

HOBART COLLEGE ACQUITTED IN RIOT

**Court Directs Verdict—Says
Evidence Is Insufficient**
FEB 9 1971

By **WILLIAM E. FARRELL**
Special to The New York Times

CANANDAIGUA, N. Y., Feb. 8 — Hobart College was acquitted today of criminal charges of coercion that had been leveled at it by a special grand jury investigating a riot on the college's campus in Geneva last June 5.

State Supreme Court Justice Frederick M. Marshall directed the trial jury to acquit the college, and the six men and six women did so. The judge said that the evidence presented by the prosecution during the three previous days of the trial has been insufficient to warrant a conviction.

Continued From Page 1, Col. 1
Criminal Procedure, the justice told the jury:

"Whenever the proof upon the trial of a criminal charge falls below the standard of rebutting the presumption of innocence and when the prosecution fails to prove every element of the crime charged beyond a reasonable doubt, it is the duty and obligation of the court to direct the jury hearing the charges to acquit the defendant."

Based on testimony heard since the trial began last Tuesday, the judge continued, a guilty verdict "would be contrary to law and contrary to the weight of the evidence."

Because of the judge's direction, the jury had no choice but to acquit the college. The prosecution can not appeal the action.

Justice Marshall's action today affirmed a move made on Thursday by Hobart's counsel, Ellsworth Van Graafeiland, to have the case dropped because of insufficient evidence.

The college was charged by the special grand jury on Dec. 18 with having "recklessly tolerated" threatening actions by students last June 5 when local law officers conducted an abortive drug raid on the campus. The threats were made by students who said there would be a riot if the police did not release and grant amnesty to three students arrested in the raid.

The four-count indictment against the school said that the threats instilled "fear" in Ontario County Sheriff Ray O. Morrow and District Attorney Willard C. Best and had caused them to violate their duties as public servants by releasing the students and granting them amnesty.

The student rampage was triggered primarily by the discovery that one of those taking part in the raid was Thomas (Tommy the Traveler) Tongyai, a 27-year-old undercover agent who had posed as a college radical. He was said to have traveled from one col-

lege campus to another as an agent. He is also said to have fomented campus troubles.

About 500 Hobart students surrounded two police cars on the campus — including one containing Mr. Tongyai — and defaced and vandalized the vehicles, refusing to permit those in the cars to leave.

In his remarks to the jury, Justice Marshall noted that two college officials named in the indictment, Beverley D. Causey Jr., then president of Hobart, and John R. McKean, dean of the college, had not been consulted by the police about the impending raid.

When Mr. Causey and Mr. McKean did arrive on the scene, the judge said, "on more than one occasion they attempted to quiet, disperse and control the students."

"Their efforts were unsuccessful," he said.

Regarding the amnesty agreement, Justice Marshall said that college authorities and policemen on the scene had agreed that bloodshed was im-

Today's conclusion of the trial—believed to be the first in which a college was indicted on criminal charges relating to a campus disorder — was brief. Some students at the college who were involved in the riot arrived in court a few minutes late and missed Justice Marshall's remarks to the jury.

Citing the state's Code of

Continued on Page 12, Column 1

minent and that a way of calming the situation had to be found.

The amnesty agreement, Justice Marshall said, "was not compelled or imposed upon the police authorities by the college but was mutually agreed upon by the law enforcement officers and the college officials." And, he continued, "there has been no proof to establish that the college officials could exercise any more control over the students than could the police."

The special grand jury—along with two special prosecutors, E. Garrett Cleary and Leon N. Armer, both Rochester lawyers, was called last summer by Governor Rockefeller to investigate the web of charges and litigation surrounding the campus melee.

Hobart's new president, Dr. Allan A. Kuusisto, said as he left the courtroom today that "legal authorities ought to have a pretty good case before they proceed against a college corporation in these difficult situations."

The special grand jury that indicted the college also indicted a professor and seven students. It is still functioning.

It has yet to release a report on Mr. Tongyai's functions and duties as an agent, as well as on the charges that he had fomented campus rebellion. It has cleared him of criminal charges arising from a fire-bombing at Hobart in May.