December 3, 1973

MEMORANDUM

TO: Mr. Art Stowers

FROM: Charles E. Smith

Thank you for sending me a copy of the Missouri material relating to the Gay Lib hearing. I assume John Baugh has a copy of this information.

CES:ka

THE UNIVERSITY OF TENNESSEE

M E M O R A N D U M

TO: Mr Charles Smith

✓ For your information

_____ Please

ATTACHMENT:

FROM: Arthur B. Stowers, Jr.
Staff Attorney
203 Administration Building
Telephone: 974-3247

Date 11-30-73

THANK YOU.

NOV 3 0 1973

University of Missouri
COLUMBIA - KANSAS CITY - ROLLA - ST. LOUIS

227 University Hall
Columbia, Mo. 65201

OFFICE OF THE GENERAL COUNSEL

Telephone
314-882-3211

November 28, 1973

Mr. Arthur B. Stowers, Jr.
Staff Attorney
The University of Tennessee
Administration Building
Knoxville, Tennessee 37916

Dear Mr. Stowers:

I have your letter of November 26 requesting a copy of the findings of fact in our Gay Lib hearing.

Let me give you a little background. The "Gay Lib Organization" on the Columbia campus applied for recognition some time ago, and the "Gay People's Union" at the Kansas City campus also applied for recognition this past year. I think the facts about the handling of these applications are set out in the Hearing Officer's recommended findings of fact. When the matter was appealed to the Board of Curators, it was referred to what is known as our Academic Affairs Committee of the Board. Since there had been no full hearing prior to that time, we felt it best that there be an administrative hearing, and recommended to the Board Committee that it could either hear the case itself, or appoint a hearing officer. They appointed Judge Cullen Coil, an outstanding lawyer in Missouri and a past Commissioner of our Supreme Court, as Hearing Officer. Judge Coil held the hearings on two separate days, one in Columbia and one in Kansas City, which resulted in his findings of fact.

I am enclosing for your information a copy of his recommended findings of fact, as well as a copy of the resolution adopted by the Board of Curators at its meeting in November.

We have been advised that the ACLU will file suit on behalf of the "Gay Lib Organization" at the Columbia campus, but such suit has not yet been filed.

The ACLU lawyers, of course, are relying upon Healy v. James. We feel that we have perhaps gotten some new dimensions into this case which will be helpful. We were fortunate to get an outstanding psychiatrist by the name of Harold Voth from the Menninger Clinic in Topeka, Kansas, who did an outstanding job of testifying as to the nature and results of homosexuality.

If you have any other questions about this, or we can be of any further help to you please let me know.

Sincerely,

JACKSON A. WRIGHT
General Counsel

JAW:he

cc: Judge Coil

The Honorable Cullen Coil was appointed by the Academic Affairs Committee as Hearing Officer to take testimony and make findings of fact which were to be submitted to the Academic Affairs Committee concerning the appeals of two student organizations, namely, "Gay Lib Organization" at UMC and "Gay People's Union" at UMKC.

Hearings were held at Columbia on August 13, 1973, and at Kansas City on August 15, 1973. The Academic Affairs Committee is now in receipt of the Hearing Officer's Recommended Findings of Fact and the transcript of the testimony taken at the hearings.

After a careful review of the Recommended Findings of Fact and the transcript of the testimony, it was the unanimous decision of the Academic Affairs Committee that the following resolution be presented for the consideration and adoption of the full Board of Curators. The recommended resolution reads as follows:

> "Be it hereby resolved that the Board of Curators of the University of Missouri concurs with and hereby adopts the Hearing Officer's Recommended Findings of Fact made by the Honorable Cullen Coil and further makes the following specific findings of fact:
>
> 1. The gay lib movement as exemplified by the Gay Lib Organization at UMC and the Gay People's Union at UMKC is premised upon homosexuality being normal behavior, contrary to the further findings herein.
>
> 2. A homosexual is one who seeks to satisfy his or her sexual desires with one of his own sex by practicing some or all of the following: fellatio, cunnilingus, masturbation, anal eroticism and perhaps in other ways.
>
> 3. Homosexuality is a compulsive type of behavior.
>
> 4. There are potential or latent homosexuals,

i.e., persons who come into adolescence or young adulthood unaware that they have homosexual tendencies, but who have fears of sexual relations with a member of the opposite sex.

5. What happens to a latent or potential homosexual from the standpoint of his environment can cause him to become or not to become a homosexual.

6. That homosexuality is an illness and should and can be treated as such and is clearly abnormal behavior.

7. Certain homosexual practices violate provisions of Section 563.230 of the Revised Statues of Missouri.

8. That formal recognition by the University of either or both the proposed Gay Lib and Gay People's Union will:

(1) give a formal status to and tend to reinforce the personal identities of the homosexual members of those organizations and will perpetuate and expand an abnormal way of life, unless, contrary to their intention as stated in their written purposes, the homosexual members make a concerted effort to seek treatment, recognize homosexuality as abnormal and attempt to cease their homosexual practices.

(2) tend to cause latent or potential homosexuals who become members of either proposed organization to become overt homosexuals.

(3) tend to expand homosexual behavior which will cause increased violations of Section 563.230 of the Revised Statutes of Missouri.

(4) be undesirable insofar as homosexuals will counsel other homosexuals, i.e., the sick and abnormal counseling others who are similarly ill and abnormal.

(5) constitute an implied approval by the University of the abnormal homosexual life-style as a normal way of life and would be so understood by many students and other members of the public, even though and despite

the fact that, the University's regulations for student organizations provide that recognization of an organization by the University does not constitute approval or endorsement of the organization's aims or activities.

Therefore, based upon the Hearing Officer's Recommended Findings of Fact and the specific findings of fact set forth above, the Board of Curators affirms the decision of President C. Brice Ratchford denying the appeals of the "Gay Lib Organization" at UMC and the "Gay People's Union" at UMKC."

UNIVERSITY OF MISSOURI

IN THE MATTER OF THE APPEALS OF

GAY LIB
UNIVERSITY OF MISSOURI - COLUMBIA

August 13, 1973
Tate Hall, University of Missouri - Columbia
Columbia, Missouri

GAY PEOPLE'S UNION
UNIVERSITY OF MISSOURI - KANSAS CITY

August 15, 1973
ABC Conference Room
University Center
University of Missouri - Kansas City
Kansas City, Missouri

BEFORE CULLEN COIL, HEARING OFFICER

HEARING OFFICER'S RECOMMENDED FINDINGS OF FACT

1. The preliminary procedural steps taken by petitioners for recognition of a proposed student-faculty organization to be known as Gay Lib on the Columbia Campus were:

(a) A petition for recognition was filed on a form supplied by the Missouri Students Association (App. Ex. 1), and a proposed constitution and by-laws including a statement of the purposes of the proposed organization (App. Ex. 2) were approved by the Rules Committee and by the MSA Senate.

(b) The documents referred to in (a) went to the student-faculty committee on Student Organizations, Government and Activities, known as and hereinafter usually referred to as SOGA. Action was delayed by SOGA until November 22, 1971, when the organizers of

the proposed organization submitted a revised statement of purposes (App. Ex. 6). At its meeting of December 20, 1971 (shown as 12/22/72, but obviously should have been 12/22/71, App. Ex. 8), SOGA approved the proposed Gay Lib for recognition, and a SOGA minority report disapproved recognition (App. Ex. 8).

2. Those steps set forth in 1 above were in accordance with the procedures prescribed by UMC rules and regulations.

3. On February 1, 1972, Edwin B. Hutchins, Dean of Student Affairs, by a letter to Dr. Ray Lansford, SOGA Chairman, rejected SOGA's approval of the proposed Gay Lib (App. Ex. 9).

4. Apparently at some indefinite time subsequent to the rejection noted in 3 above, a Committee on Sexual Freedom was organized by members of the Missouri Students Association and chaired by Lawrence A. Eggleston, who had signed the original petition for Gay Lib recognition (App. Ex. 1) as "Submitting Officer." The Committee on Sexual Freedom held meetings, sexuality was discussed, Missouri laws on sex matters were discussed by prosecuting officials and the Sexual Freedom Committee was endorsed in writing (App. Ex. 10) by the MSA Senate.

5. Near the end of 1972, the Dean of Student Affiars, Edward F. Thelen, informed Dave Markee, Director of Student Life, that he, the dean, believed the Committee on Sexual Freedom was a subterfuge to, in effect, accomplish recognition for Gay Lib whose recognition had been rejected by Dean Hutchins, and Dean Thelen directed that all requests be refused which were in reality for Gay Lib (App. Ex. 11).

6. The "directive" referred to in 5 was appealed to Chancellor Schooling (App. Exs. 12, 13, 14), and, so far as may be determined, the "appeal" was denied (App. Ex. 15).

7. No further action was taken concerning Dean Hutchins' rejection of the SOGA approval of Gay Lib on February 1, 1972 (see 3 above), until January 22, 1973, almost a year following the rejection, when a letter purportedly from the Gay Lib Executive Board (although Gay Lib had not been recognized as an organization) was sent to Edward F. Thelen, Dean of Student Affairs, asking him to "reconsider" the rejection by Dean Hutchins of Gay Lib's approval by SOGA (App. Ex. 16).

8. Dean Thelen upheld the decision of Dr. Hutchins rejecting recognition of Gay Lib and, although the Hutchins' decision had remained unappealed for almost a year, Dean Thelen advised Mr. Eggleston that his, Dean Thelen's, decision "may be appealed to the Chancellor of the University."

9. An appeal to the Chancellor was taken (App. Ex. 18), and the decision of Dean Thelen upheld (App. Ex. 19); whereupon an appeal was taken from the Chancellor's decision to the President of the University (App. Ex. 20), and the decision of the Chancellor upheld (App. Ex. 21); whereupon an appeal from the President's decision was taken to the University's Board of Curators (App. Ex. 22) and referred to the Board's Committee on Academic Affairs.

10. The procedural steps taken by students seeking to organize a group to be known as Gay People's Union of UMKC were in accordance with the rules and regulations of UMKC.

11. After a statement of objectives (App. Ex. 26) and a proposed constitution (App. Ex. 28) were submitted to the Assistant Dean of Students and to the Students Activities Office, the Gay People's Union on April 24, 1973, was granted provisional recognition for sixty days. On April 26, 1973, two days later, the provisional recognition was revoked in a letter by the Dean of Students to one of the applicants for recognition (App. Ex. 30).

12. Thereafter, an appeal from the revocation was taken to the Chancellor (App. Ex. 31). The Chancellor upheld Dean Widmar's revocation of the provisional recognition (App. Ex. 32).

13. An appeal was taken to the University's President from Chancellor Olson's ruling (App. Ex. 34). The President upheld the revocation of the provisional recognition of the Gay People's Union of UMKC (App. Ex. 36); whereupon the President's decision was appealed to the University's Board of Curators (App. Ex. 37) and referred to its Committee on Academic Affairs.

14. A homosexual is one who seeks to satisfy his or her sexual desires with one of his own sex by practicing some or all of the following: fellatio, cunnilingus, masturbation, anal eroticism and perhaps in other ways.

15. It is estimated that overt homosexuals, that is, those who practice homosexuality exclusively, make up about four percent of the United States population, probably adult population; and a higher percentage usually or occasionally practice homosexuality.

16. There are potential or latent homosexuals, i.e., persons who come into adolescence or young adulthood unaware that they have homosexual tendencies, but who have fears of sexual relations with a member of the opposite sex.

17. What happens to a latent or potential homosexual from the standpoint of his environment can cause him to become or not to become a homosexual.

18. There are at least two views held by physicians, particularly by those physicians specializing in psychiatry and psychoanalysis, as to the nature of homosexuality. One view is that homosexuality is an illness and should and can be treated as such and is clearly abnormal behavior. Another view is that homosexuality is not an illness but is only a sexual

deviation, described as a mutant or alternative way of expressing human sexuality and is normal behavior.

19. There is evidence in the record to support each of the views mentioned in 18.

20. The majority of the people in the State of Missouri would not accept the view that homosexuality is normal sexual behavior.

21. Certain homosexual practices violate the provisions of section 563.230 of the Revised Statutes of Missouri.

22. The written purposes of the proposed organizations, Gay Lib and Gay People's Union, do not contain anything which affirmatively advocates homosexual practices, the violation of the rules and regulations of the University or the laws of the State of Missouri.

23. There is evidence in the record that formal recognition by the University of the organizations in question will

(1) have little impact on anyone other than those who are a part of the gay liberation movement;

(2) increase or will not increase homosexuality on the campuses and whether it would or wouldn't is entirely speculative;

(3) benefit some homosexuals in helping them obtain counseling through normal University channels, and

(4) tend to get homosexuality out in the open where it may be researched and subject to peer review.

24. There is evidence in the record that formal recognition by the University of either or both the proposed Gay Lib and Cay People's Union will

(1) give a formal status to and tend to reinforce the personal identities of the homosexual members of those organizations and will

perpetuate and expand an abnormal way of life, unless, contrary to their intention as stated in their written purposes, the homosexual members make a concerted effort to seek treatment, recognize homosexuality as abnormal and attempt to cease their homosexual practices;

(2) tend to cause latent or potential homosexuals (defined in 16 hereof) who become members of either proposed organization to become overt homosexuals (defined in 15 hereof);

(3) tend to expand homosexual behavior which will cause increased violations of section 563.230 of the Revised Statutes of Missouri;

(4) be undesirable insofar as homosexuals will counsel other homosexuals, i.e., the sick and abnormal counseling others who are similarly ill and abnormal; and

(5) constitute an implied approval by the University of the abnormal homosexual life-style as a normal way of life and would be so understood by many students and other members of the public, even though, and despite the fact that, the University's regulations for student organizations provide that recognition of an organization by the University does not constitute approval or endorsement of the organization's aims or activities (App. Ex. 23).

25. The evidence supporting the effects of recognition set forth in 24 above causes the undersigned to find that those effects are facts.

Respectfully submitted,

By _____

Cullen Coil
211 East Capitol Avenue
Jefferson City, Missouri 65101
Telephone: (314) 636-2177