

## MINUTES OF THE UNIVERSITY SENATE, NOVEMBER 16, 1970

The University Senate met in special session at 3:00 p.m., Monday, November 16, 1970 in the Court Room of the Law Building. Chairman Plucknett presided. Members absent: Staley F. Adams\*, Melvin Albaum, Arnold D. Albright, Robert Aug\*, Charles Auvenshine\*, Albert S. Bacdayan\*, Charles E. Barnhart, Robert H. Biggerstaff, Harold R. Binkley\*, O. E. Bissmeyer, Jr.\*, Harry M. Bohannon, Frederick Bollum, Peter P. Bosomworth\*, Garnett L. Bradford\*, Betty J. Brannan\*, Bob Brecht, Herbert Bruce, Collins W. Burnett\*, Marion A. Carnes\*, Clyde R. Carpenter\*, Ralph S. Carpenter\*, Richard A. Chapman\*, Maurice A. Clay, William B. Cotter\*, Raymond H. Cox\*, Eugene C. Crawford, Jr.\*, Glenwood L. Creech, James E. Criswell\*, M. Ward Crowe\*, Marcia A. Dake\*, George W. Denmark\*, Ronald C. Dillehay, R. Lewis Donohew\*, Doane Fischer, Eugene B. Gallagher\*, Wesley P. Garrigus, Hans Gesund\*, Charles P. Graves, Ward O. Griffen\*, John V. Haley\*, Joseph Hamburg, Denny O. Harris, Charles F. Haywood\*, A. J. Hiatt\*, Donald L. Hochstrasser, John W. Hutchinson, Mary F. James\*, Willism S. Jordan, Jr.\*, Don Kirkendall\*, Aimo J. Kiviniemi\*, Donald A. Knapp\*, James A. Knoblett\*, Bruce E. Langlois, Harold R. Laswell, Thomas J. Leonard, Rey M. Longyear\*, Donald L. Madden\*, Paul Mandelstam\*, Ernest P. McCutcheon\*, George E. Mitchell, Jr.\*, Theodore H. Mueller\*, Louis A. Norton\*, James R. Ogletree\*, Blaine F. Parker\*, Harold F. Parks\*, Bobby C. Pass\*, Robert W. Penman\*, Lloyd F. Redick\*, Donald A. Ringe\*, Virginia Rogers\*, Robert W. Rudd\*, Donald S. Shannon\*, Ian Shine\*, Leonard P. Stoltz\*, Thomas B. Stroup, John L. Sutton, Sidney Ulmer\*, Harwin L. Voss\*, John N. Walker\*, M. Stnalely Wall, Charles A. Walton\*, Daniel L. Weiss\*, Cornelia B. Wilbur\*, Constance P. Wilson\*, and Fred Zechman\*.

The Senate gave permission to Mr. Tom Meng and Mr. Ben Fletcher, student members of the Tri-Partite Committee and the Student Advisory Committee, and Mr. Gatewood Galbraith, a student, to attend the meeting.

Chairman Plucknett read the following letter which had been received from Mrs. Paulina F. Sloan, widow of Dr. Denver Sloan, deceased:

2841 Southview Dr.  
Lexington, Kentucky  
November 7, 1970

Dr. Elbert W. Ockerman  
Dean of Admissions and Registrar  
University of Kentucky  
Lexington, Kentucky

Dear Dr. Ockerman:

Thank you for sending me the copy of the resolution honoring Denver. It is a beautiful tribute and I am deeply appreciative.

Sincerely,

(s) Paulina F. Sloan  
(Mrs. Denver Sloan)

\*Absence explained

The Senate approved the minutes of October 12 and October 29, 1970 as circulated.

On behalf of the College of Social Professions, Dean Ernest F. Witte read a resolution on the death of Mrs. Dorothy Root Bier with the recommendation that the resolution be spread upon the minutes. The Senate stood for a moment of silence in respect to Mrs. Bier and in acceptance of the resolution.

DOROTHY ROOT BIER  
Born April 19, 1910  
Died October 22, 1970

Social Work Practitioner, Teacher, Scholar, Wife, and Mother

WHEREAS, Dorothy Root Bier was born in Cambridge Springs, Pennsylvania, with her twin brother, Delroy M. Root. She married Carl Bier and both graduated from the University of Kentucky in 1932, where she was an English major and a member of Alpha Xi Delta Sorority. In 1934 she received her MSW degree from Western Reserve University.

She experienced a long, successful working career in family agencies in New Orleans, New York, Detroit, and, finally, in Atlanta where she was Director of Case Work Services from 1952 to 1966, when she and her husband came to Lexington.

Her colleagues said of her, "She was a rare combination of many wonderful qualities that affected and enriched the lives of hundreds of persons - clients, staff, board, and others. Her contributions will live with many and be passed on to many more."

In 1967, Dorothy Bier was appointed as Lecturer in the Department of Social Work and later in the new College of Social Professions. She developed syllabi and taught several of the undergraduate classes. With the development of the new College of Social Professions, she performed the time-consuming, but invaluable, task of compiling a list of the complete holdings of social work and closely related publications in the University libraries and assessed these in relation to all known lists of publications recommended for libraries.

Her quiet dedication to her students' welfare, her dedicated reading and research to find any and all possible kinds of materials for use by her students, and her conscientious day-to-day devotion to tasks which required patience and persistence is a contribution that not only has already helped the current students and faculty, but which will be useful to new students and faculty in the years to come. She was a woman whose gentle manner, quiet warmth, and depth of feeling for humankind will long remain in the memories of those who knew her.

She has been loved and cherished by her husband, Carl, her son, Jeff, and daughter-in-law, Mary Ann, her granddaughter, Andre, her sister, Louise, her brother, Delroy, and her friends in the Lexington community.

Her students and colleagues will long remember her because of the human warmth with which she touched their lives.

NOW THEREFORE, the College Council, representing students and faculty colleagues of Dorothy Bier, do hereby register their love and appreciation of her and the contributions she made during her life and express our sense of loss because of her death.

The College Council  
College of Social Professions  
November 4, 1970

The Dorothy Bier Memorial Fund has been established in her honor in the College of Social Professions.

Dr. Stephen Diachun, Secretary of the Senate Council, presented an amendment to the 1970 and 1971 fall semester University Calendars to revise the final examination schedule for the 1970 fall semester so that the examinations originally scheduled for Wednesday, December 23, 1970 be rescheduled on Wednesday, December 16, 1970; and further, that the final examination period for the fall semester of 1971 be rescheduled so that the last day of final examinations shall be December 22, 1971. The amendment was seconded.

Following discussion, Mr. Steve Bright presented an amendment to the amendment which relates to the fall semester of 1970 as follows:

Any students who feel that this provision will result in an undue hardship for them may arrange to take the examination rescheduled for December 16th, at another time, without sanction.

He further recommended that the Senate Council set a date for the 1971 fall semester which would incorporate the same type of provision and offer it as an amendment at another time.

The Senate vetoed this amendment in its entirety by a hand count of 68 to 45.

Mr. John Nelson, student member, presented an amendment to the original motion as presented by Dr. Diachun, to strike any reference to the 1971 fall semester from that motion. The Senate approved this amendment.

The Senate then vetoed the original motion as presented by Dr. Diachun, and amended.

Dr. Sheldon Rovin, Vice Chairman of the Senate Council, referred the Senate to the proposal circulated to the faculty under date of November 3, 1970 which provided for the possible establishment of ad hoc committees to study certain areas, namely, those of class scheduling and the credit system, the University grading system, and provision for accelerated programs. Chairman Plucknett stated that it was not necessary that the Senate take any action on these proposals; that if it felt these were worthwhile areas to be studied, the Council would proceed to circulate to the faculty a request for the names of those faculty members who would like to serve on these ad hoc committees, as well as a request to the faculty to name any other areas it would like to have studied, in depth. No objections were voiced by the Senate.

On question by the Chairman of any new action business which any one might wish to present, Dr. Gene Mason of the Department of Political Science stated that he wished to present the following resolution for the consideration of the Senate regarding the role of the University in relationship to

investigations by law enforcement agencies of the content of class discussions. He reported that the Department of Political Science had adopted the resolution at an earlier date.

It is the sense of the University Senate that the right to free and open discussion of ideas is imperative to the learning process; that the interrogation of students about the content of class discussion by law enforcement officers can have the effect of intimidating students and can be destructive of the learning situation; and that the University of Kentucky has an obligation to students, faculty and the people of the Commonwealth to promote the free discussion of ideas; and that the University of Kentucky should refrain from releasing class rolls and other University records to law enforcement agencies if the use of such information is to inquire into the content of class discussions.

On question, he stated that the resolution was necessitated by the fact that there had been no substantive change in University policy concerning the release of such information since the questions of the FBI investigation arose this semester. He stated further that if the resolution was passed as the sense of the Senate it would be up to the President to determine whether or not he wished in his policies to conform to that sense; that if he so decided then it would be incumbent upon him or someone designated by him to inquire as to the purpose of the use of a class roll when such a request was made by law enforcement agencies; and further, that if the purpose of the use of that class roll involved questioning students regarding the content of class discussion, the President would refuse to release that information. He stated further that this would place him in a position where he could effectively test the constitutionality of the present Kentucky Revised Statute requiring that he release to law enforcement agencies all information regarding student records.

On request, Mr. Mason then read relevant parts of the Kentucky Revised Statute passed at the last session of the State Legislature concerning student academic records.

All student academic records shall be confidential with the exception of the exemptions stated in sub-sections three through nine of this Section and shall not be released by any publicly supported institution of higher education in Kentucky to any persons, organization, institution, group or agency without the expressed consent of the individual student.

Sub-section five of sub-sections three through nine states the following:

All student records shall be made available upon request to any federal, state or local law enforcement agency and any court of law.

The other sub-sections of that Statute deal primarily with requests for academic records for applications for scholarships, fellowships, et cetera.

In discussion that followed President Singletary stated that while such a resolution did not commit him to any given case, he intended to look at any cases, should they recur; Dr. Sears pointed out that the oath of office taken by the President of the University charged him to uphold the laws of

the Commonwealth and that he should not be committed to take any stand that would be contrary to the present law; Dr. Olszewsky stated that his sense of the resolution as read was that the Senate stands behind the President in defense of academic freedom. In view of the apparent conflict of interpretations of the resolution as presented, Dr. Lienhard recommended that the Senate place a period after the phrase "free discussion of ideas;" and strike the remainder of the resolution. This recommendation was seconded.

Dr. Mason stated that he thought the passage of this amendment would effectively "gut" the substance of the resolution. He said further that since he was the one who had introduced the proposal and was also the one who was most involved and directly concerned with the investigation he would like to try and convince the Senators that each of them shared equally in that involvement. He stated that from the information he had there was not any intent on the part of any FBI agent to intimidate either his students or him or the learning situation in which the faculty attempted to involve itself; however, this clearly had been the consequence. He stated that the two students who were interrogated in mid-October, and who are ordinarily quite loquacious, did not say anything in class for the next month until finally one of them came to his home on a Saturday afternoon to speak to his wife -- since he was a closer friend to her than to him -- about the FBI; that after their discussion she asked that he discuss it with Dr. Mason. Dr. Mason stated that that student was really scared that the FBI was questioning him about what was being said in class. He stated further that another student in that class, who worked full-time -- one who had not been interrogated -- had told him that his boss had said to him that if he did not drop the seminar he would be fired from his job. Dr. Mason stated that these incidents occurred, it seemed to him, to the detriment of the free discussion of ideas and what all of the faculty believed are the desirable consequences that flow from open inquiry. He said further that while none of these consequences, it seemed to him, were intended by either the relevant members of the University administration or the members of the FBI, they did occur and they could happen again and they could happen again in cases involving the students of other faculty members in their own classrooms. He stated that he felt it was important enough that the faculty try to avoid that in as strong a way as they could and he thought that the last section of the resolution was not equivocal at all; that it stated clearly what the sense of the University Senate is regarding this, and he urged its adoption.

Dr. Adelstein raised four questions addressed to Mr. Mason:

1. Who decides what the purpose or intent of the law enforcement agency is?
2. Why have you written this as the "content" of class discussion? I think that the substance of class discussion is the "trial of Socrates" and if some student in class makes a remark about the Crossen trial and that bombing might result from this trial, the inquiry is into the substance of class discussion which is the "trial of Socrates" and the FBI would be entitled to inquiry of the student because it does not come within the purview of the content of class discussion.
3. Why do you feel it is necessary for the President of the University to test the constitutionality of this law and not some other group such as ACLU, AAUP, or even Gene Mason?

4. To what extent in the protection of lives and property, of students and instructors, does a law enforcement agency have the right to conduct an investigation?

Mr. Mason replied in answer to the first question that he thought the President had the responsibility to determine the use; that when a law enforcement agent requested such information, it would be the President's responsibility, if he agreed with the sense of the Senate, to ask to what use the information was to be put and if he learned through that asking that it involved questioning students regarding the content of class discussion, he should refuse to release it.

In answer to the third question Mr. Mason stated that his first reaction was that he himself would test the constitutionality; that he thought about it for a long time and discussed it with lawyers and was advised that he did not have the standing to sue and further, that he thought it would do a lot for the University of Kentucky and for the Commonwealth for the University administration to do it and not him or the ACLU; that he thought it would be very healthy for the University.

His answer to the fourth question was that either open discussion of ideas in the classroom be respected, without qualification, or not respected; that the University cannot be complicit, much less cooperative, in actions that have the consequence of intimidating that process. He stated that he felt the classroom, and the learning situation in the classroom, is a very sacred thing and that the University should exercise as much vigilance as it can to be sure that it is able to maintain that against even the slightest encroachment.

Professor Sedler enumerated his reasons for supporting the inclusion of the last phrase of the resolution.

Dr. Hanau pointed out that Dr. Mason had not answered the second question asked by Dr. Adelstein, that of what is meant by the "content" of class discussion. He stated that he would interpret it to mean anything that is discussed in class.

Dr. Mason replied that he was directing himself to the substance of class discussion; that when they were discussing in his class the modes of response to repression and, specifically, bombing as one mode of response to repression, this was a part of the substance of class discussion and not an incidental remark made out in the hallway, for example.

Professor Oberst said that it seemed to him that the Senate was at its worst when 200 people tried to deal with a very sensitive case, which was the present case. He stated that it had been a seven-day wonder on this campus; that he understood that an appeal had already been made to the faculty Committee on Privilege and Tenure and he assumed that that Committee would collect all the facts and make recommendations to the President; that this was its function. He stated that he felt the discussion held thus far indicated very clearly that they were trying to adjudicate a case which had come before them and he thought that would be a very bad mistake.

In response to a question, Dr. Mason stated that the only reason they had relied on this specific case was because it was the source of the need for a new policy; that he did not wish, in any way, to have this particular sense of the Senate resolution to be interpreted as an adjudication of what is before the faculty Committee on Privilege and Tenure; that it was intended as a general policy matter; that that was why he had taken it before his faculty and why his faculty asked him to present it to the Senate. He reported that he had asked that someone else from his department introduce the resolution and participate in the discussion but that they had preferred not to so; thus he had gone ahead and brought it before the Senate.

Dr. Olszewsky stated that he supported the resolution and that he would vote against the amendment.

Dr. Stanford Smith said that he was concerned with the motion because he did not think it talked about what the Senate wanted to talk about. He stated that he thought Dr. Sears was perfectly correct in his statement that the President of this institution takes an oath to uphold the laws of this state; that the problem is to be required to uphold the law which is violative of academic freedom. He said that he thought the Senate should go on record as saying so and that he would prefer that the Senate commend our President for the actions he has taken to date - which are as far as he can go under the law to protect that academic freedom. He stated that he would rather see the Senate urge the President and the Board of Trustees to seek appropriate modification of the laws and require that law enforcement agencies show cause, which they are not required to do under the present law.

Dr. Royster stated that he agreed with Professor Oberst; that he felt the Senate would do well to postpone action on the resolution and consider it at another time if they felt they should consider it at all.

Dr. Berry stated that he felt that the President ought to be the faculty's spokesman and defender but that it seemed to him that the last statement of the resolution tended to make him the faculty's "creature" and he was for deleting that section of the resolution at the present time.

President Singletary told the Senators that to what degree the case in question had had a "chilling" effect it was his belief that it came from whatever investigation had been carried out by an outside agency and not by the University. He stated that under the existing law the law enforcement agent who appeared before the University to request a record was not required to give any reasons whatsoever; that the reason he had asked that any requests from now on be referred to him at his office was that it would give him an opportunity to see what he could do to find out what the nature of the investigation is and to do what he could about the very facts about which the Senate was concerned. He stated that he was as concerned as anybody else and that was the purpose of his change in institutional policy -- to seek what legal counsel and other counsel he might wish before making a decision. He stated that he would not like for the faculty to decide what he might or might not have to do in certain circumstances and that he would not like very much to be placed in the position of having to decide, in advance, what he might or might not have to do at some given time in certain circumstances.

On question, the Senate approved a motion to vote on the amendment.

The Senate then approved the amendment, which was to delete the phrase "and that the University of Kentucky should refrain from releasing class rolls and other University records to law enforcement agencies if the use of such information is to inquire into the content of class discussions." from the resolution as presented by Dr. Mason.

Mr. John Nelson presented an amendment to add the following statement at the end of the resolution as it had been amended:

The University Senate believes that the University of Kentucky, always recognizing the exigencies of individual cases, should resist, within the laws, all encroachments on this free discussion of ideas in the form of releasing of University records and class rolls to law enforcement agencies where the use of such information is to inquire into the content of class discussions. This resolution expresses to the President of the University its hope that these general guidelines will be observed by him whenever circumstances allow.

The Senate voted to close discussion on the resolution. The Senate then voted against the amendment which had been proposed by Mr. Nelson.

The Senate returned to the original motion as presented by Dr. Mason, and amended. A tie vote resulted and a recount was requested. The recount showed that the resolution, as amended, was defeated by a vote of 65 to 59.

Dr. Stanford Smith presented the following motion which the University Senate approved.

The Senate commends President Singletary for his efforts, within the limits of the law, to defend academic freedom. Recognizing that current concerns about academic freedom arise as a result of KRS \_\_\_\_\_, we urge the President and the Board of Trustees to take appropriate action to correct present deficiencies in KRS \_\_\_\_\_ which we believe to be in violation of academic freedom.

On question to the Senators from the Chairman of whether the Senate should take up the two discussion items on the agenda today and set a time limit on the discussions, or should set a later date for a meeting to take up these two items, the Senate voted to meet in special session on Monday, November 23, 1970, at 3:00 p.m. in the Court Room of the Law Building for the purpose of discussing these two items and acting on the 1973-74 University Calendar and the College of Law Calendar.

The Senate adjourned at 4:45 p.m.

Elbert W. Ockerman  
Secretary