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Academic Freedom in Mississippi: A Report of a Special Committee

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# Academic Freedom in Mississippi\*

## A REPORT OF A SPECIAL COMMITTEE

For several years there has been an increasing concern among members of the American Association of University Professors, particularly in Committee A, the Council, and the Washington Office, about conditions of academic freedom in Mississippi. A number of circumstances, some tangible and others not, have contributed to this concern.

The Washington Office has been in close touch with faculty members and with administrators on several campuses in the state in connection with various matters. At the University of Mississippi, there was a bitter controversy involving a member of the law school faculty who resigned after having been subjected to long and severe pressure aroused by his persistently and publicly expressed belief that United States Supreme Court decisions, including the 1954 school desegregation order, were law and should be obeyed. A tenure case at Alcorn Agricultural and Mechanical College, which resulted in the censure of the Alcorn administration, was reported in the September, 1962, issue of the *AAUP Bulletin*. Many other circumstances, none of which came to the status of a "case," indicated that a special problem existed.

The fact that a large proportion of these circumstances have focused public attention on the University of Mississippi cannot be taken as evidence of especially adverse conditions of academic freedom at that institution. This focus, and the emphasis in this report on events which have occurred on the University of Mississippi campus, actually reflect a stronger exercise of academic freedom in that institution than in most others in the state, where absence of conflict has often been due either to lack of initiative on the part of faculty and students in raising issues or to effective suppression of issues by administrative authorities, or both. It is something of a compliment to the University of Mississippi that it is the place where important issues have most often been raised and fought about, even though the fighting, in itself, has not been a pretty spectacle.

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\* The text of this report was written in the first instance by the members of the special committee. In accordance with Association practice, that text was sent to the Association's Committee A on Academic Freedom and Tenure and then to faculty members, administrators, and public officials in Mississippi with a particular concern in the report. In the light of the suggestions received, and with the editorial assistance of the Association staff, the report has been revised for publication.

### The Riot at the University of Mississippi

The most destructive conflict was the riot which accompanied the admission of James H. Meredith to the University. It began, after several days of tension and minor disorders, on the evening of September 30, 1962, on the campus of the University, and spread to the town of Oxford during the day of October 1. Two persons were killed, apparently by some of the rioters, and many were injured. More than 20,000 armed men—members of the Mississippi National Guard and of the U. S. Army, and federal, state, and local law enforcement officers—were used to restore order. For months afterward the campus was patrolled by military police, and federal marshals remained to guard Meredith during the entire period of his enrollment in the University.

This situation arose very largely from the fact that the state government of Mississippi, in the persons of the Governor and the Lieutenant Governor, had acted to defy the federal court order directing Meredith's admission to the University. The Board of Trustees of State Institutions of Higher Learning had first prohibited any action on Meredith's admission by the University administration, and had then abrogated its own constitutional responsibility by investing Governor Ross Barnett with full authority to act in that matter. State officials, members of the Citizens Council, and many of the news media in various parts of the state had called for all-out opposition to federal power. The result was a small-scale violent rebellion in which there was temporarily an almost complete breakdown of law enforcement on the part of the state, and in which the University was helplessly caught in the middle. Its very existence as an institution was for a time severely threatened; and its orderly administration and the performance of its educational functions were for some time rendered extremely difficult by continuing pressures from inside and outside the state.<sup>1</sup>

The Washington Office of AAUP kept in close touch with faculty members and administrators at the University during the crisis period. A visit was made to the campus by Professor Richard P. Adams (English, Tulane University) on October 20-21, 1962, and reports were made by him and by Professor Tom J. Truss, Jr., (English, University of Mississippi) to the AAUP Council at its meeting on October 27, 1962.

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<sup>1</sup> The fullest published account of the Meredith crisis is Russell H. Barrett, *Integration at Ole Miss*, Chicago: Quadrangle Books, 1965.

Faculty members at the University had not been indifferent or idle. On October 3, two days after the riot, the local AAUP chapter adopted a resolution, made public and widely reported, in which (1) allegations by Mississippi officials that the riot had been due to actions of the U. S. marshals were said to be "not only unfair and reprehensible but . . . almost completely false," (2) news media within the state were accused of propagating misleading and inflammatory statements, and were urged to behave more responsibly, (3) all citizens were urged to obey the law as interpreted by the Supreme Court, and to refrain from violence, and (4) the hope was expressed that the University would be allowed to return peacefully to its proper business of education.<sup>2</sup> In addition to being adopted by the chapter and signed by the three chapter officers, this statement was signed by some 61 individual faculty members.

### Student Discipline at the University of Mississippi

In the period immediately following the riot, the problem that troubled faculty members most was that of student discipline on campus. It concerned them not only because it affected the academic conditions under which they had to work, but because they could not avoid the conviction that they had some responsibility for helping to solve it. The problem consisted mainly in the behavior of segregationist students in systematically harassing Meredith in every way they could think of short of a physical attack which would have been forcibly resisted by the federal officers assigned to guard him. He was subject to taunts, catcalls, curses, and obscenities. Concerted and strenuous efforts were made to keep him from studying or even sleeping in peace and quiet. This psychological warfare, designed to break him down and drive him off the campus, was supported by organized public opinion throughout most of the state, and at first the University administration made very little effort to bring it under effective control.

Many faculty members felt this situation to be intolerable, and some of them undertook to try their own ways of dealing with it. But the only directly coercive weapon they had was their power to assign grades, and the few who were tempted to use this weapon were soon persuaded that it was not an appropriate instrument for controlling student behavior outside of academic work. With the help of an organized faculty patrol of the campus, the administration gradually regained some measure of disciplinary control, but not before severe damage had been done to both student and faculty morale. Ironically, Meredith was not driven off the campus, but several white students were. Some were harassed, as Meredith was (but without his federal protection), by segregationist fellow students, and some were expelled by the University for being too active in the harassment. Some of the latter were subsequently reinstated.

Three other Negro students have since been admitted to the University of Mississippi without serious disorder. The admission of Cleveland Donald, Jr., to the summer

<sup>2</sup> The text of the resolution is printed in Barrett, p. 180.

session of 1964 appears to have been handled with a good deal of skill and tact, and Irvin Walker was admitted in the fall of 1964 without a separate court order.<sup>3</sup>

As recently as the spring semester of 1964, however, a student was severely harassed because he was believed to have been active in promoting attendance by Negro students from nearby Rust College at a lecture given on the University of Mississippi campus by Howard K. Smith. This student was driven out of two dormitories in succession but not out of the University; by living in a private home during the latter part of the semester he managed to finish the year. The discouraging aspect of the affair was that, in spite of the intervention of several faculty members, of the local chapter of AAUP, and of the student's parents, the University administration did not give him effective protection against such mishaps as being roughed up and pushed downstairs, having coke bottles thrown against his door and through the transom into his room, and having his personal belongings damaged and destroyed. He was paid about \$65 to compensate for damages.

Chancellor J. D. Williams, in his biennial report on the University covering the period July 1, 1961, to June 30, 1963, noted that the usual increase in fall enrollment had been "abruptly slowed" in 1962-1963, and that there had been an "unusual decrease for the spring semester of that year." He added that "A particularly heavy loss in out-of-state enrollment is indicated," and that "The resulting loss of fee income will impose a heavy financial strain on the University." Faculty losses were, proportionally, even heavier. "Resignations in the professorial ranks have averaged approximately ten per year for the past several years. Such resignations will total between 35 and 40 for the period September 1, 1962, to August 30, 1963. The past year's crisis both increased the number of resignations and made more difficult the finding of competent replacements."<sup>4</sup> Student enrollment in the summer session of 1964, and fall semester enrollment for 1964 have again shown an increase. At all other state institutions of higher learning in Mississippi there has been a continuous increase in enrollment.

### Economic Problems and Economic Development in Mississippi

In order to understand the pressures which have produced the events narrated above and the problems which face institutions of higher learning in Mississippi, it is necessary to go a little way into the economic and social problems of the state as a whole. The economic problems are severe. According to a legislative report of 1961, Mississippi at that time had "a lower per capita income than any other state in the nation . . . has depended too heavily on income from agriculture, fores-

<sup>3</sup> See Barrett, pp. 228-243.

<sup>4</sup> *Biennial Report of the Board of Trustees of State Institutions of Higher Learning from July 1, 1961 to June 30, 1963 to the State Legislature, State of Mississippi*, p. 37. Note that these figures are absolute numbers, not percentages.

try, and other extractive activities, has attracted industry that paid low wages and produced low value added by manufacture products.”<sup>5</sup> Responsible leaders in government and business have made great efforts to foster economic development, and they have had some success, particularly in recent years with a highly popular “Balance Agriculture with Industry” program, promoted by Governor Ross Barnett and others.

Governor Barnett’s successor, Governor Paul B. Johnson, has sought to continue and expand these efforts, and to strengthen their base in the educational resources of the state. In his inaugural address to the Legislature on January 21, 1964, he said, “As we move this state forward . . . the first crying need of our people is in the field of research.” Taking his cue from a study made by the Stanford Research Institute, he proposed establishment of “a Mississippi Research and Development Center,” which, “with its electronic computer, its technical library, its extension services and its housing for development agencies, will be closely allied with our institutions of higher learning. . . .”

### Some General Problems of Higher Education in Mississippi

A week later, in an address entitled “The Death of Mediocrity—the Pursuit of Excellence,” the new Governor spelled out his economic program in more detail and tied it more firmly to the educational system. He took this occasion to deliver some sharply worded remarks on the inadequacies of the state’s institutions of higher learning. “Research in the universities is limited,” he said. “Faculty salaries are substantially below national and even southern averages. Graduate programs are almost non-existent. . . . We cannot justifiably complain about inferior instructors when we are not doing enough to produce our own qualified instructors, with advanced degrees, to replace them.”

Recent statistics go far to confirm the general truth of these remarks. On the AAUP salary grading scale, Mississippi institutions reported as follows for 1964-65:

Institution	Av. Scale	Min. Scale	Av. Salary	Av. Compensation
Delta State College	E	D	\$7,114	\$7,348
Jackson State College	E	F	6,490	6,755
Millsaps College	E	E	6,921	7,618
Mississippi College	F	F	6,283	6,510
Miss. St. Coll. for Women	E	D	7,363	7,554
Miss. State University	D	F	8,089	8,320
University of Mississippi	D	D	8,239	8,469
Univ. of Southern Mississippi	E	E	7,614	7,823
All insts. participating in 1964-65 survey	—	—	9,341	10,050

<sup>5</sup> *Report of Mississippi Legislative Education Study Committee to the Governor, Legislators and People of Mississippi* (December, 1961), p. 27.

Teaching loads, moreover, are heavy. During 1962-1963 the ratio of full-time students to full-time faculty at the University of Mississippi was seventeen to one, the best ratio of any of the state institutions. The poorest ratio, twenty to one, was reported at Mississippi State College for Women, Alcorn A & M College, Jackson State College, and Mississippi Valley State College, formerly Mississippi Vocational College.<sup>6</sup> Measured in contact hours, the load is similarly heavy. In the fall semester of 1960-61, at the University of Mississippi, 27.3 per cent of the faculty had loads of 7 to 9 credit hours per week, 49.2 per cent had 10 to 12 hours, and 13.6 per cent had 13 to 15 hours. At Mississippi State University, 13.8 per cent had 7 to 9 hours, 46.5 per cent had 10 to 12 hours, and 32.7 per cent had 13 to 15 hours. At Mississippi State College for Women, 70.2 per cent had 13 to 15 hours. At Mississippi Southern College (now the University of Southern Mississippi), 55 per cent had 16 to 18 hours.<sup>7</sup> It should be noted that heavy teaching loads prevail in other places besides Mississippi, but they are seldom accompanied by so many additional disadvantages.

Aside from the bad publicity attending the Meredith affair, the state institutions in Mississippi have had and continue to have a very serious problem in recruiting qualified faculty, and particularly faculty highly qualified and motivated to do research. Even if large numbers of potentially good research people could be attracted at the low salaries being paid, the high student-faculty ratios and the heavy contact hour schedules would leave them little time or energy to spend in libraries and laboratories.

The question facing the Governor and the Legislature and the people of Mississippi, if they are as much in earnest as they seem to be about furthering the economic development of the state, is how to get the great increases which, as the Governor has so clearly and forcefully said, must be achieved in the amount and quality of research, and of educational activity generally, in the state and particularly in the state universities. A very large investment must be made to raise salaries, reduce loads, and provide research facilities. There must also be conditions of general freedom, so that creative people will want to live and raise children in Mississippi, and there must be conditions of academic freedom, so that they can do their work.

### The Problem of Segregation

Most of the really severe conflicts and disturbances in Mississippi during recent years have arisen from social and political tensions associated with segregation and the efforts being made by various people in and out of Mississippi to do away with segregation. It is plain that the people of Mississippi must choose, more and more often, between courses of action which tend to preserve segregation and other courses which favor economic development. The fighting words in Mississippi

<sup>6</sup> *Biennial Report . . .*, p. 10.

<sup>7</sup> *Public Education in Mississippi: Reports of Advisory Study Groups, Volume II, Institutions of Higher Learning* (December, 1961), p. 113.

are "mixing," "mingling," and "integration"; but the social tendency they represent is increasingly what Mississippi needs in order to prosper.

The fighting might be ameliorated, or at least it might make more sense, if the social phenomenon of segregation were better understood, both in Mississippi and elsewhere. Discussions of the problem are usually conducted at cross-purposes because the segregationists argue from one set of assumptions and their adversaries from another. The opposition to segregation is based on the premise that Negroes and white people are all human, and therefore all have human rights. But, as Alexis de Tocqueville observed, when a society consists of classes differing widely in status and degree of privilege, the members of one class tend to regard themselves as being essentially different in kind from the members of other classes. Tocqueville cites the example of "Cicero, who declaimed so vehemently at the notion of crucifying a Roman citizen," but who had no qualms about the slaughter with torture of prisoners of war, because, "in his eyes, a barbarian did not belong to the same human race as a Roman." The cruelty with which slaves were treated in America, in spite of the mildness of American laws and social behavior generally, was explained by Tocqueville on the same principle. "It is easy to perceive," he says, "that the lot of these unhappy beings inspires their masters with but little compassion . . . the same man who is full of humanity towards his fellow creatures when they are at the same time his equals becomes insensible to their afflictions as soon as that equality ceases."<sup>8</sup>

In order to understand segregation as it operates in Mississippi, people living in other parts of the country and sharing other views must realize that it has very little reference to any physical separation of Negroes and whites. Restaurants, bars, the most exclusive clubs, for white only, and white people's homes, including kitchens, bathrooms, nurseries, and bedrooms, have Negroes in them daily. Doubtless, as people variously have argued, segregation is involved in complex ways with race, color, sex, and economic motives; but the basic proposition that runs through everything connected with it is the assumption of inequality, the assumption, to put it bluntly, that Negroes are not fully human. A hard-core segregationist is a person in whom this assumption is so deeply ingrained that he cannot help considering any suggestion that Negroes should have the same rights as he has, and be treated in the same way, as equals, to be not only preposterous but to be an insult and an outrage to his own pride as a man, a denial, in a quite logical sense, of his humanity. The situation is ready-made for fanaticism and demagoguery, and these have been rampant in Mississippi; but a segregationist need not be a fanatic, or the dupe of a demagogue, to look with horror and consequent anger on any attempt at association of Negroes and whites

<sup>8</sup> Alexis de Tocqueville, *Democracy in America*, tr. Henry Reeve, Francis Bowen, and Phillips Bradley (New York, 1945), II, 166-167.

on equal terms. It is not the association that is objected to, but the equality of the terms. It may be true, as Mississippians like to say, that there is more personal contact between white people and Negroes, and a warmer feeling of affection on both sides, in Mississippi than there is in the North; but if so it is true only so long as the Negroes "know their place," which is socially inferior to that of the lowest white person.

#### The AAUP Survey Committee

In April, 1963, Committee A on Academic Freedom and Tenure of the American Association of University Professors voted to request authorization of a survey by a special AAUP committee to report on conditions of academic freedom in the state of Mississippi. This was an unprecedented action, prompted by the unusual circumstances which then obtained. The reason for it might perhaps best be summarized in a paradox. Although there was only one active case, the Alcorn case, in which violation of academic freedom or tenure had been alleged, it was very obvious that there was heavy pressure on academic institutions and faculties throughout Mississippi to make them conform to orthodox segregationist views. Members of Committee A, recognizing that they did not know how much this pressure amounted to, or exactly what its effects on the exercise of academic freedom in the various colleges and universities in Mississippi might be, were seeking means of obtaining information on which a reasonably sound objective judgment might be based.

In October and November, 1963, the undersigned were appointed members of the committee and began their work, assisted and coordinated by Dr. Bertram H. Davis of the Washington Office. The members studied a thick file of documents assembled in the Washington Office and talked with Mississippians at fall professional meetings and with ex-Mississippians who had migrated to their own campuses. The chairman took advantage of visits already scheduled for other purposes to interview people at the University of Mississippi and the University of Southern Mississippi. The committee made two visits, of several days each, to Mississippi, in January and March, 1964, traveling throughout the state from a base in Jackson, the capital, and interviewing administrators and faculty members at the University of Mississippi at Oxford, Mississippi State University at Starkville, Mississippi State College for Women at Columbus, the University of Southern Mississippi at Hattiesburg, and Millsaps College, the University of Mississippi Medical Center, Jackson State College, Mississippi College, and Tougaloo Southern Christian College, all in or near Jackson. The committee also had interviews with Dr. E. R. Jobe, Executive Secretary of the Board of Trustees of State Institutions of Higher Learning, and Mr. T. J. Tubb, then President of the Board, and with the Honorable Carroll Gartin, Lieutenant Governor of Mississippi, and Mr. Frank D. Barber, Special Assistant to Governor Johnson.

Committee members were hospitably received and most people who were interviewed seemed eager to be

as helpful as possible in support of the committee's aim of telling the truth about conditions of academic freedom in the state. Opinions sometimes differed as to what the truth might be, and some opinions were sharply exchanged; but the sharpness never kept the discussion from being friendly as well as frank. The committee is extremely grateful to the dozens of people who have given their time and thoughtful attention in aid of its research.

### Academic Freedom in Mississippi

The only general statement that the committee can make with full confidence about conditions of academic freedom in Mississippi is that they vary greatly, both in the kind and in the amount of freedom there is, depending on the context in which the matter is examined. Freedom in the classroom is one thing; freedom of public utterance is quite another; freedom to bring outside speakers to the campus another still. There are wide variations among the different institutions. About some topics, professors are probably as free to express unorthodox opinions without fear of reprisal in Mississippi as they are in most other states; but there are several topics, connected in one way or another with the conflict over segregation, on which they are less free.

The only official expression of statewide Mississippi policy on academic freedom which the committee has been able to find is published in a report by the Board of Trustees of State Institutions of Higher Learning on the investigation of "Sensational charges of teaching and conspiring to accomplish apostasy, subversion, and the violation of Mississippi law and tradition" at the University of Mississippi in 1959. After finding the charges to be "without foundation in fact," the Board went on to declare that "It is the policy of this Board that there should prevail at our universities and colleges an atmosphere of freedom in their research, teaching programs and services and that there should be no political or subversive propagandizing in the academic programs. It is proclaimed with equal fervor that academic freedom does not mean academic license. With freedom there must be responsibility for statements, speeches, and actions."<sup>9</sup> The language of this statement represents the position of the Board between two fires: on the one hand are those who would suppress academic freedom in order to preserve Mississippi customs, laws, and traditions; on the other are the forces which work for due process and equal protection of the laws. In 1930, Mississippi institutions of higher learning were deprived of full accreditation by the Southern Association because Governor Theodore G. Bilbo had dismissed a number of faculty members; and that experience has not been forgotten.

Recent policies and policy statements of both the Board of Trustees and the administration of the University of Mississippi have apparently been influenced by pressures coming from outside the state as well as

<sup>9</sup> "Statement of the Board of Trustees Concerning Allegations Relative to the University of Mississippi," Jackson, Miss., Aug. 27, 1959, p. 2.

from within. During the Meredith crisis both sets of officials made considerable efforts to avoid putting themselves in contempt of court; and afterward, when the Southern Association of Colleges and Secondary Schools put Mississippi institutions on "extraordinary status" because of political interference by Governor Barnett, both the Board and the Governor gave assurances that the Board was independent of political control and that the interference would not be repeated. At the same time (shortly after publication of the AAUP committee report on the Alcorn case), the Board adopted a state-wide faculty tenure rule. More recently, however, Governor Johnson has appointed as one of the new Board members a person who is also currently serving in the state Senate, Senator George Yarbrough, a move which would seem rather seriously to compromise the Board's independence of political control.

In December, 1963, Chancellor J. D. Williams of the University of Mississippi, remarking on "The volume and the nature of recent comment in the state and national press concerning the faculty of the University of Mississippi," found it "desirable . . . to review the principles of academic freedom and faculty responsibility." After outlining some general considerations, he made the following specific statements:

The first responsibility of the administration of the University is to insure the free play of ideas and to maintain a climate in which students and faculty can learn, teach, and investigate. Only in such a climate can progress occur and truth be triumphant.

In addition, while his position entails certain obligations, a faculty member does not because of that position lose any of the fundamental rights of a citizen to freedom of speech.

At the same time the position of the faculty member assures him no peculiar rights. He remains subject to the laws of libel and slander, and he is entitled to no special protection from the criticism which may result from the expression of unpopular ideas. Because his actions inevitably reflect upon his profession and his institution, he should make particular effort to be accurate, to exercise appropriate restraint, and to show respect for the opinion of others. In the classroom he should not introduce controversial matter not related to his subject, and within his own subject area he is expected to uphold proper standards of scholarship and teaching competence as these may be judged by his peers.

### Membership in Organizations

A disturbing fact about the operation of state institutions in Mississippi is that all faculty members are required to list annually the organizations to which they belong and those to which they contribute money, and that their statements are kept on file in the offices of the Board of Trustees, where they are accessible to state officials, including members of the Legislature. The committee found no evidence that any use had ever been made of these statements, but they have the look of a

powder keg in the midst of a crowd of people some of whom have been known to toss matches.

### **Freedom in the Classroom**

Everywhere the committee went in Mississippi, its members were told by faculty members, administrators, and state officials that there is no improper limitation or restriction placed on an instructor's right to express his views in classroom lectures and discussions. Some faculty members admitted, when pressed, that they exercised a certain amount of self-restraint in avoiding statements or situations which they knew would stir up student's emotions, but they generally said that this was a voluntary matter, and that they were not influenced by fear of administrative action. The committee is disposed to believe, on the basis of available evidence, that a fairly high degree of academic freedom has been maintained, often against considerable pressure, in the direct and formal relationship of the instructor to the student in the class.

The same is apparently true for the most part of the faculties' selection of textbooks, library books, and other educational materials. The committee did, however, receive a report from a faculty member who had resigned from one of the state colleges because he had been persuaded, under administrative pressure, to withdraw a textbook he had chosen for one of his courses. The book was objected to on the ground that it contained some photographs showing Negro and white students together in the same classroom.

Another incident which may throw some light on the question of classroom freedom occurred at the University of Mississippi. During the summer of 1964, some officials of COFO and the NAACP visited the campus, with the cooperation of several faculty members, for purposes which the faculty members considered legitimately educational, and with a minimum of publicity. Two investigations followed, one by a committee of the state Board of Trustees and one by a committee of the Legislature. On August 20, the Board of Trustees adopted the following resolution:

WHEREAS, Mississippi is recognized by all as a law abiding state and statistics show that the crime rate in the state is substantially lower than in any other state in the American Union; and it is the wish and desire of the Board of Trustees of Institutions of Higher Learning that said Board do all within its power to protect and improve this record; and,

WHEREAS, the Board of Trustees of Institutions of Higher Learning is duty bound and has obligated itself to uphold and defend the Constitution of the United States and of the State of Mississippi and the laws thereof, but it would appear that there is a concentrated national effort to call for uniformity in the ongoing of American life with increase in controls over all individuals and segments of society with resulting regimentation; and with these trends there continue the conflicts between those interested in states rights and conservative government and those

interested in breaking down state barriers and increasing the force and strength and control by the national liberal government; and out of all of this there arise new problems for college boards and particularly with the College Board here asserting itself through this resolution; and,

WHEREAS, a conservative Mississippi citizenship has extended itself to many areas of the United States with opposition from liberal groups to the end that the conservative thought existing in Mississippi supporting states rights meets head-on with the liberals and a strong central government; and being more specific there has been an "invasion" of Mississippi by people from other parts of the United States who have pursued a program referred to as the "Mississippi Project" where COFO and others have sought to activate and accelerate a trend opposed to states rights and local self-government and for extreme liberalism and a strong central national government; and all of this creates real problems to reach campus life of the state universities and colleges of Mississippi to the extent that real danger exists that lawlessness may develop on the university and college campuses in this state and area; and in order to do what the Board may in avoiding development of situations as now exist in New York City, Rochester, New York; Elizabeth and Patterson, New Jersey; Cleveland, Ohio; and Chicago, Illinois; where reports of race rioting and other wrong appears to be the normal and not the exception, the Board has concluded that it ought to do what it may to keep and maintain law and order on the campuses of these state-owned colleges and universities and to vest in president heads authority to deal therewith; and

WHEREAS, among those identified with COFO and others in the "invasion," there have appeared many individuals who have national reputation for membership in the communist party and/or other affiliates with avowed purpose to change and overthrow the Government of the United States; and a concerted effort should be made by all Americans everywhere and especially by institutions of higher learning to avoid these dangerous movements and to support conservative constitutional government and to preserve and protect the United States of America and the State of Mississippi; and the foregoing constitutes the reason for this resolution.

NOW, THEREFORE, be it resolved that the heads of each state institution of higher learning in Mississippi shall do everything reasonably possible to maintain good atmosphere for educational pursuits of students on any college or university campus in the State of Mississippi, under the jurisdiction of this Board, and that authority be vested in the heads of these institutions to protect student life from undue pressure by those engaged in activities contrary to the laws of the State of Mississippi and to the image of the citizenship of the state; and that all things be had and done which may be considered proper to eliminate development of socialistic and communistic trends

among the college or university youth where violence is done to constitutional government, to local and state governments and to education, and they will use all reasonable means to prohibit as far as possible invasion of state institutions of higher learning by outside influence contrary to the established and well-known policies of the State of Mississippi relating to good government; and it is the desire of this Board that the heads of the several institutions be free to carry out the expressed policies herein contained in such manner as may appear appropriate and with desire on behalf of the Board that there be kept and maintained a proper balance in the ongoing of institutional life in order that peace and tranquility may prevail without disruption by pressure from without. Previous instructions to college and university heads identified with clearances of all speakers from the outside who enter the institutions are not affected hereby and will continue in full force.

This resolution was interpreted in an order issued by the Board on August 28, to the effect that Negroes must be excluded from all public buildings on the campus of any state institution unless they were enrolled as students. The policy was enforced on September 9, when the parents of the two Negro students at the University of Mississippi were denied permission to eat in the University cafeteria. On the same day, Chancellor Williams addressed the following message to a faculty meeting and released it for publication:

Columbia University's bicentennial theme was "Man's Right to Knowledge and the Free Use Thereof." To many people this is "Academic freedom." However, to others "Academic freedom" means an attempt by professional conspiracy to protect teachers whose purpose is to poison the minds of our youth with un-American ideas or foreign philosophies, and to bring only contempt for our way of life. Man's right to know is a fundamental principle of freedom implied, if not deliberately defined, in the Bill of Rights and other articles of the United States Constitution as well as the State Constitution. More specifically, the principle holds that teachers have the freedom to teach and students have the freedom to learn whatever there is to know.

Who should decide what is worth knowing? Should it be the Legislature, the Board of Trustees, the Faculty, the Congress, or others? One of the greatest privileges Americans have is the right of each of us to decide what is worth knowing. Should college students be deprived of that privilege because they are in college and the college is supported by funds from some source that decrees that the source shall determine what students shall know?

Who is wise enough to decide what these students should know ten years from now, much less twenty or thirty years? The students must have primary responsibility for these important decisions that are vital, not only to their own future but to that of the

nation as well. Students are offered through their classes, seminars, laboratories, and libraries a vast array of information, of theories, of philosophies, of points of view that men have developed, accepted, or rejected over the centuries. Students are provided estimates of the future and participate in the evaluation of the basis for such estimates. No student accepts all and no student rejects all. He accepts that which in his judgment he believes to be worth-while to him; he reserves judgment on much and he rejects much.

The faculty at the University of Mississippi is dedicated to the task of providing every student with all of the knowledge that has been accumulated over the centuries of man. No student can get it all because no student has either the time or the capacity to learn all every teacher knows and all that the books in the library have to reveal. However, it is all available to him. Primarily the decisions he makes as to the courses he will take and the books he will read determine that part of the total that he chooses to know or learn about.

That man may be free, let us not only defend but promote and support with dedication the students' right to know. The survival of our Nation and of our society depends upon it. No other freedom means more to human development.

The State of Mississippi and the University have many problems. I have confidence in the members of this faculty, in their dedication, in their ability, and in their judgment. This is a group of professional and responsible men and women. I know that the people of Mississippi, the parents of our students, and students themselves believe that we take our respective responsibilities seriously. We shall do those things that will contribute most to the primary purpose of the University, namely, to bring thought and knowledge into the world.

#### Freedom of Public Utterance

There was an almost total unanimity among faculty members, administrators, and state officials in the opinion that freedom of public utterance in Mississippi is severely hampered. The limitation is not, to any great extent, a matter of law or of official policy; it is primarily a matter of fear. The consequences of publicly expressing unpopular opinions on segregation are, or at any rate are universally thought to be, extremely dire. Faculty members who feel, as nearly all do, a strong sense of loyalty to their institutions are reluctant to say anything that might cause the Legislature, the churches, or the general public to withhold desperately needed support. Most are deterred also by the reluctance that any sensitive person feels about incurring the displeasure or the wrath of his neighbors in the community. This reluctance is encouraged by the fact that in Mississippi, more than in most places, the neighbors' displeasure or wrath may take the form of abusive telephone calls, ostracism or bullying of children at school and in other community activities, police harass-



ment, damage to property, and physical violence ranging up to and including murder. Several people observed to committee members that, in effect, a man has about as much freedom as he has guts. But not many faculty members want to risk being shot at in the night.

These motives for self-restraint are part of the context of Chancellor Williams' statements on academic freedom and faculty responsibility. They are more explicitly reinforced by statements of some other university administrators, such as President William D. McCain of the University of Southern Mississippi, who is reported to have said in a public speech in Jackson, "There has been a lot of trouble with college professors on the matters of integration and segregation. We don't have that trouble at Southern. Each year I tell our instructors they are employed to teach . . . and I will handle all other problems."<sup>10</sup> In talking with the committee, President McCain said that his annual admonition to the faculty was a request that they be careful not to say things that would make his job of getting money from the Legislature unnecessarily difficult, and that there was and would be no penalty attached to noncompliance except the harm that might be done to the University. Many members of the faculty, however, believe that there would be other penalties, and this belief helps to deter them from making unpopular public statements.

It was clear from the committee's interviews with a number of other administrators and with state officials, including the Lieutenant Governor, as well as with faculty members, that people in positions of administrative authority generally believe, and many feel very strongly, that a real and legitimate part of a faculty member's responsibility is to avoid embarrassing the efforts of the administrators and politicians to gain the public and legislative support that is unquestionably needed to improve their institutions. Up to a certain point, this can be a very persuasive argument, and at present there are not many faculty members in Mississippi state institutions who insist on going beyond that point.

The fallacy in the argument is, of course, the assumption that a hermetic seal can be put on the classroom door, or that an educational institution can be operated as a kind of closed society within a closed society, separating what goes on inside from the "real world" of social, economic, political, and cultural activity on the outside. If that were true, there would be no use in having classrooms or educational institutions at all.

### Freedom of Research

The committee found little or no evidence at the time of its visits to Mississippi of improper restrictions on research, or on the publication of results. The question, however, may have been academic in the wrong sense, because there seemed to be little significant research being reported in fields where controversy related to the segregation problem would be likely to arise.

<sup>10</sup> Jackson *Clarion-Ledger*, Feb. 8, 1964, p. 8 (ellipsis in the source).

The one or two instances cited to the committee by administrators and state officials turned out, on examination, to be unimportant. The subsequent appearance of Professor James W. Silver's book, *Mississippi: The Closed Society*, and the recently published book on *Integration at Ole Miss* by Professor Russell H. Barrett, another University of Mississippi faculty member, may change the picture somewhat, and offer a test to show whether the results of social research in sensitive areas can be submitted to broad public discussion without excessive damage to the researcher or the institution in which he works.

### The Speaker Ban

The Board of Trustees of State Institutions of Higher Learning in Mississippi has a regulation which says that "All speakers invited to the campus of any of the state Institutions of Higher Learning must first be investigated and approved by the head of the institutions involved and when invited the names of such speakers must be filed with the Executive Secretary of the Board of Trustees." Since this regulation specifies no criteria for approval or review, it is hard to know just what it means; and in fact it seems to mean different things on different campuses.

The administrative head of one of the state universities said that on his campus the screening of speakers was merely a procedural matter of making sure that a proposed speaker was "qualified"—just as proposed new faculty members would be examined before being hired. The nature of the qualifications appeared rather doubtful, however, in light of the fact that the administrative assistant most actively concerned in the screening was a former member of the Federal Bureau of Investigation who worked closely with Senator Eastland's Internal Security Committee and who appeared to have no particular academic qualifications himself except that he had been in charge of FBI training. Some years ago there had been a proposal to bring Walter Reuther on campus to speak, but another labor leader had been judged better qualified. On another occasion, a historian from another (Southern) state was invited to speak on campus; but, after the appearance of an article in a national magazine with pictures of the historian's wife entertaining Negro students in their home, his invitation was canceled, although his honorarium was paid.

At another university the administrative head was of the opinion that a Negro could not be invited to speak, and that no one could be invited who was a member of an organization on the Attorney General's list of subversive organizations. He said that Walter Reuther could be invited, but that Roy Wilkins, being a Negro, could not.

The committee was told that a Negro state institution can have speakers from the U. S. State Department or from the United Nations, but not from among labor leaders or persons active in the civil rights movement. There is evidence indicating that Negro state institutions are closely watched by the State Sovereignty Commis-

sion and by the Citizens Councils for any sign of activity that might be subversive of segregation, and that speakers are screened with special care by administrators at these institutions.

### Recruiting

In most of the places the committee visited, faculty members and administrators were frank to say that one of their most difficult problems was that of recruiting qualified faculty. The difficulty has been particularly acute at the University of Mississippi because of the unusually large number of faculty resignations. But, although losses elsewhere have not been so numerous, expansion of student enrollment has been rapid, particularly in the state schools and most particularly in the Negro state schools. Replacements and additions to faculties are hard to attract, primarily because of the low salaries and the heavy loads, but also for other reasons. Elementary and secondary schools are inferior in most communities, especially for Negroes, and the same communities are generally culture-starved, the hardship again weighing most heavily on Negroes.

These substantial disadvantages are reinforced by the bad reputation that the state has acquired among people in other parts of the country, and particularly among people who are qualified to be members of college or university faculties, who are not usually segregationists, who feel that they are not wanted in Mississippi, and who seldom have any strong desire to go there, unless for missionary purposes. This disadvantage is reinforced by a reciprocal feeling on the part of administrators at Mississippi institutions, several of whom told committee members that they did not want reformers on their faculties. Committee members were told by recent recruits to more than one Mississippi faculty that when they were interviewed before being appointed they were asked whether they would be happy living in Mississippi. The impression they received was that the question was intended to insure their orthodoxy, or at least their acquiescence, on the segregation issue. One of the state officials interviewed by the committee remarked that the religious views of a recruit should be in harmony with those of the great majority of Mississippians, and specified, on further questioning, that Moslems did not fit in very well.

All of these factors add up to a severe handicap for Mississippi institutions of higher learning in their attempts to recruit highly qualified teachers and researchers. The trend in the nation at large is to put increasing stress on academic qualifications in recruiting, and to ignore as much as possible such criteria as social, racial, or economic backgrounds; if a candidate is a good enough scholar, he need not, even in the most snobbish of institutions, be the kind of gentleman who conforms to any particular pattern of life. The trend in Mississippi has been to impose so many nonacademic qualifications that the pool of potential candidates is only a fraction of what it ought to be, of what it is in most other states, and of what it might be in Mississippi if artificial and irrelevant barriers and deterrents could be removed.

### Faculty Tenure

The private colleges in Mississippi have had and still have their own regulations and policies on faculty tenure, and the committee has seen no indication that they are unsatisfactory. In the state institutions, however, with the apparently sole exception of the University of Mississippi, there was no formal provision for tenure until the fall of 1962, when the Board of Trustees adopted its state-wide rule. This rule provides that, "Beginning with appointment at the institution to any professorial rank, the probationary period shall be three to five academic years, three years of which may have been met in the rank of instructor." The regulation also requires full written contracts, and it closely paraphrases the language of the 1940 Statement of Principles with respect to procedural due process in dismissal cases.

The implementation of this rule, including the timing of its application, was left very largely to the individual campus administrations, whose handling of it has varied. Some institutions had not yet put it formally into effect at the time of the committee's visits. Interpretations have also varied somewhat. For example, the Executive Secretary of the State Board of Trustees, in talking with members of the AAUP committee, expressed the opinion that in practice tenure would be pretty much automatic for a faculty member of professorial rank appointed for the fourth consecutive year; however, the language of the Board regulation requires "written notification from the head of the institution" as one of the conditions of acquiring tenure, and this language has been the occasion of trouble on at least two campuses.

### A Tenure Problem at the University of Mississippi

In the fall of 1962, a department chairman at the University of Mississippi recommended four members of the department for tenure. Each of them had more than the minimum length of appointment required by the new rule. In response to these recommendations, the Provost wrote to the dean of the college concerned:

You recently forwarded to me tenure recommendations for Professors . . . . ., . . . . ., . . . . ., and . . . . . in the Department of . . . . . I do not anticipate taking early action on these recommendations. The recommendations come two years after the minimum probationary period for Professor . . . . ., four years in the case of Professor . . . . ., one year in the case of Professor . . . . ., and three years in the case of Professor . . . . . Professor . . . . . [the department chairman] could have initiated the recommendations of Professors . . . . ., . . . . ., and . . . . . in early 1961 after the establishment of our present procedures, and the recommendation for Professor . . . . . could have been initiated in June, 1961. I think that my office should follow Professor . . . . . 's [the department chairman's] example of deliberate consideration.

Rumors have, of course, reached me that several members of the faculty of the Department of . . . . . have indicated to friends and associates their inten-

tion to resign. Further processing of one or two of the tenure recommendations may therefore be a futile gesture.

In the interests of the instructional program in the Department of . . . . . an early clarification of personnel needs for next year seems highly desirable.

One of the tenure candidates resigned during the course of the year (as did the department chairman and the Provost), and one was granted tenure; but no action was taken on the recommendations with respect to the other two.

On May 28, the new Provost replied to an inquiry from the department head concerning the status of the remaining two professors with the statement that "These recommendations have not been denied, but Chancellor Williams advises me that he wishes to delay consideration of them for the present. May I suggest that you query me concerning these recommendations again late in June." Both the professors requested, and were granted, a year's leave without pay, and on June 26 and 27, the Chancellor sent them identical letters "to inform you that the recommendation that you be granted tenure at the University of Mississippi will be reviewed at such time as you return to regular teaching duties at the University after the expiration of the 1963 summer session, and further that the recommendation will be approved at that time unless there has been some action on your part between the present date and your return which would constitute adequate grounds for disapproving a tenure recommendation for any member of the University faculty." The administration did not at any time give any reason for withholding approval of tenure for either of the two professors except the suspicion suggested in the Provost's letter that one or both of them intended to resign. The whole matter remained unresolved, because neither professor returned to the University of Mississippi at the end of his leave.

#### A Tenure Problem at the University of Southern Mississippi

An associate professor at the University of Southern Mississippi who had become eligible for tenure at the time the first recommendations were to be made found his name among those "being advanced to tenure" on a list sent out by the President's office; but, before any further action had been taken, the President heard a rumor that the professor was being "investigated by the FBI," and removed his name from the list. The professor accepted an offer from another university and left the state. The AAUP committee was told that, when the rumor was tracked down, it proved to be without substantial foundation.

It is an interesting coincidence, first, that administrative officials at both the University of Mississippi and the University of Southern Mississippi acted in tenure decisions on the basis of rumors, and, second, that in each case an adverse tenure decision was taken against a professor who was at the time president of the local AAUP chapter.

#### The Case of Tougaloo College

In 1871, the Mississippi Legislature enacted a bill incorporating the Trustees of Tougaloo University, vacancies in whose number were to be filled by the American Missionary Association. They were authorized to operate an educational institution in Mississippi, "accessible to all, irrespective of their religious tenets, and conducted on the most liberal principles for the benefit of our citizens in general. . . ."<sup>11</sup> The name was changed to Tougaloo Southern Christian College in 1915, and to Tougaloo College in 1964. The current enrollment of about five hundred is predominantly Negro, but there are a few white students, and about half the members of the faculty are Negro and half are white. Tougaloo students have been active and at times aggressive in promoting civil rights, particularly in Jackson, which is only about five miles from the campus.

According to a newspaper report published February 18, 1964, Lieutenant Governor Gartin, in a speech to the Jackson Exchange Club the day before, called for an investigation of the college, which he said was "a haven for 'quacks, quirks, and political agitators.'" The purpose of the investigation would be to determine whether the college was "doing what it was authorized to do under a charter issued sometime before 1890."<sup>12</sup> A few days later a bill was introduced in the Legislature by Senators Bradford Dye, Jim Buck Ross, and George Yarbrough, calling, "in the public interest," for repeal of the Tougaloo charter.

It is difficult to know how seriously this proposal was meant, in the absence of a more specific justification than "the public interest" for such a drastic measure. The AAUP committee was told that Dr. A. D. Beittel, President of Tougaloo (who is white), had requested to be allowed to address the Jackson Exchange Club in reply to the Lieutenant Governor's charges, but had been informed that the Exchange Club did not sponsor controversial addresses. The Lieutenant Governor, in talking with the committee, justified his stand on the ground that the college could not be performing its educational function properly when its students were spending a major part of their time agitating in the streets of Jackson. Faculty members admitted that it is hard to teach students who are in jail, especially if the jailers refuse to permit them to have books in their cells. State officials did not seem to have very clear ideas as to what effect the charter revocation would have on the college; one thought it might make the trustees individually liable for financial losses, but another said they would probably still be protected by the college's church affiliations. No one seemed to think that the college would be put out of operation.

There was immediate and very widespread protest against the bill, sparked partly by the Washington Office of AAUP and by the AAUP chapter at Beloit College, where Dr. Beittel had been Dean of Chapel before he became President of Tougaloo. Other educational

<sup>11</sup> "An Act to Incorporate the Trustees of Tougaloo University," approved May 15, 1871.

<sup>12</sup> Jackson *Clarion-Ledger*, Feb. 18, 1964, p. 1.

associations, AAUP chapters and conferences, and individuals all over the country sent letters to responsible officials in Mississippi. Within the state there was little public reaction, but there was a quiet suggestion that Tougaloo students might begin transferring to state institutions. On March 31, the AAUP committee had its interview with the Lieutenant Governor, and in the next day's newspaper a columnist whose views are generally strong for segregation wrote,

One version is that nothing is likely to come of that proposed legislative investigation of Tougaloo College, because certain white educators frown on the idea.

They fear Mississippi's institutions of higher learning might lose their accreditation if the Legislature undertakes "political meddling" in Tougaloo's affairs.<sup>18</sup>

So far as members of the AAUP committee knew no one in a position to make such a threat had done so, but some of the letters to state officials had made much of the fact that Tougaloo was accredited by both the Southern Association of Colleges and Secondary Schools and by the Mississippi Commission on College Accreditation.

In mid-April a new bill was introduced by Senators Dye and Yarbrough to amend the law governing the powers of the state accrediting commission. This bill was reported in news media as being aimed at Tougaloo. Its effect was to eliminate a former requirement that the state commission include on its list all institutions accredited by the Southern Association. The bill was approved on June 6, 1964, but no action has been taken to remove Tougaloo from the list of state-accredited institutions.

On the other side of the ledger, it was reported in May that a program had been agreed upon for cooperation between Tougaloo College and Brown University, with support from several foundations and at least one individual donor, for the purpose of improving educational opportunities for both students and faculty members at Tougaloo. Inasmuch as increased financial and other support, on a broad national basis, is precisely what the college needs, this program can be expected to strengthen its academic potential considerably.

#### The Case of Professor James W. Silver

Although committee members have talked with Professor Silver, and with administrators and faculty members of Mississippi institutions of higher learning about Professor Silver, the following discussion is based largely on newspaper reports and documents in the public record. It is presented only partly with a view to explaining Professor Silver's relations to the University of Mississippi, the Board of Trustees, or the Legislature. It may be more valuable as a concrete and somewhat detailed demonstration of what happens when an un-

<sup>18</sup> Tom Ethridge, "Mississippi Notebook," *Jackson Clarion-Ledger*, April 1, 1964.

popular idea is promulgated to Mississippians in such a way that they cannot ignore it.

On November 7, 1963, Professor Silver, who was President of the Southern Historical Association that year, delivered the Presidential Address at the Association's meeting in Asheville, North Carolina. His topic was the "closed society" of Mississippi, which he said had developed, even before the Civil War, "an orthodoxy accepted by nearly everybody in the state." He described its character by saying that "The all-pervading doctrine then and now has been white supremacy, whether achieved through slavery or segregation, rationalized by a professed adherence to states' rights and bolstered by religious fundamentalism." And he said that "Today the totalitarian society of Mississippi imposes on all its people acceptance of and obedience to an official orthodoxy almost identical with the pro-slavery philosophy." The effect, he said, is that "In spite of what he claims, the white Mississippian is not even conservative, he is merely negative. He grows up being against most things other men at least have the pleasure of arguing about." And of the effect on the state he said that "In committing itself to the defense of the bi-racial system, Mississippi has erected a totalitarian society which to the present moment has eliminated the ordinary processes by which change is channeled. Through its police power coercion and force prevail, instead of accommodation, and the result is social paralysis. Thus, the Mississippian who prides himself on his individuality in reality lives in a climate where non-conformity is forbidden, where the white man is not free, where he does not dare to express a deviating opinion without looking over his shoulder."

A substantial part of the address was devoted to the recent history of the University of Mississippi, and particularly the crisis brought on by the court-ordered admission of James H. Meredith. Professor Silver's account of the riot was designed to correct certain misconceptions which had been propagated in Mississippi, particularly what he called the "palpable and cynical hoax. . . that the insurrection resulted from Federal encroachment, deliberately planned by the Kennedys and callously incited by McShane when he called for tear gas." Professor Silver stated that the news reports in the national media were "By and large . . . accurate and the interpretation sound and temperate." He placed the blame for the failure to prevent or control the riot very largely on Mississippi law enforcement officials. "From the arrival of the marshals at the Lyceum building shortly before 5 o'clock until the firing of the tear gas at 8, it became increasingly apparent that there was a serious lack of liaison between Federal and state officials on the scene. By 7 all observers knew that for whatever reason, the Mississippi Highway Patrol had abandoned its enforcement of law and order and was in fact in some cases encouraging the restless crowds to demonstrate against the marshals." Professor Silver also concluded that "The genesis of the deception which shifted the blame for the insurrection from Mississippians to Federal officials came from the university ad-

ministration. A singularly inaccurate story blaming the 'trigger-happy amateurish, incompetent' marshals, and suggesting examples of diabolical brutality toward male and female students, was in the hands of Barnett and Eastland within an hour or so of the firing of the gas."<sup>14</sup>

The immediate reaction to Professor Silver's address was that, instead of denying the general validity of its allegations, certain Mississippi officials rushed forward to prove that it contained at least some truth. Governor Barnett, interviewed in Athens, Georgia, where he had gone to make a speech, remarked that "Old Silver's liable to say anything. I wouldn't waste words on that man. He ought to have been kicked out a long time ago."<sup>15</sup> The next day the Vice President of the University of Mississippi student body accused Professor Silver of having "a closed mind" because he "believes that those who do not agree with him are ignorant."<sup>16</sup> The report of this comment in the Jackson *Clarion-Ledger* was prefaced by the remark, "Dr. Jim Silver, longtime history professor at Ole Miss, spoke in Asheville, N. C., Thursday night. Press wire reports he abused the state of Mississippi, its people, officials and newspapers in the same fashion he has in previous speeches in Atlanta, Memphis and other points."<sup>17</sup> A few days later U. S. Representative John Bell Williams, addressing the Mississippi L-P Gas Dealers Association, said that "accreditation or no accreditation the time has come to fumigate some of our college staffs and get those who will teach Americanism and not foreign ideologies." Obviously referring to Professor Silver though not by name. Representative Williams said "The time has come to call the bluff of anyone who cusses a state which has fed him for 28 years and get rid of him."<sup>18</sup> Representative Williams in turn was attacked by Claude Ramsey, President of the Mississippi AFL-CIO Labor Council, who said that "as the No. 1 product of the society described by Dr. Silver, the congressman evidently recognizes the truth when he sees it."<sup>19</sup> An editorial in Hazel Brannon Smith's Pulitzer Prize-winning *Northside Reporter*, published in Jackson, said that Silver had "spoken out in the interest of truth" and was "about to be crucified for it. All of which proves his major premise of the 'closed society in Mississippi' is true." Mississippians were urged to "read the speech and know what he really said before they send Silver to Siberia."<sup>20</sup> The Louis Liggetts Post of the American Legion, at its meeting on November 16, unanimously

<sup>14</sup> New York *Times*, Nov. 8, 1963, p. 19; James W. Silver, *Mississippi: The Closed Society*, New York, Harcourt, Brace & World, 1964, pp. 123-24. Professor Silver modifies his statement in a footnote to page 123.

<sup>15</sup> New Orleans *States-Item*, Nov. 8, 1963.

<sup>16</sup> Memphis *Commercial Appeal*, Nov. 9, 1963.

<sup>17</sup> Jackson *Clarion-Ledger*, Nov. 9, 1963.

<sup>18</sup> Memphis *Commercial Appeal*, Nov. 12, 1963, p. 1. The Jackson *Clarion-Ledger* and the AP wire service carried a variant version quoting Representative Williams as having said, "Silver has bitten the hand which has fed him for 28 years. It's time we call his bluff and get rid of him."

<sup>19</sup> Memphis *Commercial Appeal*, Nov. 13, 1963.

<sup>20</sup> *Northside Reporter*, Nov. 14, 1963. The offices of this paper were bombed on the night of August 27, 1964.

adopted a resolution asking the Board of Trustees to dismiss Professor Silver."<sup>21</sup> Other comment by columnists and writers of letters to editors continued for several days, culminating in the suggestion by Tom Ethridge that "There is reason to believe that attorneys for our State Highway Patrol may be contemplating legal action as a result of serious charges made against the Patrol by Dr. James W. Silver."<sup>22</sup> However, no official action was taken against Professor Silver at that time.

On March 14, 1964, Professor Silver is reported to have predicted that when young people came into Mississippi from other parts of the country in the summer "They are going to clash with deputy sheriffs" and to have added, "I rather suspect there's going to be somebody killed."<sup>23</sup> Five days later Senator Corbit L. Patridge attacked Professor Silver on the floor of the Senate, saying "He is opposed to everything we stand for in this state. . . . I am outraged that the taxpayers have to pay the salary of a man like this. I can't see why the legislature will tolerate such an idiot to teach in this state. The responsibility of getting rid of this man rests on our shoulders. When a professor says that anyone, white or colored, is going to get killed—and sanctions it—it is time to get rid of him." Senator Patridge followed up with another speech on March 27, in which he said, "We sit complacently by and let a person tread the length and breadth of our great nation deceitfully and cowardly expanding the subject of racial hate, calling our people backward, ignorant and with a closed society. . . . I call on this body today to direct the chancellor at the University of Mississippi, along with the board of trustees, to drastically reduce the salary and duties of Dr. Silver and to stifle his degrading activities. . . . If the chancellor and the board do not act in relation to Dr. Silver, then I say let us, the members of the legislature, assume the responsibility that we asked the people to place in our hands and do the job—and do it well." Evidently Senator Patridge had had some second thoughts—but not such as to change his general view—for he went on to remark, "I have been told that this is exactly what Dr. Silver wants us to do. If we fire him, he will get national fame. I say then, it is better that he get national fame than for us to receive racial death."

Meanwhile, on March 23, Representative Malcolm Mabry told the House of Representatives that "the time has come for the people of this state to rise in righteous indignation and demand of the board of trustees and for the University of Mississippi chancellor that this so-called professor be dismissed. . . . I for one—as a legislator, as an alumnus of Ole Miss and as a Mississippian—am ready to join in any effort, short of violence of course, to help rid the university and the state of such a character as James Wesley Silver." Noting that enrollment at the University of Mississippi had dropped approximately ten per cent, Representative Ma-

<sup>21</sup> Memphis *Commercial Appeal*, Nov. 16, 1963, p. 18.

<sup>22</sup> "Mississippi Notebook," Jackson *Clarion-Ledger*, Nov. 20, 1963, p. 12.

<sup>23</sup> Jackson *Daily News*, March 14, 1964.

bry prophesied that "Dr. Silver's damnable distortions of the truth and half-truths are going to cause other parents all over this state to refuse to send their sons and daughters to this institution. Ole Miss—a great institution—can't afford another 10 per cent drop next year. Silver does us nothng but harm and we are paying for it."<sup>24</sup>

On April 5 an anonymous commentator reported "Reliable sources" as saying that "His opponents feel they are on the verge of finding a way to ease Dr. Silver out which would not affect the university's accreditation since the action would not be taken on political grounds."<sup>25</sup> On April 16 a subcommittee of the Board of Trustees was scheduled to submit a report on Professor Silver to the whole Board, and a wire service report dated April 15 quoted a Board member as saying, "Nobody can accuse the board of moving because of legislative pressure. We have proven we can withstand that kind of pressure."<sup>26</sup> On April 15 Representative Jim Mathis introduced a resolution in the House of Representatives calling on the Board of Trustees to investigate "employees whose public utterances, speeches, writings or other contumacious conduct or activity may be in violation of . . . the constitution of the state or any other standards of ethical conduct. . . ."<sup>27</sup> On April 16 the AAUP chapter at the University of Mississippi sent a telegram to the Board of Trustees to "reiterate its concern about the maintenance of academic freedom on the campus of the university" and to remind the Board that "Sanctions by accrediting and other agencies can lead to a weakening of faculty morale, a difficulty in the recruitment of new faculty members of high calibre, a general decline in the quality of the faculty, and loss of standing in the academic community. . . ." On April 19, Leroy Collins, President of the National Broadcasters Association and former Governor of Florida, speaking to Louisiana and Mississippi broadcasters in Biloxi, Mississippi, urged them to oppose the ouster of Professor Silver on grounds of his freedom of speech.<sup>28</sup>

The Jackson *Daily News* reported on April 20 that the Board had taken no action on the subcommittee report, but that the Board's Executive Secretary, Dr. Jobe, had said the investigation would be continued. The UPI wire service carried substantially the same report under the date of April 23.<sup>29</sup> The wire service report added that "Reliable sources said the board plans to turn the matter over to the University of Mississippi for consideration by a faculty committee. This is the

<sup>24</sup> *Southern School News*, April, 1964, p. 14. This article also reports an attack by Senator W. M. Jones on Professor Russell Barrett of the University of Mississippi for a speech Professor Barrett made at the inaugural meeting of the AAUP chapter at the University of Mississippi School of Medicine in Jackson on March 17.

<sup>25</sup> *Memphis Commercial Appeal*, April 5, 1964, p. 14.

<sup>26</sup> *Memphis Commercial Appeal*, April 16, 1964, p. 56.

<sup>27</sup> *Jackson Clarion-Ledger*, April 16, 1964.

<sup>28</sup> *Memphis Commercial Appeal*, April 19, 1964, Sec. 1, p. 10; and *Washington Post*, April 22, 1964.

<sup>29</sup> *Jackson Daily News*, April 20, 1964; and *Memphis Commercial Appeal*, April 24, 1964.

usual procedure in handling dismissals." This prediction was also made in a letter from Dr. Jobe to the chairman of the AAUP committee, dated April 17. Dr. Jobe's letter also stated that the reason no action was taken at the April 16 meeting of the Board was that "the committee decided to arrange a conference with Professor Silver before completing its report."

As a basis for this conference, a letter, signed by Dr. Jobe and dated April 27, was sent to Professor Silver, requesting that he appear before the Board subcommittee. Professor Silver had already appeared informally before the subcommittee on the fourteenth and had been questioned at considerable length. Professor Silver was informed that at the new meeting "you will be requested to state under oath before a stenographer or reporter such comments and responses as you may care to make concerning the following specific matters and any similar or related matters, together with any other or additional comments or remarks you may wish to have become a part of the Subcommittee's investigation report to the Board of Trustees concerning your fitness as a member of the faculty of the University of Mississippi. Should it be your desire, you may have counselors or attorneys with you at the time of your appearance." He was also told that "A copy of the report of all remarks at this appearance will be made available for your inspection as promptly as possible."

Fifteen "specific matters which will be inquired about" were listed. Nine had to do with statements which Professor Silver was alleged to have made in his speech at the Southern Historical Society meeting and on four other occasions, one in Denver the day after that meeting, one in Memphis on October 5, 1963, and two in Atlanta, the first on August 1, 1963, and the second on January 16, 1964. These topics all followed the same format: "The basis for your alleged statement . . . and any action taken by you related to such statement since it was issued including but not limited to its reissuance, modification or retraction." The following statements were cited:

1. The genesis of the deception which shifted the blame for the insurrection from Mississippians to federal officials came from the University administration. A singularly inaccurate story blaming the "trigger-happy, amateurish, incompetent" marshals, and suggesting examples of diabolical brutality toward male and female students, was in the hands of Barnett and Eastland within an hour or so of the firing of the gas.

2. Long after it was made abundantly clear that many faculty members had witnessed the inception of the riot and knew for a certainty about the fraud against the federal government, the administration did not deviate from its original position but, on the contrary, continued to search for evidence condemning the marshals.

3. By seven all observers knew that for whatever reason, the Mississippi Highway Patrol had abandoned its enforcement of law and was in fact in some cases

encouraging the restless crowd to demonstrate against the marshals.

4. That the witnesses who testified before the Legislative Investigating Committee of the Mississippi Legislature "would have small compunction about lying to a legislative investigating committee, especially one that made perfectly clear what it wanted to hear."

5. The people of Mississippi have thus once again been victimized, this time by a gigantic hoax perpetrated on them by their own time-serving leaders whose sense of loyalty is only to the false orthodoxy of the closed society.

6. Ole Miss officials admitted that they lied about the riot in an effort to protect themselves and the school.

7. Ole Miss at best has but a mediocre faculty. Nobody in his right mind would go to Ole Miss for an education in the first place. In all fairness to Chancellor Williams, I must admit that he has occasional good days. We are faced with at least ten years of extreme mediocrity at Ole Miss, all of which could have been avoided by able administrative leadership.

8. The search for historical truth . . . has become a casualty in embattled Mississippi.

9. The ultimate result will be violence which will last a long time. I would almost predict Federal occupation. I think we're in, in the next three or four years, for a holocaust. I rather suspect there's going to be somebody killed.

The remaining six items were the following:

10. The amount of time which your public speaking engagements have required, including preparation and travel. The dates and places you have made public appearances outside the State of Mississippi in the past six months. The amount of time spent in teaching, consulting with students, graduate students and fellow faculty members about subjects you are teaching and research in your current teaching field.

11. The number of doctoral dissertations you have counseled or advised. Your support or opposition to a doctoral program in your department. Your endeavors in recruiting new doctoral candidates, students and faculty members.

12. Your activities on September 30 and October 1, 1962.

13. Any published writings or public speeches by you relating to the University, its administration or faculty during the past 6 months.

14. Any and all records or appearances before or written reports or complaints to committees of the University faculty or members of the University administration concerning your duties as a faculty member or the condition or conduct of the University.

15. Such other matters as your comments or responses may disclose would warrant further information or inquiry.

This "appearance" was set up in such a way that it manifestly lacked most of the fundamental elements of due process considered essential to a dismissal hearing, and it seems clear that the Board did not consider that it would be a dismissal hearing. Nevertheless it was equally clear that it was intended as part of a procedure that might, if specific charges were developed that would warrant such a hearing, in fact lead to Professor Silver's dismissal for cause. The requirement of testimony under oath and the provision of a written record could only have been designed to generate evidence that might be used against Professor Silver in such a hearing. The most serious deficiency in the procedure was the fact that it was initiated by the Board of Trustees, rather than by the campus administration of the University of Mississippi. It is universally recognized that in all such cases the Board of Trustees is the institution's last reviewing authority. If the Board, in fact or in effect, initiates charges that may lead to a faculty member's dismissal, it places itself in the position of reviewing its own actions, of deciding whether or not its own allegations are true. The element of prejudice in such a proceeding would seem to be obvious; the 1940 *Statement of Principles on Academic Freedom and Tenure* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings* clearly spell out the proper courses of action; and the experience of the AAUP and the academic profession generally demonstrates, in a large number of recorded cases, that boards of trustees do not in fact proceed objectively after having initiated charges, whether formally or under the guise of a preliminary investigation or inquiry. It is hard to see why a board would begin such a proceeding unless it intended to arrive at a judgment of dismissal. The only safe assumption, therefore, is that any case which is initiated by a board of trustees will almost certainly be prejudiced from that point on.

These considerations were brought to the attention of the Board in two letters from the Washington Office of AAUP, dated April 28 and May 11. Whether or not they had an effect on the Board's deliberations is not known to us.

In the broader context, the accompaniment of these proceedings by the drumfire of attacks on Professor Silver by the Governor, the Congressman, and the state Senator and Representative, together with politically oriented elements of the major news media, unavoidably raises the question of political interference with the supposedly independent operation of the Board of Trustees. This question is put with particular force by Senator Patridge's recommendation that "If the chancellor and the board do not act in relation to Dr. Silver, then I say let us, the members of the legislature, assume the responsibility . . . and do the job—and do it well." The fact that this call was issued less than a month before the date of the Board's letter to Professor Silver must have the effect of placing the Board in an extremely embarrassing situation if it wishes to press the case, because the only way it could conclusively prove its political independence would be by refusing to dis-

miss Professor Silver and letting the Legislature, if it be so minded, go ahead and pass Senator Patridge's suggested bill of attainder.

All of these questions now appear to have been suspended or postponed. At its meeting of June 18, 1964, the Board of Trustees took the following action:

*Dr. James W. Silver, Professor of History, was granted an academic leave of absence from the above position . . . leave being without pay for the period beginning September 1, 1964, and ending June 6, 1965, for the purpose of serving as Visiting Professor of History at the University of Notre Dame for the 1964-65 session.*

Further, on recommendation of the Special Investigating Committee, the Board resolved that,

Without waiving any charge of contumacious conduct against Dr. James W. Silver under investigation by the Board and with full reservation of all rights, duties and obligations of the Board in connection therewith and with understanding that the Board and its Committee are charged with responsibility to continue their investigation now in progress with the foregoing condition, the recommendation of the Chancellor to grant Dr. James W. Silver a leave of absence without pay for the school year of 1964-65 be approved.

Professor Silver had applied for the leave because, having received an invitation to serve as visiting professor at Notre Dame, he judged that he would have made such an application if he had not been the subject of a Board of Trustees proceeding. Since granting this leave of absence, the Board has taken no further action with regard to Professor Silver.

#### **By Way of Conclusion: Some General Observations**

In a study of this kind there can be no real conclusion. The committee can say only that this report is as accurate a reflection as it was possible to make of conditions of academic freedom in Mississippi, mainly as they appeared in the winter and spring of 1963-1964. The actual situation was and is and will continue to be vastly more complex than any picture the committee could draw. Many people, with widely differing abilities and temperaments, are involved in it; for each of these people it is a somewhat different situation than it is for any of the others. Moreover, the whole situation, particularly in those aspects which have to do with the segregation problem, is in a process of complex and very rapid change. Segregation itself is crumbling at every point. In February, 1965, Millsaps College voluntarily adopted an unsegregated admissions policy, and several Negro students have been admitted. Three public school systems have been desegregated by court order and without violence; two of these, Jackson and Biloxi, are among the largest in the State. The full impact of

the new Civil Rights Law has yet to be measured; but it has already resulted in desegregation of public accommodations in places that were until recently regarded as the last bulwarks of the Southern (segregated) way of life. Registration of Negroes to vote has not made a great deal of progress yet, but it has made some, and the foundations for a greater increase have been established. The Mississippi Summer Project, sponsored by the Council of Federated Organizations (COFO), has had some success, along with a great deal of opposition and frustration. The murder of three of its workers shocked the nation, the world, and a great many people in Mississippi. Growing numbers of responsible people, chiefly business men, have been coming forward in various parts of the state with public appeals for enforcement of law and order, for keeping the public schools open, and for peaceful compliance with federal laws, including the public accommodations section of the Civil Rights Act.

There is also, of course, as everyone expected, a very strong "backlash" against the changes that are moving Mississippi so rapidly in the direction of desegregation, and the state has been in a whirlwind of political turmoil internally as well as in its relations with the national government. The politicians, who have to count votes rather than dollars, occupy a very uncomfortable position between the pressures of the apparently large majority of white citizens in Mississippi who feel that segregation must be preserved as much and as long as possible and, on the other hand, the increasingly active and determined minority within the state and the apparently fairly large majority in the nation as a whole of people who are determined to do away with segregation as quickly as possible.

Governor Johnson's relatively enlightened inaugural address was preceded by a political campaign in which candidate Johnson deliberately and successfully set out to shout louder for segregation than anyone else, and to make every bit of local political capital he could out of the fact that he had on one occasion physically prevented James Meredith's entrance into the University; and it has been followed by a good many obstructionist statements along the same line, which have been sharply out of tune with the Governor's very laudable and for the most part remarkably successful efforts to preserve law and order. There have been no major race riots in Mississippi since his election. But the political turmoil continues in strange, bizarre, and destructive ways. The Mississippi delegation withdrew almost unanimously from the national Democratic convention, the state voted 87% for Goldwater in the election, and the only Republican who ran for Congress was elected by a large majority. When the Congress met, Representative John Bell Williams, a self-styled "Mississippi Democrat" who had publicly endorsed the Republican candidate for the presidency, was deprived of his seniority on the House committees of which he was a member. The state is on trial literally as well as figuratively in a number of court cases involving civil rights charges, and it is



under pressure to desegregate all facilities supported by federal money, or lose the money. Redoubled efforts to attract new industries are apparently running into more than redoubled sales resistance on the part of potential investors.

In this atmosphere of intensely conflicting feelings, arising out of the encounter between a rapidly changing social situation and an almost pathological xenophobia concerning ideas which are believed to be subversive of the traditional way of life, conditions of academic freedom are precarious, and are likely to continue so for a time. How much, if any, they can be expected to improve in the very near future is anybody's guess; the guess of the AAUP committee is that in the long run at least they probably will improve, if only because of the necessity imposed by Mississippi's ambitious attempt at economic development, which will require expanded programs in all aspects of education, and especially in research.

Meanwhile, the defense of the academic freedom that now exists in Mississippi, and the careful and patient work that must be done to increase and improve it, will require the best, the most thoughtful, and the most diplomatic efforts of everyone concerned, both within the state and in any other places where there are links of relationship with the situation, or where such links can be established. In recent crises much good has been done by regional and national academic organizations and by faculty members in all parts of the country, with the aid of some rather expert tightrope walking on the part of Mississippi administrators and responsible public

officials. With further exertion of these cooperative efforts, there is reason to hope and expect that academic freedom in Mississippi will not merely endure but that it will prevail.

Richard P. Adams (English), Tulane University,  
*Chairman*

Frances C. Brown (Chemistry), Duke University  
Gladys Kammerer (Political Science), University of  
Florida

Forrest W. Lacey (Law), University of Tennessee

*The Special Committee*

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report in the *AAUP Bulletin*:

Clark Byse (Law) Harvard University, *Chairman*

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