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TO HIS EXCELLENCY, DAN K. MOORE, GOVERNOR OF NORTH CAROLINA

Y-3-1450-1

This report is made to you pursuant to Resolution

Number 85 of the 1965 Session of the General Assembly entitled  
"A JOINT RESOLUTION CREATING A COMMISSION TO STUDY THE STATUTES  
RELATING TO VISITING SPEAKERS AT STATE-SUPPORTED EDUCATIONAL  
INSTITUTIONS".

## LEGISLATIVE LIBRARY

The Commission authorized by this resolution consists of nine members appointed as follows: Five members appointed by you, namely, Rep. David M. Britt, Rev. Ben C. Fisher, William T. Joyner, Charles F. Myers and Mrs. Elizabeth G. Swindell; two members appointed by the President of the Senate, namely, Sen. Gordon Hanes and Sen. J. Russell Kirby; and two members appointed by the Speaker of the House, namely, Rep. Lacy H. Thornburg and Rep. A. A. Zollicoffer, Jr. Pursuant to your designation, Rep. David M. Britt served as chairman.

The first meeting of the Commission was held in Raleigh in the Legislative Building on July 14, 1965, with all members present. Mrs. Swindell was elected by the Commission to serve as secretary and Mrs. P. E. Howell of Raleigh was employed to render clerical services to the Commission.

At the initial meeting the members became acquainted with duties provided in the resolution and discussed various ways of approaching the work. It was unanimously decided that public hearings should be scheduled, at which all of the State-supported educational institutions affected by the law, accrediting agencies, and other interested parties and organizations would be provided an opportunity to be heard.

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Public Hearings were held on August 11 and 12, 1965, and September 8 and 9, 1965, in the auditorium of the Legislative Building. They were well attended and given extensive coverage by newspapers, radio, and television. The transcript of the testimony and other documents considered by the Commission are filed with this report.

Under the provisions of the resolution the Commission was charged with the duty of making a careful, full and detailed study of G. S. 116-199 and G. S. 116-200 (Chapter 1207 of the 1963 Session Laws) relating to visiting speakers at State-supported educational institutions of higher learning, with respect particularly to the following:

1. The enforcement of the statutes;
2. The relationship, if any, between these statutes and the accreditation of State-supported institutions by accreditation organizations and associations;
3. The effect on the relationship of these institutions with other institutions of higher learning; and
4. The impact of the statutes as to the status, administration, reputation, functioning and future development of State-supported institutions.

#### Enforcement of the Statutes

At its initial meeting the Commission considered the legality of the statutes and authorized the chairman to appoint a subcommittee to give special study to such legality. Inasmuch as five members of the Commission are lawyers, the Chairman constituted them a subcommittee for this purpose.

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The subcommittee gave careful consideration to the constitutionality of the statutes and considered various decisions and legal memoranda on the question. Among these was a memorandum prepared by Deputy Attorney General Ralph Moody in 1963 and also a supplement thereto prepared by Mr. Moody at the request of the Commission. Another memorandum considered was that of Prof. William Van Alstyne of the Duke University School of Law. Mr. Moody expressed the opinion that the laws are constitutional and are a proper exercise of the police power of the State of North Carolina. Prof. Van Alstyne expressed the opinion that the laws are unconstitutional insofar as the Federal Constitution is concerned. Other memoranda and legal articles were filed with and considered by the Commission.

After deliberation and discussion, it was the consensus of the full Commission that the problems posed by these statutes should be approached on a much broader basis than a strictly legal one; therefore, no steps are recommended to determine the validity of the statutes.

As to enforcement, testimony presented at the hearings by officials and administrators of the various educational institutions affected by the law revealed that they have diligently complied with the law and the Commission received no evidence that the law has been violated since its enactment on June 26, 1963.

Accreditation

A large part of the inquiry of the Commission was directed to the matter of accreditation. At the August hearings Dean Emmett B. Fields of Vanderbilt University, Chairman of the Commission on Colleges, Southern Association of Colleges and Schools, Inc., and Mr. Gordon Sweet, Executive Director of the Southern Association of Colleges and Schools, Inc., were heard and questioned in great detail. The agency represented by these two is the primary accrediting agency for all colleges and universities in North Carolina. The Officials of this agency take the position that these statutes "remove(s) from the governing boards of the State institutions of higher learning in North Carolina, their traditional authority to handle such matters with administrative discretion," and "raise(s) an issue of interference with the necessary authority of the boards". Also on the matter of accreditation, the Commission heard from Dr. Frank G. Dickey, Executive Director of the National Commission on Accrediting, and Dr. W. H. Plemmons, a former member of the said Commission on Colleges.

We are confident that the Southern Association has done much to improve the quality of education in the South. However, this Commission is not charged with the responsibility of passing upon the wisdom of the Association's action in this matter. The Commission devoted considerable time to studying the significance of accreditation on our State-supported colleges and university. Suffice it to say accreditation means much, financially and otherwise. For any institution to lose accreditation would be substantially damaging.

### Relationship with other Institutions

In various ways the Commission studied the effect of the statutes in question on the relationship of our institutions with other institutions of higher learning. These studies disclosed that there is a closely knit bond between the educators of our Country. Grievances of administrators and faculties in one state receive the concern and support of their counterparts throughout the land. In fact, such grievances in one or more schools receive the concern and support of counterparts in other schools of the same state, as indicated by the "sympathetic reaction" to the subject statutes of the administrators and faculties, and even students, of several church related colleges and universities in North Carolina.

The unrest resulting from the statutes in question has extended far beyond the eleven institutions directly affected. It would appear that, unless the unrest is removed, entertaining communists could become glamorized in our State, thereby defeating one of the primary purposes of the statutes.

### Impact of Statutes

In considering the impact of the statutes in question on our State-supported institutions of higher learning, we must consider the tangible and the intangible. The most obvious impact would come from loss of accreditation, if such should occur, inasmuch as many financial aids which our institutions now receive are not provided to unaccredited institutions. The Commission made contact with numerous federal agencies

and private foundations and although some of the aids and programs provided are not dependent upon accreditation, many of them are, and with others accreditation would be a factor. For example, a R.O.T.C. program is contingent upon accreditation.

As to the intangible, considerable prestige accompanies accreditation. We are convinced that many students would not attend any of our eleven institutions if accreditation were lost, due partly to increased difficulty in securing recognition for work done in an unaccredited institution.

Also important is the consideration of faculty members. The demand for qualified faculty members far exceeds the supply and this promises to be the case for many years to come. Loss of accreditation would make it much more difficult for our eleven institutions to recruit and maintain adequate faculties.

#### Conclusion

We are convinced that the people of North Carolina are strongly opposed to communism and all other forms of totalitarianism. They are concerned about the expansion of atheistic communism throughout the world, and this concern is increased by the mortal conflict that is now raging in Viet Nam and other places.

Information from J. Edgar Hoover, Director of the Federal Bureau of Investigation, and other reliable sources is to the effect that the tempo of communist efforts in the United States is being speeded up and that communists are taking advantage of every opportunity. There appears no doubt that the communists consider college and university campuses a fertile field for



their work and this has been evidenced recently by the organization of radical clubs on campuses across the nation and the infiltration of communists into certain campus demonstrations in other parts of the Country.

We feel that the 1963 General Assembly was sincere in its enactment of the statutes in question and felt that it was "striking a blow" for Democracy. It also appears that the General Assembly was reflecting the feeling of a large segment of the population of North Carolina and since the enactment of these statutes, many people have risen to their support.

On the other hand, it is quite evident that many members of the 1963 General Assembly who voted for the statutes did not foresee the far-reaching effects of the statutes. It is our judgment that the primary objective of the General Assembly was to prevent communist rabble rousers and their kind from using the campuses of North Carolina as a forum for their evil activities.

During the public hearings held by this Commission much was said about communism, the appearance of speakers who were alleged to be members of the Communist Party, and the presence in the student bodies of students who individually, and by group activity, were active ultra-liberals.

A careful review of this testimony indicates that these statements and allegations were directed primarily at the University of North Carolina at Chapel Hill, covering the period from 1937 to 1965. This testimony discloses that in more than a quarter of a century fewer than a dozen speakers from among the thousands who have appeared during these years were specifically mentioned as extremists and not all of these were alleged

to be communists. Among students, not more than five were singled out from among the more than 40,000 who have graduated from the Chapel Hill campus over this span of time.

The testimony shows that the University would not knowingly employ a member of the Communist Party in any capacity, and direct testimony by its officers indicates that no such person is employed. No evidence to the contrary was presented to, disclosed to, or discovered by the Commission. We also note that all members of the faculty and staff have formally affirmed their allegiance to the Constitutions of the United States and the State of North Carolina. We review these allegations here because we gave ample notice to all persons who wished to appear before the Commission, or felt that they had pertinent information, to do so. The evidence before this Commission failed to disclose that the faculty of the University at Chapel Hill is infiltrated by communists. The evidence shows that the University does not foster or encourage any political doctrine that would suppress the liberty or freedom of any individual.

We believe that it is highly desirable that students have the opportunity to question, review and discuss the opinions of speakers representing a wide range of viewpoints. It is vital to our success in supporting our free society against all forms of totalitarianism that institutions remain free to examine these ideologies in a manner consistent with educational objectives.

The evidence before us fails to justify charges of irresponsible radicalism at Chapel Hill. There have been and will always be individuals who express themselves in ways that, to some, are disturbing because they are unorthodox and the



larger the institution becomes, the more it is likely to attract this type of individual.

The University of North Carolina at Chapel Hill is a great institution that has served the State well. Members of the General Assembly and all citizens of our state are justifiably interested in our University. There is no evidence before us of any plot, plan, campaign, or conspiracy by anyone to injure the University or any State-supported college.

Although most of the discussion about the statutes in question has been related to the University at Chapel Hill, the impact of these statutes affects all four campuses of our University as well as the eleven colleges supported by the State. There was no evidence before the Commission that a communist has ever appeared as a visiting speaker or otherwise at these other institutions. Accreditation means much to all branches of the University, but it means at least as much, if not more, to the other eleven institutions. Loss of accreditation would be far reaching in its damage, not only from the standpoint of financial benefits but also from the standpoint of attracting students, the transfer of credits of students, the recruitment of faculty members and the retention of fully dedicated teachers and staff members.

The public hearings conducted by this Commission have provided the people of North Carolina with a wealth of information about our institutions and the effects of the statutes in question. It is the opinion of this Commission that a large majority of the people of our State realize the great need of

education at all levels and that they do not favor legislation which will jeopardize the best educational opportunities for our youth.

It is also our opinion that the trustees of our educational institutions should assume more responsibility for the operation of our institutions and should be constantly on the alert for anything that would be harmful to our institutions and to the educational programs they promote. The Trustees of our Institutions constitute a vital link between the institutions they represent and the people of North Carolina.

Finally, we conclude that education at all levels in North Carolina, and the continued progress and welfare of our State, require that the statutes in question be amended to impose responsibility for the subject matter of the statutes in question on the trustees of our institutions; provided, that the trustees give assurance of their willingness to accept this responsibility and particularly with regard to the subject matter of these statutes.

Academic freedom requires academic responsibility. We specifically state that our recommendations should not be construed to mean that we necessarily agree with all the educators who appeared before this Commission on the question of academic freedom. The fact is that our concern about the current unrest in educational circles in our State leads us to the conclusion that the stakes are so high that responsible people, both educators and others, must strive for some solution that will settle this controversy for the foreseeable future.

The fires of intolerance will surely injure the process of education. To solve our problem, to quench the fires now burning, it is necessary that the people on one side of the controversy be more understanding and tolerant of the honest views of the people on the other side. We must seek mutual respect and a middle ground.

To that end we direct our recommendations.

#### Recommendations

1. Subject to Recommendation No. 2, we recommend that Chapter 1207 of the 1963 Session Laws be amended so as to vest the trustees of the institutions affected by it not only with the authority but also with the responsibility of adopting and publishing rules and precautionary measures relating to visiting speakers covered by said Act on the campuses of said institutions. We submit as a part of this report a proposed legislative bill to accomplish this purpose.

2. We recommend that each of the Boards of Trustees of said institutions adopt the Speaker Policy hereto attached and made a part of this Report.

3. In order that this important matter might be settled forthwith, we recommend that you, The Governor of North Carolina, request the boards of trustees of the affected institutions to assemble as soon as practicable for purpose of giving consideration to the aforementioned Speaker Policy, and at such time as it has been adopted by the said boards of all of said institutions, that you cause to be called an extraordinary Session of the General

Assembly for purpose of considering amendments to Chapter 1207  
of the 1963 Session Laws as hereinbefore set forth.

Respectfully submitted, this November 5th, 1965.

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David M. Britt, Chairman

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Elizabeth G. Swindell, Secretary

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Ben C. Fisher

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Gordon Hanes

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William T. Joyner

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J. Russell Kirby

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Charles F. Myers

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Lacy H. Thornburg

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A. A. Zollicoffer, Jr.

## SPEAKER POLICY

The Trustees recognize that this Institution, and every part thereof, is owned by the people of North Carolina; that it is operated by duly selected representatives and personnel for the benefit of the people of our state.

The Trustees of this Institution are unalterably opposed to communism and any other ideology or form of government which has as its goal the destruction of our basic democratic institutions.

We recognize that the total program of a college or university is committed to an orderly process of inquiry and discussion, ethical and moral excellence, objective instruction, and respect for law. An essential part of the education of each student at this Institution is the opportunity to hear diverse viewpoints expressed by speakers properly invited to the campus. It is highly desirable that students have the opportunity to question, review and discuss the opinions of speakers representing a wide range of viewpoints.

It is vital to our success in supporting our free society against all forms of totalitarianism that institutions remain free to examine these ideologies to any extent that will serve the educational purposes of our institutions and not the purposes of the enemies of our free society.

We feel that the appearance as a visiting speaker on our campus of one who was prohibited under Chapter 1207 of the 1963 Session Laws (The Speaker Ban Law) or who advocates any



ideology or form of government which is wholly alien to our basic democratic institutions should be infrequent and then only when it would clearly serve the advantage of education; and on such rare occasions reasonable and proper care should be exercised by the institution. The campuses shall not be exploited as convenient outlets of discord and strife.

We therefore provide that we the Trustees together with the administration of this Institution shall be held responsible and accountable for visiting speakers on our campuses. And to that end the administration will adopt rules and precautionary measures consistent with the policy herein set forth regarding the invitations to and appearance of visiting speakers. These rules and precautionary measures shall be subject to the approval of the Trustees.

Form of the Bill

A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW RELATING TO VISITING SPEAKERS AT STATE-SUPPORTED INSTITUTIONS AND TO VEST THE ADMINISTRATION AND REGULATORY POWER OF SAID LAW IN THE BOARD OF TRUSTEES OF THE VARIOUS STATE-SUPPORTED INSTITUTIONS.

The General Assembly of North Carolina do enact:

Section 1. G. S. 116-199, as the same appears in the 1963 Cumulative Supplement of the General Statutes, is hereby amended by striking out the first four lines of said section and by inserting in lieu thereof the following:

"§ 116-199. Use of facilities for speaking purposes.--

The board of trustees or other governing authority of each college or university which receives any State funds in support thereof, shall adopt and publish regulations governing the use of facilities of such college or university for speaking purposes by any person who:"

Sec. 2. G. S. 116-200, as the same appears in the 1963 Cumulative Supplement of the General Statutes, is hereby amended by striking from line one thereof the words, "This article" and inserting in lieu thereof the words "Any such regulations".

Sec. 3. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed, but neither the provisions of this Act nor the provisions of Article 22 of Chapter 116 as the same appear in the 1963 Cumulative Supplement of the General Statutes, shall repeal or be construed to repeal any provision of Article 4 of Chapter 14 of the General Statutes.

Sec. 4. This Act shall be in full force and effect from and after its ratification.