importance of the foundation to the future of science and the viability of our educational institutions."

Meanwhile, there are a number of internal problems still to be faced at NSF. The agency, for the past few years, has given the impression of drifting. "A destroyer wallowing in the trough," is how John T. Wilson, provost of the University of Chicago and former deputy director of NSF, describes it. Similarly, Aaron Rosenthal, NSF's comptroller for many years, who is leaving the agency to join the National Academy of Sciences, believes NSF has lost its creative zip. Rosenthal finds "a radical change in outlook" at the agency. "When I first came here 6 years ago, people talked about 'What new things can we do?' " he recalls. "They were concerned with innovation, with new kinds of support, new areas of need, new forms of programs. But the last couple of years, rather than pioneering, the attitude has been to support the ongoing thing. It's been continuing support rather than innovative. And I don't know why."

There seems to be no agreed-upon diagnosis of what might be ailing the agency. Some observers suggest that a stagnant or declining budget inevitably tends to stifle innovation. Others suggest that the less-than-dynamic leadership of former director Haworth tended to discourage pioneering. Haworth was frequently in poor health and he had a reputation for trying to do everything himself, thus leaving little room for originality by subordinates. Still others suggest that key staffers at NSF have become too bogged down in routine to do much effective planning for the future. Rosenthal even suggests that there may have been "a leveling off of talent" in the agency. "Maybe we should fire everyone who's been here more than 5 years," he jests.

McElroy clearly has his work cut out for him. A consultants' report which recommends ways to improve NSF's organizational efficiency has been prepared and awaits his action. And he must scout up talented appointees to fill five new positions—a deputy directorship and four assistant directorships—that were authorized in legislation passed last year. The caliber of the people attracted to these posts may well determine how aggressive and innovative NSF becomes in the years ahead. McElroy says he expects the new high-level appointees to become "thinkers" who will spend "a high percentage of their time" generating and refining ideas. Although NSF already has a planning council, McElroy says that its members are "so busy they spend all their time running the shop" and don't have much time left over to think about where the agency should be going.

At this point the prognosis for NSF is uncertain. But if high aspirations count for anything, McElroy may well be able to start NSF on the road toward that "endless frontier."

—PHILIP M. BOFFEY

Campus Unrest: Confrontation Increasingly Means Litigation

Patterns of student protest are seldom predictable, but observers see a trend of confrontations occurring in court as well as on campus. Students were the first to turn to the judicial process to seek legal rights and student power. But the most recent major development was the use last year, by college and university administrators, of the injunction to quell campus disturbances or to block impending ones.

Both sides can consolidate bargaining positions in the courts. By prosecuting and enjoining demonstrators, the universities can neutralize the students' most potent weapon. Students can enhance their bargaining position by securing court protection from arbitrary dismissal or from suppression of First Amendment freedoms of speech, assembly, and the press.

But since the real issues increasingly involve the distribution of power, the courts are unlikely to provide more than partial, short-term solutions to campus problems. The student power movement will find the courts less and less useful as it drives toward its central concern—a voice in academic and other campus decisions. The courts may help the universities to put down a particular insurrection, but not to get at the underlying causes of student discontent which produce the disorders.

The courts have not been eager to intervene in campus disputes of any kind. They have kept absolutely clear of academic matters such as curriculum reform, grades, or the awarding of degrees. Judicial restraint in academic matters is certain to continue.

It is hardly a new phenomenon for students to seek judicial relief from campus disciplinary actions they think unfair. Until around 1900, the courts generally held that students have the same rights as other citizens. Then, for more than a half-century colleges had pretty much their own legal way under the doctrine of *in loco parentis*. The doctrine holds that the legal relationship between college and student is similar to that between parent and child. It was used in a 1925 case in which a court upheld the expulsion of a coed because she was not "a typical Syracuse girl."

Changes in higher education and in society have made *in loco parentis* obsolete, but no new doctrines have emerged that are widely accepted. About 93 percent of all college students are over 18, and the median age is around 21. And spiraling college enrollments have removed the intimacy between students and campus authorities that may have prevailed in an earlier time.

"It simply blinks at reality to treat the mother and college as one and the same in drawing legal analogies, no matter how frequently one refers to his alma mater for other purposes," says William Van Alstyne, a law professor at Duke University and a leading scholar on the law as it pertains to higher education.

The increase in enrollments has been accompanied by growing recognition that the college degree is the passport to the affluent society. Without it, employment opportunities and lifetime earnings are severely limited. Although no court has said so yet, there is a growing body of opinion which holds that an education beyond high school is becoming a right.

Prior to 1961, cases involving student rights were isolated. In essence, the student power movement and the

accompanying litigation are stepchildren of the civil rights movement. Students shifted the movement's confrontation tactics from the lunch counter to the college president's office. The 1961 landmark student legal rights decision, Dixon *vs.* Alabama Board of Education, grew out of southern civil rights demonstrations.

The board dismissed students from Alabama state colleges for taking part in the demonstrations. A federal court said the students could not be expelled without such due process considerations as notice of charges and a hearing. Since Dixon, the students have mounted a more or less systematic campaign to secure their rights and to consolidate student power. The National Student Association (NSA), for example, has launched a legal rights program which offers students both legal advice and legal assistance.

Student leaders have learned to use court action, or the threat of such action, as a political tool. Robert S. Powell, Jr., former NSA president, has said that even the threat of a suit helps students in negotiations with campus officials.

But the courts so far have ruled that the Constitution applies only to students enrolled in tax-supported institutions. It does not apply to private colleges and universities, because "state action" must be involved before the courts will intervene. However, many legal scholars believe the legal distinction between public and private institutions will not stand, since private institutions are drawing more and more financial support from state and federal governments.

Even in public institutions, students are still battling for some of the same legal rights that other citizens enjoy. It is generally accepted, for example, that procedural due process in campus proceedings does not carry all the trappings accorded in criminal trials. The Dixon decision and others require that students be given notice of charges, a hearing, and discipline based only on substantial evidence. There are no requirements that the hearing be public, that students may cross-examine witnesses, or that they may be protected from self-incrimination.

The courts have not dealt with the legitimacy of campus rules that are made without student participation, or with the makeup of campus tribunals. It is enough that the rules are fair and reasonable. A recent federal court decision in Wisconsin, however, held that the rules of the University of Wisconsin were "void for vagueness."

The courts are clearer about students' First Amendment rights. A federal court in Alabama ruled that a student editor could not be expelled for defying campus authorities in an editorial. The U.S. Supreme Court has laid down broad guidelines for freedom of speech on campus.

In Tinker *vs.* Des Moines Independent Community School District, the court upheld the right of high school students to wear black armbands to protest the Vietnam war. The court said, "Clearly, the prohibition of one particular opinion, at least without evidence that it is necessary to avoid material and substantial interference with school work or discipline, is not constitutionally permissible." The court also has made it clear that disruptive activities are not protected by the First Amendment. It declined to hear an appeal from students dismissed from Bluefield, West Virginia, State College, following a demonstration at a football game. In a brief statement, then Justice Abe Fortas said the lower court record showed that the demonstration had been violent. Still open is the question of activities intermediate between mere speech and violence. Are student strikes, picket lines, and nonviolent demonstrations protected as long as they do not interfere with the rights of others?

While students were eager to seek judicial relief, the universities turned to the courts with some reluctance. They generally were on the defensive until the Free Speech Movement at Berkeley in 1964 ushered in the era of confrontation. Since then, the universities have battled back in the courts, first with

Salvador Luria Excluded by HEW

Salvador Luria, one of the three winners of the Nobel prize for physiology or medicine last week, was recently revealed to have been among the many scientists "blacklisted" by the Department of Health, Education, and Welfare (HEW).

Luria, an M.I.T. microbiology professor, has been proposed for service on National Institutes of Health advisory panels on several occasions in recent years but has been rejected by the HEW security office for unspecified reasons. In a statement, Luria said, "I have expressed publicly my disapproval of the use of political tests by government agencies in selecting advisors for non-classified research and my unwillingness to serve unless such practices were officially discontinued. . . . I trust that the unwise use of tests of political conformity by the National Institutes of Health and other agencies will promptly be discontinued."

Luria's blacklisting was reported in the *New York Times* by reporter Richard D. Lyons on 20 October. Lyons reported that the names of 93 scientists, 7 of whom are members of the prestigious National Academy of Sciences, are on lists in the possession of the *Times*, and that hundreds of scientists had been barred by the blacklisting. The newspaper also reported that 75 Academy members had prepared a resolution to be voted on by the entire Academy membership condemning HEW blacklisting. The fact that many noted scientists have been excluded on grounds of security and suitability from HEW advisory panels was first revealed publicly in *Science* (27 June, p. 1499).

Hubert Heffner, deputy director of the White House office of Science and Technology (OST), said in an interview that OST, the President's Science Advisory Committee, and the President's science adviser were all "very concerned" about this matter. It was also learned that the advisory council of the National Institute of Mental Health has passed a resolution condemning the exclusion of scientists from HEW advisory groups on nonscientific grounds.

When Luria won the Nobel prize, HEW Secretary Robert Finch sent him an effusive telegram saying that Luria had "amply earned the gratitude of all Americans." In HEW, as in so many other government agencies, it is obvious that the upper hand does not realize what the under hand has been doing.—BRYCE NELSON

arrest and prosecution and now with injunctions, which are court orders restraining particular activities. The American Council on Education's study of campus unrest found that an estimated 53 injunctions were used on 524 campuses which experienced disruptive protests last year.

Like the student suit, the injunction is frequently more of a political tactic than a legal one. This becomes clear when campus officials talk about why they like the injunction. It removes the university from the dispute. Once an injunction is granted, the university cannot make concessions to stop a disruption. Students who defy the injunction face contempt of court proceedings. And it is the judge, not the college president, who decides when to call the police.

Student leaders and their attorneys believe the injunctions have been misused. Roy Lucas, a New York attorney who has handled several student cases, says the injunction often bars activities that are clearly protected by the First Amendment. An injunction barring demonstrations at Tuskegee Institute last year has stalled the student movement there, says Al Milano, former director of NSA's legal rights program. "Tuskegee students really feel restrained," Milano says. "Every time they want to do something, the administration tells them it is enjoined."

For a time, some university officials wondered how to handle students who occupied the president's office or other campus buildings. The students were members of the university community, the officials speculated; did they have as much right as the president to use his office? But university attorneys say the university has the legal right to establish how and when the office may be used and by whom. This changes the focus of the question from whether students have a right to be in the office to the tactical consideration of how they should be removed.

A development that disturbs higher educators is the necessity to involve attorneys at the first sign of a dispute. Attorneys for students urge them to seek legal advice immediately. The attorneys can help students plan strategy, negotiate with campus officials, and start building a record if the case has to go to court, says Michael Nussbaum, counsel for the NSA. And college presidents increasingly want a lawyer at their elbow when dealing with students, says Kenneth Roose, vice president of the American Council on Education.

Neither side came to the legal struggle well equipped. University attorneys were not used to handling the kind of legal matters that grow out of confrontations with students. They are more comfortable in corporate law than in criminal law. Students usually cannot afford full-time legal assistance. When they do go to court, they usually rely on young lawyers who have worked with the civil rights movement.

A new trend toward the use of mediators in campus disputes suggests a parallel with labor law. The Justice Department has sent its Community Relations Service to about a dozen campuses where the demands of black students were at stake. The service was set up to facilitate communications in communities afflicted with racial turmoil. Theodore Kheel, a top labor mediator, has tried to mediate disputes on some campuses. There also have been proposals to set up a nationwide mediation service for higher education.

But the labor analogy does not hold up. Campus mediation normally is not between two parties which are seeking agreement on a binding contract. Any given set of student leaders rarely are able to speak for all students on a compus. But many campus observers feel that a third party is invaluable in opening up communications, even though no legally binding document will result.

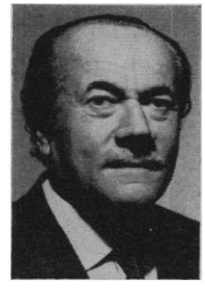
This kind of mediation may be useful when students come to grips with their real adversary—the faculty. Eventually, the student movement must deal with the faculty if it is serious about curriculum reform, course requirements, and other academic issues over which the faculty exerts control or massive influence.

If the campus struggle reaches this level, an era of hard bargaining may replace the era of confrontation. Lucas thinks the new era may come soon, although he believes there will always be a "background of litigation to build precedent." One who hopes it will is ACE's vice president Roose. He observed that the campuses that have the most success in fending off disruption are those that keep the students talking. Roose said one college president told him: "We survive, but it means we are involved in a 24-hour-a-day gabfest."

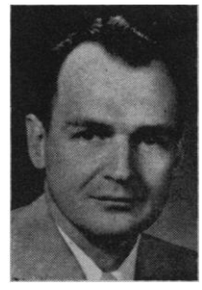
—IAN MCNETT

Ian McNett is a member of the staff of The Chronicle of Higher Education *in Washington, D.C.*

APPOINTMENTS



A. Buzzati-Traverso



L. T. Benezet

Adriano Buzzati-Traverso, head, International Laboratory of Genetics and Biophysics, Naples, to UNESCO's Assistant Director-General for science. . . . **Louis T. Benezet**, president, Claremont University Center, to president, State University of New York, Albany. . . . **George Z. Williams**, former director, clinical pathology, NIH, to director, new Research Institute of Laboratory Medicine, Pacific Medical Center. . . . **Donald W. Fletcher**, director, Center of Advanced Medical Technology, San Francisco State College, to dean, College of Arts and Sciences, University of Bridgeport. . . . **R. W. Kinney**, former director, Scientific Employment, Smith Kline and French Laboratories, to director, postdoctoral research associateship programs, Office of Scientific Personnel, National Research Council–National Academy of Sciences.

RECENT DEATHS

Joseph G. Davidson, 71; former vice president of Union Carbide Corporation; 9 October.

Daniel W. Healy, Jr., 54; chairman of the electrical engineering department, University of Rochester; 9 October.

John R. Moore, 60; assistant manager for administration of the Atomic Energy Commission's Oak Ridge operations; 13 October.

Fritz Morstein-Marx, 69; former Bureau of the Budget official and former Ford Foundation Research professor in governmental affairs, Princeton University; 9 October.

Max Schur, 72; psychoanalyst and founder of the Psychoanalytic Association of New York; 12 October.

Heinrich von Hayek, 68; director of the Institute of Anatomy, University of Vienna; 29 September.