burglary, assault or intimidation.

The disruption law, House Bill 1219, was enacted in September 1970 as a response to disruptive activities at colleges, Donald G. Hanna, director of the University Department of Public Safety, said.

The present law provides for immediate suspension or dismissal for one year of students, faculty, staff or employees of state-supported universities found guilty of any of a number of "crimes of offensive violence."

A student "in a 1219 situation" may face double punishment for the offense — academic discipline and criminal proceedings.

The present disruption law will be broadened Jan. 1 as a result of legislation approved by Ohio lawmakers last December. That legislation, House Bill 511, the first complete revision of the criminal code since 1815, according to State Rep. Alan E. Norris (R-Westerville), the bill's sponsor.

The revised criminal code will increase the number of "crimes of violence" which can trigger the academic disciplinary action of the disruption measure from 21 to 31 offenses, Hanna said.

Norris said the revised criminal code law also "closed a very obvious loophole" in 1219.

The loophole existed because a University police officer could determine whether a student charged with one of the crimes enumerated in 1219 would be subject to the application of the disruption law, Norris explained.

The disruption law could be invoked only if charges applying state statutes were filed against the student. Since several city ordinances overlap state laws, by charging a student with violation of the city ordinance, an officer could, in effect, save the student from possible dismissal for one year.

Violation of both state statutes and city ordinances which fall under charges spelled out in 1219 will "require officers to file the case as a 1219," Hanna said. "The law places certain mandatory responsibilities on police."

"The campus disruption law was originally tailored to include those offenses of violence associated with riotous activities," said Frank Titus, community relations officer for the Department of Public Safety.

Offenses falling under the expanded version of 1219 include murder, manslaughter, menacing, abduction and aiding escape, along with riot and several other offenses.

Both Titus and Hanna said there would be an increase in the number of cases filed under the disruption measure, because many offenses other than those associated with riots will be covered by 1219.

"If two students get into a heated argument and one student files charges, it is possible the student could be charged with 'menacing threats' under the expanded 1219, and, if found guilty, dismissed from school," Titus said.

Charles R. Gambis Jr., University discipline officer and one of those responsible for administering 1219 cases, outlined the procedure for filing a disruption case:

- Police arrest a student, faculty or staff member, or employee of a state-supported university on one of the 1219 enumerated offenses;
- Police then must notify the president of the university;
- The university president must notify the Board of Regents;
- The Board of Regents must appoint a referee for the case; and,
- The referee conducts a hearing within five days of the arrest to determine by a preponderance of evidence whether the person is guilty.

"If the person is found guilty by the referee, he is temporarily suspended by the University, pending the outcome of the criminal proceedings," Gambis said. "The student must then be found guilty in criminal action in order for the referee's decision to stick and the student dismissed for one year."

"The Board of Regents' decision is not permanent. If in the criminal proceedings the suspect is found to be innocent, the suspension is dropped from the student's academic record, and the one year dismissal is forgotten."

However, criminal proceedings usually do not occur shortly after the arrest, meaning a student could be forced out of school through suspension, only to be found innocent of disruption charges.
Ohio court rejects disruption rule case

By Charles R. Parsley

The Supreme Court Monday rejected a plea from former students and faculty members of Ohio State schools to rule on the constitutionality of House Bill 1219 (HB 1219).

The plaintiffs challenged the state law, enacted in the wake of the Kent State University killings in May 1970, on grounds they were expelled from school without adequate hearings, according to wire reports.

The pleas involved two cases, one stemming from arrests May 10, 1972 in connection with a demonstration at Ohio University and the other from a May 18, 1972 incident at Ohio State.

A suit was filed in the U.S. District Court of Columbus in May 1972 by the American Civil Liberties Union of Ohio (ACLU) challenging the constitutionality of HB 1219, according to Benson Wolman, executive director of the ACLU.

The three-member court would not rule on the constitutionality of the law because all but one of the cases were "mute" the criminal cases of the plaintiffs were completed and their suspensions had expired, according to Stanley K. Laughlin, Jr., the general counsel of the ACLU and the lawyer who directed the plea.

Court won't interfere

The one case which was not completed wasn't ruled on because a Federal Court won't interfere with the proceedings of a state court that is still in progress, Laughlin said.

When the Federal District Court turned down the plea during the summer of 1973, Laughlin filed the plea with the Supreme Court.

The Supreme Court did not rule on the law and in so doing it upheld the lower court ruling, Laughlin said.

Procedure explained

Laughlin explained the law which allows for suspension of University students, faculty and staff members as "a way in which someone in authority (with no clear definition of 'authority') can charge a member of the University under House Bill 1219, or under 22 other offenses ranging from second-degree riot to vandalism, with disruption of the campus."

"Within five to 10 days after the charge, a suspension hearing must be made in order to suspend the defendant," Laughlin said. "This occurs before the criminal trial."

After the criminal trial, if the defendant is found guilty and if the crime has been proven to have occurred on university property, the university can expel the student or remove the employee charged, Laughlin said.

In a case involving an Ohio State student, Ernie Seevers, a freshman from Columbus, this procedure was not followed, Laughlin said.

"Seevers was never given a suspension hearing," he said. "After he was convicted in criminal court he was suspended from the University.

"Seevers wasn't given an adequate hearing in his suspension case. Laughlin said, so his case was to be used as a test of the disruption rule, but it never reached the courts."

Earlier attempts made

The rule was also applied to the case of Charles Ross, a faculty member who was charged with interfering at the scene of an emergency at Linden-McKinley High School in May 1971, Laughlin said.

A suspension hearing was held for Ross, but the referee ruled he was not on University property at the time of his arrest, so he could not be suspended, he said.

Laughlin said he would continue to try to get a ruling on the disruption rule, but said he would have to have a "bonafide" case.

"Until we have another disruption case, there isn't much we can do," he said.
Debate surrounds riot bill

By David Pontius

Although Ohio Rep. Alah E. Norris (R-Westerville) claims the Revised Campus Disruption Bill provides for "uniform application," John Quigley, associate professor of law, said, "It constitutes triple jeopardy."

"First, a person is convicted in a criminal court; second, he is expelled from the University; and third, if he is a student, he loses all fees," Quigley explained.

Under the revised bill, any affiliate of a state-supported university or college convicted of an "act of violence," including rape, assault, burglary and riot, on or in the immediate vicinity of the institution is automatically dismissed for one year.

In the original Campus Disruption Bill enacted in 1967, dismissal resulted only from conviction on state charges.

Crucial change

"This is a crucial change. Previously it was not so. Policemen had the right to charge a person under a city code so he would not be expelled," Quigley said.

Norris, co-sponsor of the original bill, said the exclusion of expulsion under a municipal code was "a drafting oversight in the original bill."

"It (the change) has substance," Norris said. "Placing discretion on how the bill wa to be enforced was never intended. Now, there is uniform application. It is no longer left up to the whims of the arresting officer."

Even though campus police once had the option to "go easy" on students by indicting them on municipal rather than state charges, their operations "have not changed," said Donald Hanna, public safety director.

Hanna said campus police never let the possibility of a student's expulsion influence under which code an offender is charged.

No problems caused

The revised bill is "not causing us any particular problem as a law enforcement agency," Hanna said. "We'll live with it and enforce it. It's here to stay."

If a person is charged with an act of violence under the revised bill, a pre-trial hearing is conducted by an Ohio attorney appointed by the particular university's board of trustees, Quigley said.

The attorney must weigh the evidence and decide whether the person should be temporarily suspended until his trial comes up.

If suspended and then found innocent of the charges in a criminal court, he will be reinstated, he said.

Complaints urge stop to classroom smoking

By Candy Steinbach

Ohio State teachers and students are being asked by the Office of Academic Affairs to become their own enforcers of Rule 61.08 which prohibits smoking in classrooms.

The Board of Trustees' rule says, "The use of tobacco in any form in lecture rooms and libraries is prohibited; its use elsewhere on the campus shall be within the discretion of the president, who is authorized to issue instructions concerning such use."

Letter sent

In a letter sent to all faculty members and teaching associates, George P. Crepeau, associate provost for instruction, said, "The Office of Academic Affairs is receiving a growing number of serious complaints about smoking in classrooms. These complaints center on the important issues of health, individual rights, public safety, and an additional financial burden on University resources."

Crepeau said his letter is "spelling out in detail the intent of the rule to include laboratories and computer rooms where smoke may damage equipment."

However, it is not prohibiting smoking in offices, hallways or rooms designated for smoking, he added.

The complaints have come to Crepeau's office mostly by mail and from a variety of sources with a great many from students, he said.

"They have ranged from a two-sentence letter to a six-page handwritten letter which quoted public laws and everything in between," he said.

"There were a surprising number of them which dealt with how students felt about walking into a trashy classroom."

Because of smoking in classrooms, "there has been a good deal of extra work involved for the custodial staff, such as replacing parts of tile floors, and is an additional financial burden for the University," he said.

The letter to the faculty said, "In relatively closed environments — such as classrooms — those who smoke are, in effect, forcing everyone else to do the same. This is an infringement of individual rights, as well as a discourtesy."

Breathing is smoking

Crepeau said a person is actually smoking by breathing the smoke of others in a classroom.

"If a student objects to others smoking in class, he should say so to his professor," Crepeau said. "He should make his voice heard. I am positive that every teacher will listen and attempt to do something about the matter."

This letter is not the first of its kind, Crepeau said, because others have been sent.

He told the Lantern he hoped those who object to smoking know they have the support of his office.

"It is a plea from this office because signs really do not mean a lot," he said.
Disorder
Rules Set
By Board

By RALPH HAMMOCK
Lantern Staff Writer

New regulations dealing with disruption of University operations and formation of the University Committee on Discipline were adopted by the Board of Trustees Thursday.

The first of the new rules deals with group disruption and states that no student shall join with any other person and enter or remain in any University building without authorization after being requested to leave by a University official.

The rule also states that no student shall disrupt an authorized program, operation or function, or attempt to harm any University building.

Violators Expelled

Violation of the rule by a student may result in suspension from the University for not less than one quarter in addition to criminal prosecution by municipal, state or federal courts.

The second new rule establishes a University Committee on Discipline, composed of six members appointed by the president for terms of three years each, with two retiring each year.

The committee will be composed of four faculty members, one administration and one student.

Student Appeals

The function of the committee will be to hear appeals of student disciplinary cases when action has been taken either by an appropriate University official or by a student's college, a University committee or other authorized University body.

The committee also has the authority to order a temporary hearing and immediate suspension of a student after that hearing, pending a full hearing on the merits of the case.

The third rule adopted by the Board deals with individual disruption and authorizes the University Committee on Discipline to penalize a student, up to and including expulsion, for engaging in disruptive acts included in the first rule on group disruption.

The new rules are reportedly a result of the recent takeover of the Administration Building and the Black Student Union protests.
OSU policies limit protests

By Rachelle Cohen
Lantern staff writer

Students are encouraged to exercise their rights and show commitment against apartheid as long as they stay within the governing rules of the university, said Dean of Student Life Mitchel D. Livingston.

Today the Board of Trustees will be voting on the issue of divestment, Livingston said, and the administration does not want a repeat of the May 5 episode when the trustees were forced to adjourn due to student disruptions.

Livingston said students need to realize that they are breaking university policies if they impede or disrupt any university functions, including the trustee meeting.

The Ohio Disruption Act, the student code of conduct and the university faculty rules, all deal specifically with disruptions on campus.

Livingston stressed that these rules are not to stop demonstration and protest, only to halt disruptions that interfere with university functions.

The Ohio Disruption Act, also called House Bill 12.19, was created as a direct response the riots of 1970, said Charles Gambes, assistant vice president of public safety.

Those riots and protests forced the state to close several state universities, including OSU.

Gambes, who served as the university discipline officer from 1970-74, said the last time he recalls this act being enforced at OSU was in 1972, when students disruptively protested ROTC on campus.

Violation of the act results in both a university hearing and a criminal hearing. Violations of any of the three citations on disruption can result in dismissal from Ohio State.

At the last trustee meeting the university chose not to take action because they realized the issue is emotional and pertinent, Livingston said.

However, he added that students cannot continually break regulations without the university taking action.

Students United Against Apartheid will meet at Bricker Hall at noon and march to the meeting today, said Amy Reynolds, a graduate student from Youngstown.

"We plan to go and make our presence known, but we do not wish to disrupt the vote," Reynolds said. "We want the vote to happen before school ends."

If the trustees vote not to divest, Reynolds is certain the students will take action, but not sure in what direction.

"We've talked about everything from radical civil disobedience acts to a calm letter writing campaign," she said.

John Jenkins, a graduate student from Clarksdale, Miss., was adamant in saying that student action would not stop in the summer if the trustees voted to continue university investment.