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The purpose of this thesis is to analyze the evidence presented by the American Association of University Professors and the American Legion before the North Carolina Speaker Ban Study Commission. Chapter One traces the history of the criteria used to evaluate rhetorical evidence from Aristotle to the present. Chapter Two gives a history of the North Carolina Speaker Ban Law and emphasizes the Commission study. Chapter Three applies selected evidential criteria to the presentation of the American Association of University Professors, and Chapter Four applies the criteria to the presentation of the American Legion. Finally, Chapter Five summarizes the study, draws conclusions about the treatment of evidence by the two organizations, and recommends subjects for additional research.

This study finds that the American Association of University Professors spokesmen present evidence based on their expertise in education, law, and AAUP data. They have recently studied the Speaker Ban controversy even though they have not actually participated in the controversy within the North Carolina state system of higher education. Their evidence shows little speaker bias.

The substance tests reveal that the AAUP evidence omits some documentation details. However, the evidence within the testimonies appears consistent and primarily recent. The evidence seems basically unbiased except for the omission of some documentation details.

On the other hand, the American Legion spokesmen show little if any expertise as speakers opposing Communism locally or nationally. These spokesmen have studied the Speaker Ban controversy recently, but they have not fully examined the problems precipitated by the controversy. Only one of the speakers admits having heard a Communist speak. These speakers appear biased in support of the American Legion goal to rid the world of Communism.

The substance tests indicate that the American Legion evidence lacks significant documentation. However, the evidence generally appears internally consistent except in one presentation, Robert Morgan's. The evidence seems recent, but with the omission of some dates. Lastly, the evidence in this presentation appears heavily biased since it emerges primarily from American Legion data.

THE NORTH CAROLINA SPEAKER BAN
"COMMISSION HEARING: A STUDY
OF EVIDENCE

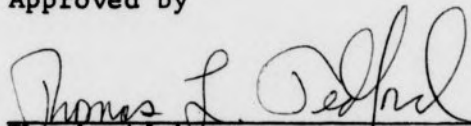
by

Gloria T. Best

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APPROVAL PAGE

This thesis has been approved by the following committee of the Faculty of the Graduate School at The University of North Carolina at Greensboro.

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DEDICATION

To my husband, Duane, to my two sons, Mark and Bradley, to Mrs. Lillie Broadnax, and to Mr. and Mrs. J. Earl Teague with my deepest gratitude for their sacrifices and encouragement which made this work possible.

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Marie Eleanor Scitka, "Concepts of Evidence in the...
Ph. D. dissertation, North Carolina State University,
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South Carolina 28 (March 1961): 23.

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New York: Doubleday Company, 1965, p. vii.

INTRODUCTION

The Treatment of Evidence

The treatment of evidence has been debated by rhetoricians throughout the centuries. Brittin states in her history of the concepts of evidence, "There has been much confusion in the treatment of evidence in rhetoric."¹ In 1961, Brandes echoes the ancient discrepancies in his study of Aristotle's evidence. Brandes says, "There is confusion in modern speech pedagogy concerning the meaning of evidence, and the term is not used with precision in contemporary speech textbooks."² Nevertheless, rhetoricians have defined and evaluated evidence since Aristotle's Rhetoric. As recent as 1969, Newman and Newman commend this primary source, "The first systematic treatment of evidence was Aristotle's."³ Rhetoricians continue to clarify the meaning of evidence and to offer evidential standards.

¹Marie Eleanor Brittin, "Concepts of Evidence in Rhetoric," (Ph. D. dissertation, Northwestern University, 1949), p. 2.

²Paul D. Brandes, "Evidence in Aristotle's Rhetoric," Speech Monographs 28 (March 1961): 23.

³Robert P. Newman and Dale R. Newman, Evidence (New York: Houghton Mifflin Company, 1969), p. vii.

The Purpose of the Study

This thesis proposes to evaluate a portion of the evidence presented in the Hearing before the Commission on the Study of the Statutes Relating to Visiting Speakers at State Supported Educational Institutions. In the North Carolina General Statutes, Chapter 1207, Article 22, the laws appear as § 116-199, the use of facilities for speaking purposes and § 116-200, the enforcement of the article. Hereafter, the laws are referred to as one unit using the common name, the Speaker Ban Law, or simply, the Law.

The Plan

From a review of the Hearing text, two major group presentations are selected for evidential evaluation.⁴ These include the American Association of University Professors and the American Legion presentations. Both organizations requested hearings, appeared on the same day, and gave testimony of comparable length. The AAUP recommended amendment or repeal of the Law, and the American Legion supported it or wanted it strengthened. This writer requested additional biographical information from the Hearing participants by sending a Biographical Questionnaire to each.⁵ The questionnaires were returned by all participants except Legionnaire Clarence Stone who is deceased.

⁴Appendix 1, p. 179. ⁵Appendices 2 and 3, pp. 182-83.

The Method of Study

The study is arranged by topics. Chapter I includes a history of the standards of evaluating evidence. As a survey of literature, this history traces the standards from Aristotle to contemporary rhetoricians. This chapter ends with a statement of the criteria selected for this study. Chapter II gives a brief history of the North Carolina Speaker Ban Law emphasizing the role of the Study Commission.

Chapter III states the arguments and evaluates the evidence of the American Association of University Professors using the tests of evidence selected for this study. Chapter IV gives a similar analysis of the American Legion presentation. Lastly, Chapter V summarizes the analyses, draws conclusions, and makes recommendations for additional research.

CHAPTER I
STANDARDS FOR EVALUATING EVIDENCE

This chapter traces the standards for evaluating evidence from Aristotle's attempt to treat evidence systematically to attempts of rhetoricians in the twentieth century. Selections for this study include a survey of positions which significantly support, modify, or extend Aristotle's treatment. This selection of theories results primarily from a study of Brittin's "Concepts of Evidence in Rhetoric," an unpublished doctoral dissertation completed at Northwestern University in 1949. Second, others included emerge from a survey of current literature.

Historical Concepts

Aristotle

Aristotle, in the first part of the Rhetoric (ca. 362-61), maintains that argument is based on proof. He states, "Now hitherto the authors of 'Arts of Speaking' have built up but a small portion of Rhetoric truly considered; for this art consists of proofs [persuasions] alone--all else is but accessory."¹ He divides proofs into two kinds: artistic

¹Aristotle, The Rhetoric of Aristotle, trans. Lane Cooper (New York: Appleton-Century-Crofts, Inc., 1932), p. 1.

and nonartistic. Artistic proof is ". . . furnished by the method of Rhetoric through our own efforts." The second, nonartistic proof, exists beforehand and is available for use. Included in this type are ". . . laws, witnesses, contracts, tortures, the oath."²

The speaker uses the nonartistic proof³ as a part of his artistic proof and considers the nonartistic material facts as evidence.⁴ Aristotle further describes the types of nonartistic proof as witnesses either ancient or recent; contracts as written agreements, tortures or forced testimony; and oaths as taken or not taken.⁵ However, he more fully explains the forms which the artistic proofs take. Brittin interprets Aristotle's view saying, "Artistic proofs are developed by the speaker through reasoning about facts, and take the form of enthymemes or rhetorical deduction and example or rhetorical induction."⁶ Furthermore, the sources of developing enthymemes are formal and material topics of which the former resemble the formal argument or accepted truth and the latter is factual knowledge or evidence.

²Ibid., pp. 8, 80.

³James H. McBurney and Glen E. Mills, Argumentation and Debate, Techniques of a Free Society, 2nd ed. (New York: The Macmillan Company, 1964), p. 55.

⁴Paul D. Brandes, "Evidence in Aristotle's Rhetoric," Speech Monographs 28 (March 1961): 20-24.

⁵Aristotle, Rhetoric, pp. 82-88.

⁶Marie Eleanor Brittin, "Concepts of Evidence in Rhetoric," (Ph. D. dissertation, Northwestern University, 1949), p. 31.

Aristotle does not give succinct criteria for evaluating evidence; instead he shows the speaker how to use evidence to his advantage. For example, if written law is against one's case, one should appeal to universal law; or if the law favors one's case, he should ask for judgment to be in keeping with the law.⁷ However, Aristotle is the first to treat evidence systematically.⁸ Also he enhances the theory of evidence by relating it to a systematic theory of rhetorical proof, by defining it as the facts or opinions which provoke probable truth, and by illustrating its uses.⁹

Quintilian

In his Institutes of Oratory (ca. 95), Quintilian states that rhetoricians have accepted Aristotle's divisions of proof. He substitutes inartificial for nonartistic and artificial for artistic. Quintilian says that inartificial proof is ". . . unconnected with the art of speaking . . ." and that artificial proof is that ". . . which he himself extracts, and as it were, produces from his cause."¹⁰

⁷Aristotle, Rhetoric, p. 8.

⁸Robert P. Newman and Dale R. Newman, Evidence (New York: Houghton Mifflin Company, 1969), p. vii.

⁹Brittin, "Concepts of Evidence," pp. 44-45.

¹⁰Quintilian, Institutes of Oratory; or, Education of an Orator, trans. and ed. Rev. John Selby Watson (London: George Bell and Sons, 1910), p. 314.

Brittin purports that ". . . proof is accomplished according to Quintilian by a combination of inartificial proofs or evidence and artificial proofs or arguments."¹¹

Quintilian advances Aristotle's theory of evidence by adding specific tests of evidence. The Roman identifies the types of inartificial proof, and then he states tests for evaluating each type of evidence. Listed are precognitions or related case decisions, public reports, evidence extracted by torture, written testimony, oaths, and oral testimony.¹² The evaluative questions concern (1) the similarity of cases in question, (2) the decision of the public, (3) the motives and biases of witnesses written or oral, (4) the character of the witnesses, and (5) the internal and external consistency of oral and written statements.

George Campbell

Unlike his predecessors, Campbell in his Philosophy of Rhetoric (1776) ". . . includes both factual and inferential materials of proof in the term 'evidence.'"¹³ To him, proof or logical truth consists of one's conceptions conforming to the ". . . archtypes in the nature of things."

¹¹Brittin, "Concepts of Evidence," p. 89.

¹²Quintilian, Institutes of Oratory, pp. 314-22.

¹³Brittin, "Concepts of Evidence," p. 187.

The mind then perceives ". . . immediately on a bare attention to the ideas under review . . . ," and Campbell calls this perception: direct intellection or intuitive evidence. Or the mind meditates ". . . by a comparison of these with other related ideas," and this is reasoning about things or deductive evidence.¹⁴

After differentiating the two methods of reasoning which he calls types of evidence, Campbell divides evidence into demonstrative and moral. Demonstrative evidence is abstract, unchangeable, and necessarily related. This type appears to be syllogistic reasoning, a method which Campbell considers inappropriate to rhetoric. Moral evidence, on the other hand, admits change, varies in degrees, proceeds by analogies, goes from particulars to universals, and regards actual existence.¹⁵ Considering moral evidence ". . . the proper province of rhetoric . . . ,"¹⁶ Campbell divides it into experience, analogy, testimony, and calculation of chances. He describes each, but is most explicit in stating the criteria for evaluating testimony. The degree of testimony credibility is based on (1) the witness's reputation, (2) his manner of address, (3) the nature of facts,

¹⁴George Campbell, The Philosophy of Rhetoric, ed. Lloyd L. Bitzer (Carbondale: Southern Illinois University Press, 1963), p. 35.

¹⁵Ibid., pp. 44, 62. ¹⁶Ibid., p. 43.

(4) the occasion for testimony, (5) his motives, and (6) the audience's reaction as well as concurrence with other tests.¹⁷

Richard Whately

In his Elements of Rhetoric (1828), Whately declares his disgust with other rhetoricians' confused, inadequate treatments of proof. He thinks that a speaker must make a thorough investigation of evidence related to a problem before presenting proof to an auditor.¹⁸ Evidence is pre-existent to the controversy. In his words,

But it is evident that, in all cases alike, the data we argue from must be something already existing, and which we are not to make, but to use; and that arguments derived from these data are the work of art.¹⁹

Whately considers argument the major concern of rhetoric. He classifies arguments according to form, subject matter, use, and relationship of premise to conclusion.²⁰ By form he means that arguments are stated as enthymemes or syllogisms. Subject matter is either "probable" or "demonstrative," and the speaker's intentions are either "direct" or "indirect."²¹

¹⁷Ibid., pp. 49, 55-56.

¹⁸Brittin, "Concepts of Evidence," p. 219.

¹⁹Richard Whately, Elements of Rhetoric, ed. Douglas Ehninger (Carbondale: Southern Illinois University Press, 1963), p. 40.

²⁰Brittin, "Concepts of Evidence," p. 222.

²¹Whately, Elements of Rhetoric, p. 42.

Whately extensively discusses arguments, i.e., the relationship of the premise to the conclusion. In this discussion he states criteria for evaluating the premise or evidence. First of all, he divides arguments into three relationships: (1) A priori--cause to effect, (2) Sign--effect to cause or effect to condition under which testimony is included, and (3) Example--known to unknown relationships including induction, experience, analogy.²² In each relationship, ". . . the accuracy and completeness of the evidence . . ." ²³ is the essential requirement for developing proof.

His criteria for evaluating testimony is considered the most comprehensive in English rhetoric.²⁴ Whately states that the testimony itself forms the premise and that the conclusion is "the truth attested."²⁵ Included in his criteria for testimony are these factors: (1) the character of the witness and his prejudices; (2) the belief of the witness in his report, stronger if disbelieved; (3) the testimony, designed not as strong as undesigned; (4) the

²²Ibid., p. 46, 53-58, 86.

²³Brittin, "Concepts of Evidence," p. 244.

²⁴Ibid., p. 245.

²⁵Whately, Elements of Rhetoric, p. 58.

conclusion of the testimony, stronger if unwilling to admit; (5) concurrent testimony, strong; (6) negative (uncontradictory) testimony, weighty; (7) omissions, weighty; (8) size of evidence, not necessarily significant; (9) probability, improbability less likely to be fabricated; and (10) misrepresentation, weakening. Regarding testimony of fact, Whately says to evaluate the accuracy and the method of collecting the information; as to opinion, he says to evaluate the witness's ability to make judgments.²⁶

Whately admits that arguments by example are most easily understood, particularly by the young and the uneducated. He states tests for analogous examples which help guard against misuse. He cautions the speaker to avoid extending resemblances further than they actually exist, or concluding that things are alike because they are analogous, or assuming direct resemblances.²⁷

Twentieth Century Concepts

A. Craig Baird

Baird emphasizes the importance of the audience in his Public Discussion and Debate (1928) and then in Rhetoric, A Philosophical Inquiry (1965). He says there is a need to justify to others what seems obvious to the speaker. In fact,

²⁶Ibid., pp. 60-69.

²⁷Ibid., pp. 106, 91-92.

. . . the first and elementary principle behind all argumentative thinking and speaking is this: whenever you make an assertion or advance any proposition which you wish others to accept, couple the idea with evidence sufficiently complete to convince beyond a reasonable doubt.²⁸

In his tests of evidence, he asks if the evidence is presented so that the audience can understand it.²⁹ Furthermore, the facts must not only be seen by the audience, but accepted by it.³⁰

He distinguishes facts from inferences as the materials of proof,³¹ but in his Philosophical Inquiry, he states that "ultimately, facts are to be weighed as part of the inferential pattern and process as an implicative whole."³² Other rhetoricians seem to imply the interdependence of facts and inferences, but Baird states their assumptions. In fact, as a related point of clarification, he points out that reasoning can be described as either inductive or deductive depending on the point from which it is examined.³³ Furthermore, inferences have an element of speculation; but through examination of facts and review of relationships, there is reason for confidence in the deductions made.³⁴

²⁸A. Craig Baird, Public Discussion and Debate (Boston: Ginn and Company, 1928), p. 147.

²⁹A. Craig Baird, Rhetoric, a Philosophical Inquiry (New York: The Ronald Press Company, 1965), p. 50.

³⁰Brittin, "Concepts of Evidence," p. 314. ³¹Ibid.

³²Baird, Philosophical Inquiry, p. 50.

³³Baird, Public Discussion, p. 165.

³⁴Baird, Philosophical Inquiry, p. 57.

Even though Baird contrasts the restrictions on evidence as used in court with the lack of restrictions on it in general use, he classifies evidence in legal terms.³⁵ Baird says that evidence in form is real or verbal, positive or negative. In source, it is original or hearsay, written or unwritten, ordinary or expert. And in conclusion, it is testimonial or direct and circumstantial or indirect.³⁶

In testing evidence, Baird emphasizes the importance of the testimony (witness). His criteria for testing testimony are (1) competence, (2) degree of prejudice, (3) degree of exaggeration, (4) amount of concurrences.³⁷ He also evaluates internal and external consistency as well as consistency with logical argument.³⁸

Lester Thonssen

In both the first edition of Speech Criticism (1948) by Thonssen and Baird and the second edition (1970), to which the authorship of Braden is added, the writers label evidence and argument or reasoning as the components of logical proof. The origin in each proof ". . . lies in observation, personal experiences, data having to do with the

³⁵Ibid., p. 46.

³⁶Baird, Public Discussion, pp. 148-51.

³⁷Baird, Philosophical Inquiry, pp. 48-50.

³⁸Ibid., p. 153.

existence of things, occurrences of events, the specific characteristics of phenomena." These materials take the form of ". . . particulars, instances, figures, testimony of witnesses or authorities, incidents (evidence)."³⁹ The second component called reasoning, argument, or inference acts as a cohesive force to show the audience the relationship between the facts (raw material) and the conclusion.⁴⁰ Based on the speaker's interpretation and reaction to these materials, the second component takes the form of (1) a generalization based on cases or examples, (2) a comparison based on objects or relationships, (3) a causal connection between events or particulars, (4) statements of witnesses or authorities, or finally (5) a deduction derived from general statements.⁴¹

Thonssen points out that one tests the evidence to determine if it is an ". . . adequate and valid substructure of reasoning."⁴² First, Thonssen divides the tests into two divisions: tests of testimony and statistics. Then he

³⁹Lester Thonssen, A. Craig Baird, and Waldo W. Braden, Speech Criticism, 2nd ed. (New York: Ronald Press Company, 1970), p. 399.

⁴⁰Lester Thonssen and A. Craig Baird, Speech Criticism (New York: The Ronald Press Company, 1948), p. 344.

⁴¹Thonssen, Baird, and Braden, Speech Criticism, p. 399.

⁴²*Ibid.*, p. 400.

tests the proof unit (evidence and argument) by inferential divisions: generalization, analogy, causal relation, and deduction. The questions for evaluating testimony are ones of (1) internal consistency, (2) external consistency, (3) primary sources, (4) prejudices, (5) recognition of authority in his field, (6) causal relationships of facts, (7) documentation, (8) recency, and (9) the audience's reaction. Statistics used are tested for definition of units, size and nature of the sample, accuracy, comparability, and clarity of relationships concluded.⁴³

Closely related to the statistical tests are those of generalization. Applicable tests of generalization evaluate (1) true instances, (2) sufficient number, (3) representative instances, (4) negative instances, (5) omission of alternative hypotheses, and (6) conformity to laws of probability and causation. Causal relations are evaluated on the relationship between two events, adequacy of the cause to produce the effect, presence of other possible causes, confirmation of other inference methods to the cause-effect relationship, and verifications of alleged facts. The second edition of Speech Criticism includes the tests of analogy which are omitted from the first. Questions stated cover these areas: reliability of facts observed, relationship of significant details, sufficient number of

⁴³Ibid., pp. 401-2.

resemblances, the significant differences, external consistency, the relationship of underlying generalizations, and the inferential relationships of analogy.⁴⁴

Douglas Ehninger

Ehninger published twice on the subject of argumentation in 1963. He wrote a chapter in McBath's Argumentation and Debate: Principles and Practices, and he co-authored (with Wayne Brockriede) Decision by Debate. In the latter, Ehninger bases his analysis of proof on Stephen Toulmin's structural model of reasoning⁴⁵ rather than on traditional methods.⁴⁶ As many other rhetoricians, Ehninger states a proof unit composed of evidence (inartistic) and reasoning (artistic) leading to a conclusion. In keeping with Toulmin, he refers to reasoning as warrants and to conclusions as claims. In Ehninger's words, "the claim is the explicit appeal produced by the evidence and warrant, the specific stand" ⁴⁷ He says that each unit of proof must have evidence in order to have acceptable grounds for a claim. "Evidence may be described initially as the information to which a proof appeals, the factual foundation on which it

⁴⁴Ibid., pp. 403, 407, 405-06.

⁴⁵Stephen Edelston Toulmin, The Uses of Argument (Cambridge: University Press, 1958), pp. 104-05.

⁴⁶Douglas Ehninger and Wayne Brockriede, Decision by Debate (New York: Mead and Company, 1963), p. 98.

⁴⁷Ibid., p. 100.

rests, the terminus from which it starts."⁴⁸ Evidence answers these questions: How do you know? What have you got to go on? Furthermore, evidence is an informative statement which the audience believes and which the speaker uses to secure belief in another statement.

Ehninger states three categories of proof patterns: substantive, authoritative, and motivational.⁴⁹ He states what many rhetoricians have assumed:

The determining element in classifying proofs has traditionally been the warrant. Since the warrant performs the function of connecting evidence and claim, and since the support for the warrant and the reservations are both profoundly influenced by the type of warrant, a classification of proofs has been essentially synonymous with a classification of warrants.⁵⁰

The evidence is the informative data and the warrant is the method for determining the proof. The first is given and static; the latter, creative and changing.

Substantive, the first kind of proof, shows a relationship among external phenomena. Included are (1) cause, (2) sign, (3) generalization, (4) parallel, (5) analogy, (6) classification, and (7) statistics.⁵¹ The second, authoritative proof, states an ". . . assumption concerning the credibility of the source from which the evidence is derived. . . ." Lastly, motivational proof is an assertion assuming ". . . the emotions, values, motives which direct the behavior of those persons to whom the proof is

⁴⁸Ibid., p. 99. ⁴⁹Ibid., pp. 100, 101, 126.

⁵⁰Ibid., p. 125. ⁵¹Ibid., pp. 101, 125-26.

addressed. . . ." Motivational proofs establish evaluative or actuative claims, but the evidence consists of ". . . designative or definitive statements that are acceptable from the outset, or those established in prior proofs."⁵²

Glen E. Mills

As Thonssen and most of the rhetoricians before him, Mills states that evidence is the raw material of proof in his Reason in Controversy (1968) and in the book he co-authors with James McBurney, Argumentation and Debate, Techniques of a Free Society (1964).⁵³ This definition is the main point of agreement between students of general argumentation. Mills allies with those who view evidence and reasoning as the ingredients of proof with the first independent of the advocate and the second developed by the advocate.⁵⁴

This writer proceeds to explain the need for evidence. Three main reasons for using evidence are its probative force, credibility for the communicator, and emotional impact. He adds in his later book, "in its simplest form, an argument (enthymeme) is a conclusion and

⁵²Ibid., pp. 126, 162-63.

⁵³McBurney and Mills, Argumentation and Debate, p. 9.

⁵⁴Ibid., p. 91.

a supporting reason, and these elements may appear in either order."⁵⁵

In a controversial situation, evidence adds logical adequacy and enhances the believability of the communicator through supportive material outside the speaker. And since no rules for evidence exist for general argumentation as they do for legal proceedings, tests are applied to protect argumentative parties.⁵⁶ Mills divides these tests into six categories: (1) substance, (2) source, (3) investigative method, (4) reporting, (5) documentation, and (6) audience acceptability. His specific questions seem to be those of other contemporary rhetoricians concerning internal and external consistency, recency, relevance, witness qualifications, exactness of reporting and documentation, as well as the audience's understanding and acceptability.⁵⁷

Robert P. Newman and Dale R. Newman

Newman and Newman in their book Evidence (1969) assume that the reader knows what constitutes evidence so they do not explicitly define the term. By implication they consider evidence and reasoning as a unit. Allying with

⁵⁵Glen E. Mills, Reason in Controversy, 2nd ed. (Boston: Allyn and Bacon, Inc., 1968), pp. 98, 173.

⁵⁶McBurney and Mills, Argumentation and Debate, p. 95.

⁵⁷Mills, Reason in Controversy, pp. 152-63.

historiography and social psychology in methodology, they question ". . . the probable truth or falsehood of evidence . . ." and conclude that a credible statement is one worthy of belief. That is, truth emerges from ". . . what the evidence, correctly interpreted, obliges us to believe." In their view, inductive inferences such as descriptive generalizations, causal explanations, and historical analogies provide vehicles by which evidence affects positions.⁵⁸

Newman and Newman base their analysis of evidence on policy deliberation, i.e., a position is stated or a prediction is made based on concrete particulars or specific instances. The argument is stated in four parts: (1) a goal, (2) the present position (vis-a-vis) on the goal, (3) a prediction, and (4) a conclusion.⁵⁹ Following Aristotle's approach,⁶⁰ Newman and Newman illustrate the structure of an argument from the approving and disapproving positions. For example, on the question of the length of terms for Congressmen, one position favoring the status quo is this:

Goal: The House of Representatives should be responsive to the will of the people.

Position vis-a-vis this goal: Elections every other year make Representatives responsive to the will of their constituents.

Prediction about a longer term: A longer term will lessen Congressional responsiveness to the will of the people.

Conclusion: Therefore we should retain the present system.

⁵⁸Newman and Newman, Evidence, p. viii.

⁵⁹Ibid., pp. 18, 17. ⁶⁰Aristotle, Rhetoric, pp. 88-89.

The opponent of the system may advance this argument:

Goal: Members of Congress should be able to concentrate on the business of legislating.

Position vis-a-vis this goal: Running for re-election every other year prevents them from concentrating on legislating.

Prediction about a longer term: A longer term will enable them to concentrate on legislating.

Conclusion: Therefore we should increase the Congressional term to four (or more) years.⁶¹

Ultimately, the positional statement results from specific instances (evidence).⁶² Whether or not the evidence is apparent in the argument itself, it can be brought forth and examined.

Supporting an earlier work, they state that evidence must be evaluated in the realm of probability--not absolutes.⁶³ They begin by broadly evaluating the acceptance of evidence on a yes-no basis. (1) Is there enough evidence to support the statement? (2) Is there negative evidence which qualifies or destroys it? (3) Is the evidence directly supportive? (4) Does the statement go beyond the supportive evidence?⁶⁴ Then they apply specific tests to determine the degree of credibility.⁶⁵

⁶¹Newman and Newman, Evidence, p. 17. ⁶²Ibid., p. 18.

⁶³Nicholas Rescher and Carey B. Joynt, "Evidence in History and in the Law," Journal of Philosophy, 56 (June 1959): 562; Newman and Newman, Evidence, p. 18.

⁶⁴Newman and Newman, Evidence, pp. 20-21.

⁶⁵Ibid., pp. 87-88; and Rescher and Joynt, "Evidence in History," p. 562.

The writers' major contribution to evidential testing is their emphasis on degrees of credibility. They employ specific indices within five major divisions: (1) situation, (2) documentation, (3) writer characteristics, (4) primary authority, and (5) secondary authority. Examining situation, credibility heightens depending on these criteria: the lower the tension surrounding the event, the more accessible the situation to the reporters, and the greater the freedom of the witness to report. Documentation credibility increases the greater the presumption of authenticity, the more internal consistency, the more careful the generalization made, and the greater the damage of one's own testimony to a witness. Third, the writer is more believable the greater his relevant expertise, the more objective he is, and the greater his record of accuracy. Next, the primary authority is rated on his opportunity for personal observation of the matter and the contemporaneity of his report. Finally, the secondary source's credibility heightens the more discerning his choice of primary sources and the more accurate his citations.⁶⁶

Tests of Evidence in This Study

The criteria selected for this study primarily reflect those currently perpetuated by Thonssen, Baird, and

⁶⁶Newman and Newman, Evidence, pp. 74, 88.

Braden as well as Newman and Newman.⁶⁷ Their tests historically represent the criteria used to evaluate the evidence supporting arguments.

A comprehensive evaluation of evidence necessitates an appraisal of the source of the material, the material itself, and the audience's acceptance of it.⁶⁸ Indicative of the Aristotelian divisions of speech analysis, these tests divide into the categories of (1) speaker or source criteria, (2) substance or evidence criteria, and (3) audience criterion.

Speaker (Source) Criteria

The credibility of a speaker and that of his evidence are equally important for a speech. Therefore, the criteria that governs the credibility for evidential sources applies to the speaker himself. The speaker needs to evaluate the informants from whom he obtains information just as the auditors evaluate the speaker as their source.⁶⁹ In essence, the speaker heightens his credibility the greater his relevant expertise, the greater his objectivity, the greater

⁶⁷Thonssen, Baird, and Braden, Speech Criticism, pp. 401-02; Newman and Newman, Evidence, pp. 30-31, 87-88.

⁶⁸At this time, North Carolina Senator Sam Ervin's U.S. Senate Committee is studying the evidence presented by the Watergate scandal defendants.

⁶⁹Bettinghaus, Nature of Proof, p. 63.

his personal observation of the situation, the more contemporary his report, the greater his freedom to report, and the more careful his selection of substance.⁷⁰ The speaker criteria appear as the following tests:

1. Expertise: Is the speaker an expert on the topic discussed?
2. Reliability: Is he recognized as competent in the area under discussion?
3. Nearness: Has he personally observed and examined the situation?
4. Recency: Has he recently studied the situation?
5. Bias: Is he biased personally or collectively (as a member of a group with vested interest in the topic)?

Substance (Evidence) Criteria

In general, evidence is anything used to support a proposition.⁷¹ The raw materials of evidence in the two presentations studied appear in the following forms: testimony of authorities or witnesses, instances, signs, numbers, observations, and both literal and figurative analogies. The credibility of evidence rates higher the more accurate

⁷⁰Newman and Newman, Evidence, pp. 87-88.

⁷¹Bettinghaus, Nature of Proof, p. 52.

the documentation of the substance, the higher the report's internal and external consistency, the more accessible the situation to the speaker and the audience, the more careful the argumentative statement using the substance, and the greater the authority of the source.⁷² The specific substance tests include:

1. Documentation: Is the evidence completely documented (source, date, publisher, primary or secondary source)?
2. Consistency: Is it internally consistent?
3. Reliability: Is it externally supported by other findings?
4. Recency: Is it recently related to the situation?
5. Completeness: Is it factually, directly, and sufficiently complete in relationship to the topic?
6. Bias: Is it biased (slanted, partial, or presumptuous)?

Audience Criterion

Aristotle says the speaker must analyze his audience. Conversely, the audience evaluates the speaker and his substance. Proof for the speaker may or may not be proof acceptable to the audience.⁷³ Ultimately, the value of

⁷²Newman and Newman, Evidence, pp. 87-88.

⁷³Bettinghaus, Nature of Proof, pp. 51, 63.

a speaker's evidence depends on its acceptance by a particular audience. The audience criterion is this: Does the particular audience accept the evidence?

In this study, the tests of evidence which can be tested exclusively within the Hearing are applied. Consequently, the tests which necessitate analyses beyond the scope of this study are omitted. As a result, several tests will not be applied at this time. They include the speaker test of reliability and the substance tests of reliability and completeness. These tests require the examiner to compare the evidence offered in the presentation with the external sources. In addition, the audience test necessitates an evaluation of the entire Hearing. Consequently, this study limits the evaluation of evidence to the speaker and substance criteria which apply to a portion of the Hearing text selected for study.

CHAPTER II
THE SPEAKER BAN LAW AND THE ROLE
OF THE STUDY COMMISSION

Chapter II traces the history of the Speaker Ban Law. Emphasis is placed on the Commission: the issues it confronts and its conclusions and recommendations.

History of the Law

Enactment of the Law

The General Assembly of North Carolina on the last scheduled day of the 1963 Legislative session passed a law restricting visiting speakers at the state-supported colleges and universities.¹ In the House of Representatives, Phillip Godwin of Gates County introduced House Bill 1395 under suspension of the rules. Speaker Clifton Blue declared that it passed whereby it was transmitted immediately to the Senate. There Senate President Clarence Stone read it, asked for a voice vote under suspended rules, and declared it passed.² A Charlotte Observer reporter noted

¹Joe Doster, "UNC President Looked as If He Had Been Shot," The Charlotte Observer, 30 June, 1963, p. A1.

²Bondurant, Gift, Nelson, Patterson, Secor, and White, "North Carolina Speaker Ban Law: A Study in Content," 55 N. C. L. Rev. 227-28 (1966).

that on the final vote several senators took the floor, but President Stone overlooked them.³ Senator Luther Hamilton on the next day, an extension of the session, failed to get the resolution recalled; his motion was defeated by the vote of 25 to 19.⁴

The Law reads as follows:

AN ACT TO REGULATE VISITING SPEAKERS AT
STATE SUPPORTED COLLEGES AND UNIVERSITIES

116-199. No college or university, which receives any state funds in support thereof, shall permit any person to use the facilities of such college or university for speaking purposes, who:

1. Is a known member of the Communist Party;
2. Is known to advocate the overthrow of the Constitution of the United States or the State of North Carolina;
3. Has pleaded the Fifth Amendment of the Constitution of the United States in refusing to answer any question, with respect to Communist or subversive connections, or activities, before any duly constituted legislative committee, any judicial tribunal, or any executive or administrative board of the United States or any state.

116-200. This act shall be enforced by the Board of Trustees, or other governing authority, of such college or university, or by such administrative personnel as may be appointed therefor by the Board of Trustees or other governing authority of such college or university.⁵

Dissents were filed by a group of thirteen Senators and a group of fourteen Representatives.⁶ These statements

³Doster, "UNC President," p. A2.

⁴Bondurant, "A Study in Content," p. 228.

⁵N. C. Gen. Stat. Ch. 1207, § 116-199, 200 (1963).

⁶Doster, "UNC President," p. A2.

pointed out the unconstitutionality of the Law, the restraint upon freedom of thought and speech, the contradiction within the state's tradition regarding political and social principles, and the contradiction with educational policies.⁷

Reaction to the Law

The Law initiated a controversy which continued in the state for five years until the Law was declared unconstitutional on its face by a Federal Court decision. With few exceptions, the educators opposed the Law which banned particular speakers. The Consolidated University President William C. Friday and Chancellor William B. Aycock told United Press International that the Law was unnecessary for these reasons: (1) A 1941 state law deemed it unlawful for public state-owned buildings to be used by people advocating the overthrow of the government by unlawful means; (2) Since 1951, the University had refused to hire suspected Communists; (3) All state employees signed an oath upholding the state and national constitutions.⁸

Within the next few months, educational groups such as the University Faculty at Greensboro,⁹ the Faculty Council

⁷"The Visiting Speakers Bill: Opinions and Documents," Greensboro Daily News, 7 July 1963, p. D5.

⁸"Earlier N. C. Statute is Cited," Greensboro Daily News, 4 July 1963, p. A1.

⁹"Faculty Asks Speaker Ban Bill's Repeal," Greensboro Record, 23 October 1963, p. B1.

at Chapel Hill,¹⁰ and the Consolidated University Student Council¹¹ publicly opposed the "gag" Law. In addition, the Trustees of the Consolidated University of North Carolina resolved to take measures to have the Law modified or repealed by the 1965 General Assembly.¹²

Even though negative responses were dominant in the news media, supporters of the Law affirmed it as a deterrent to Communism.¹³ Both formal and informal debates ensued.¹⁴

The 1965 General Assembly neared adjournment without formally discussing the Speaker Ban Law. According to an Associated Press sampling of legislative opinions, views seemed unchanged. Before the Assembly adjourned, Governor Dan K. Moore recommended and received approval to appoint a study commission to evaluate the complexities of the Law

¹⁰"The Speaker Ban: A First Step to Political Indoc-trination," Greensboro Daily News, 3 November 1963, p. D5.

¹¹"Student Council of UNC Urges Repeal of Ban," Greensboro Daily News, 5 November 1963, p. B1.

¹²"Trustees Denounce Red Ban." Greensboro Daily News, 29 October 1963, pp. A1,7.

¹³"Speaker Ban Discussed by Eure," Greensboro Daily News, 9 November 1963, p. 5.

¹⁴Edwin M. Yoder, "Were Two Speaker Ban Laws Passed Last June?" Greensboro Daily News, 19 April 1964, p. C5; "Opinions of Legislators on Ban Appear Unchanged," Greensboro Daily News, 24 May 1965, p. A1.

and to make recommendations to him.¹⁵ The Governor thought this approach preferable to seeking repeal or amendment on the emotion-filled question.

The General Assembly on June 16, 1965, made a resolution entitled "A JOINT RESOLUTION CREATING A COMMISSION TO STUDY THE STATUTES RELATING TO VISITING SPEAKERS AT STATE-SUPPORTED EDUCATIONAL INSTITUTIONS." Section 1 of the Resolution formally named and specified the composition of the Commission. It reads:

Section 1. There is hereby created a commission to be known as the Commission on the Study of the Statutes Relating to Visiting Speakers at State Supported Educational Institutions. The Commission shall consist of nine members, five of whom shall be appointed by the Governor, two of whom shall be appointed by the Lieutenant Governor from the membership of the Senate, and two of whom shall be appointed by the Speaker of the House of Representatives from the membership of the House. The Governor shall designate the Chairman of the Commission.

Section 2 of the Resolution stated the four topics to be considered as follows:

Section 2. It shall be the duty of the Commission herein created to make a careful, full and detailed study of G.S. 116-199 and G.S. 116-200, relating to visiting speakers at State supported educational institutions of higher learning, with respect particularly to (1) the enforcement of the statutes; (2) the relationship, if any, between these statutes and the accreditation of State supported institutions by accreditation organizations and associations; (3) the effect on the relationship of these institutions with other institutions of higher learning; and (4)

¹⁵"Moore Moves to Forestall Action on Speaker Ban," Greensboro Daily News, 25 May 1965, p. A1.

the impact of the statutes as to the status, administration, reputation, functioning and future development of State supported institutions.¹⁶ (Topic numbers added.)

This nine-member study commission was composed of five persons appointed by the Governor and two each by the House and the Senate.¹⁷ Members appointed by Governor Moore were Chairman, Representative David Britt of Robeson County, future House speaker; W. T. Joyner, Raleigh attorney; Charles Myers of Greensboro, president of Burlington Industries, Incorporated; Reverend B. C. Fisher, chairman of the Commission on Higher Education of the Baptist State Convention; and Mrs. Elizabeth Swindell of Wilson, past president of the North Carolina Press Association. The President of the Senate, Lieutenant Governor Robert Scott, appointed Senator Gordon Hanes of Winston-Salem and Senator Russell Kirby of Wilson. Those appointed by the Speaker of the House Pat Taylor were Representative A. A. Zollicoffer, Jr. of Vance, chairman of House Appropriations; and Representative Lacy Thornburg of Sylva. The clerk appointed to the commission was Mrs. P. E. Howell of Raleigh.¹⁸

¹⁶N. C. G. A., A Joint Resolution Creating a Commission to Study the Statutes Relating to Visiting Speakers at State Supported Educational Institutions, Session Laws 1965, Regular Session, H. R. 1068, H. Con. Res. 85. pp. 1-2.

¹⁷Bondurant, "A Study in Content," p. 234.

¹⁸North Carolina Speaker Ban Study Commission, Hearing Before Speaker Ban Study Commission, 7 vols. (Raleigh, N. C.: State Legislative Building, 1965), 1: 3-4.

There are several ways the Hearing volumes have been divided; The University of North Carolina at Chapel Hill divides them into two volumes; The University of North Carolina at Greensboro divides them into seven volumes. Since

Study Commission Procedures and Recommendations

The Governor's Study Commission held hearings August 11 and 12 as well as September 8 and 9, 1965, at the State Legislative Building in Raleigh.¹⁹ At the invitation of the Commission, the Southern Association of Colleges and Schools, Representative Phil Godwin, and Dr. Howard Boozer of the North Carolina Board of Higher Education testified the first day. The American Association of University Professors and the American Legion (both requesting hearings) spoke on the second day.²⁰ On September 8, 1965, at the Commission's request, administrative officers and trustees of The University of North Carolina and the North Carolina state-supported colleges testified. On the last day students, alumni of The University of North Carolina, representatives of organizations, and other individuals spoke at their own requests.²¹ During the Hearing, sixty-six people participated. Of this number, fifty-three opposed the Law and twelve favored it, and one left the decision to the Commission.²²

the UNC-G source is the primary source for this study, the seven volume divisions shall be referred to by individual volumes.

¹⁹Bondurant, "A Study in Content," p. 234.

²⁰Commission, Hearing, 1: 6; 2: 1, 23; 6: 7.

²¹Ibid., 7 passim. ²²Ibid., vols. 1-7 passim.

The Commission filed its Report on November 5, 1965, after five months of study. This Report included (1) a twelve-page text composed of analyses, conclusions, and recommendations; (2) the Speaker Policy, and (3) a form of the bill amending the 1963 Law.²³ The Commission considered its decision a compromise stating:

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

To that end we direct our recommendations.²⁴

The Commission recommended: (1) to amend the 1963 Speaker Ban Law, giving the trustees of each institution the authority and responsibility of adopting and publishing rules and precautionary measures, (2) to make this amendment provided that the trustees adopt the statement of speaker policy contained in the Commission Report, and (3) to ask the boards of trustees to approve the Speaker Policy after which to assemble the General Assembly to amend the Law.

The Report stated:

1. Subject to Recommendation No. 2, we recommend that Chapter 1207 of the 1963 Session Laws be amended so as to vest the trustees of the institutions affected by it not only with the authority but also with the

²³North Carolina Speaker Ban Study Commission, The Commission's Report to His Excellency, Dan K. Moore, Governor of North Carolina (Raleigh, N. C., 1965), p. 1-12; Speaker Policy, pp. 1-2; Proposed Amendment, p. 1. Found in the North Carolina Collection at UNC-G and UNC.

²⁴Ibid., p. 11.

responsibility of adopting and publishing rules and precautionary measures relating to visiting speakers covered by said Act on the campuses of said institutions. We submit as a part of this Report a proposed legislative bill to accomplish this purpose.

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

3. In order that this important matter might be settled forthwith, we recommend that you, The Governor of North Carolina, request the boards of trustees of the affected institutions to assemble as soon as practicable for purpose of giving consideration to the aforementioned Speaker Policy, and at such time as it has been adopted by the said boards of all of said institutions, that you cause to be called an extraordinary Session of the General Assembly for purpose of considering amendments to Chapter 1207 of the 1963 Session Laws as hereinbefore set forth.²⁵

Law Amendment and University Compliance

Immediately, Governor Moore asked the boards of trustees to meet and adopt the Report by November 12, 1965. Simultaneously, he called a special session of the Legislature for November 15. By the deadline, the last of the institutions, The University of North Carolina, had approved the policy statement with no changes.²⁶

At the special legislative session, Representative David Britt, Chairman of the Commission, told the legislators that a change was needed in the interest of higher education and the public. Formerly, the Chairman had favored the ban.²⁷ Defeating a motion to refer the amendment to public vote, the House of Representatives voted 75 to 39 to amend it

²⁵Ibid. ²⁶Bondurant, "A Study in Content," p. 235.

²⁷"Britt Claims Red Speakers Won't Follow Ban Changes," Greensboro Daily News, 16 November 1965, p. A1.

in accordance with the Report.²⁸ Nearly twenty-four hours later, the Senate approved the amendment 36 to 13.²⁹

The 1965 Law reads as follows:

116-199. Use of facilities for speaking purposes.-- The board of trustees of each college or university which receives any State funds in support thereof, shall adopt and publish regulations governing the use of facilities of such college or university for speaking purposes by any person who:

- (1) Is a known member of the Communist Party;
- (2) Is known to advocate the overthrow of the Constitution of the United States or the State of North Carolina;
- (3) Has pleaded the Fifth Amendment of the Constitution of the United States in refusing to answer any question, with respect to Communist or subversive connections, or activities, before any duly constituted legislative committee, any judicial tribunal, or any executive or administrative board of the United States or any state.

116-200. Enforcement of article.--Any such regulations shall be enforced by the board of trustees or other governing authority, of such college or university, or by such administrative personnel as may be appointed therefor by the board of trustees or other governing authority of such college or university. (1963, c. 1207, s. 2; 1965, Ex. Sess., c. 1, s. 2.)³⁰

Both the proponents as well as the opponents considered the 1965 amendment a compromise.³¹ However, the compromise was indicative of general public views. An Associated Press poll taken after the Report was known

²⁸Arthur Johnsey, "Accreditation Loss Could Halt Funds," Greensboro Daily News, 22 May 1965, p. A1.

²⁹"University NCAA Status in Danger," Greensboro Daily News, 1 June 1965, p. A1.

³⁰N. C. Gen. Stat. Ch. 1207 § 116-199, 200 (1965).

³¹Bondurant, "A Study in Content," pp. 238-39.

indicated a change of attitude among people of ". . . all economic and educational groups" Supporting the change were 50.9 per cent, 41.2 per cent opposed, and 7.9 per cent undecided.³² In addition, after a two-hour testimony from Chairman Watts Hill, Jr. of the North Carolina Board of Higher Education, the Commission on Colleges of the Southern Association of Colleges and Schools announced that academic accreditation of the state colleges and universities remained.³³

On January 14, 1966, the Executive Committee of the Board of Trustees of the University adopted regulations governing visiting speakers on all the University campuses.³⁴ Before the entire Board of Trustees adopted the new regulations, the Students for a Democratic Society invited a speaker, Dr. Herbert Aptheker, Director of the American Institute for Marxist Studies. Chancellor Paul F. Sharpe recommended to President William C. Friday that Aptheker be allowed to speak.³⁵ However, the Executive Committee of the Board of Trustees in a closed meeting voted

³²Rob Wood, "Survey Shows People Divided Over Controversial Ban Law," Greensboro Record, 11 November 1965, p. A12.

³³Bondurant, "A Study in Content," p. 239.

³⁴Ibid.

³⁵James Ross, "Red Speaker Issue Uniting UNC Faculty and Students," Greensboro Daily News, 13 August 1965, p. A1.

to bar Aptheker and to hold the proposed invitation to Frank Wilkinson, Chairman of the Committee to Abolish the House Un-American Activities Committee, until after the Board adopted speaker regulations.³⁶

On February 28, 1966, the Board of Trustees authorized the Chancellors to permit the appearance of speakers under the approved visiting speaker regulations.³⁷ In the meantime, Frank Wilkinson made two off-campus speeches in Chapel Hill on March 2, 1966. Following him, Herbert Aptheker spoke off-campus on March 9, 1966; the day before, he spoke on campus at Duke University.³⁸ Not experiencing the initial ban that Wilkinson and Aptheker did, two Communist scholars appeared on the University campus during March with the approval of Acting Chancellor J. Carlyle Sitterson. (Former Chancellor Sharp resigned to become president of Drake University.)³⁹

³⁶Arthur Johnsey, "Governor Says Leftist Talks Might Cause Campus Strife," Greensboro Daily News, 11 February 1966, p. A1.

³⁷Arthur Johnsey, "Trustees Give Chancellors Decision on Red Speakers," Greensboro Daily News, 1 March 1966, A1.

³⁸Bondurant, "A Study in Content," p. 240.

³⁹"Way Cleared by Sitterson, Acting Chief," Greensboro Record, 4 March 1966, p. B1; Bondurant, "A Study in Content," p. 240.

Court Case and Federal Court Decision

On March 31, 1966, fourteen plaintiffs filed suit in the United States District Court in Greensboro, North Carolina. They sought ". . . to enjoin the University Trustees from enforcing the amended Speaker Ban Law as applied to Wilkinson and Aptheker."⁴⁰ Defendants named were the Consolidated University President William C. Friday, the Board of Trustees, and Acting Chancellor Sitterson. The plaintiffs included Herbert Aptheker and Frank Wilkinson, the President and President-elect of the student body, the Young Women's Christian Association, and the Di-Phi Society, and the Chairman of the Carolina Forum, as well as the editor of The Daily Tar Heel.⁴¹

The plaintiffs asked the Court (1) to direct the defendants to grant permission for invitations to Aptheker and Wilkinson, (2) to grant a permanent injunction against enforcing the speaker rules, (3) to declare illegal the Law and the regulations, and (4) to issue a temporary restraining order on enforcing the Law. For financial reasons, they asked that the court accept jurisdiction of the case without

⁴⁰Bondurant, "A Study in Content," p. 241.

⁴¹Ibid.

the usual first test in the state courts. On behalf of the plaintiffs, the American Association of University Professors and the North Carolina Civil Liberties Union filed briefs and sought permission to enter the litigation. Both requests were granted.⁴² On the other hand, other requests were entered, such as the State's request to dismiss the suit and refrain from a constitutional ruling.⁴³ These permissions were not granted.

On February 21, 1967, the oral arguments began in the United States Middle District Court in Greensboro, North Carolina. Hearing the case were the Federal Judges Clement F. Haynesworth of the Fourth United States Circuit Court of Appeals, Edwin M. Stanley of the Middle District Court, and Algernon L. Butler of the United States Eastern District Court.⁴⁴ Representing the plaintiffs was McNeill Smith of Greensboro. For the plaintiffs, William W. Van Alstyne submitted a brief in behalf of the American Association of University Professors, and Daniel H. Pollitt did likewise for the North Carolina Chapter of the American Civil Liberties Union. State representatives were Attorney

⁴²Kenneth Irons, "Speaker Ban Case Fires Still Burning," Greensboro Record, 10 January 1967, p. B1.

⁴³"Speaker Ban Brief Is Filed," Greensboro Record, 10 December 1966, p. B2.

⁴⁴"Speaker Ban Trial to Start," Greensboro Record, 20 February 1967, p. B1.

General Wade Bruton, W. T. Joyner, Sr., and W. T. Joyner, Jr., as well as Deputy Attorney Ralph Moody.⁴⁵

On February 19, 1968, the three-judge United States District Court ruled the Speaker Ban Law, the regulations, and procedures ". . . facially unconstitutional because of vagueness."⁴⁶ These three documents were deemed unconstitutional, null, and void. The judges based their decision on the precedent of the Supreme Court regarding violations of the First and Fourteenth Amendments. They maintained that ". . . standards of permissible statutory vagueness are particularly strict when First Amendment rights are involved."⁴⁷ Furthermore, the high court has required ". . . clear, narrow, and objective standards controlling the licensing of First Amendment rights. . . ." ⁴⁸

The judges stated that the statutes, the Speaker Policy, and the regulations violated the Fourteenth Amendment. Reiterating an earlier court decision⁴⁹ they said,

It is firmly established that a statute "which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application" . . . violates the due process clause of the Fourteenth Amendment because of vagueness.⁵⁰

⁴⁵David S. Greene, "Judges Study Speaker Ban Case Decision," Greensboro Daily News, 22 February 1967, p. B12.

⁴⁶Dickson v. Sitterson, 280 F. Supp. 486 (M. D.-N. C. 1968).

⁴⁷Ibid., p. 498. ⁴⁸Ibid., p. 499.

⁴⁹Connally v. General Construction Co., 269 U.S. 385, 391, 46 S. Ct. 126, 127, 70 L. Ed. 322 (1926).

⁵⁰Dickson v. Sitterson, p. 498.

The terminology in the Speaker Ban Law such as the three categories of speakers invited disagreement because of ambiguity. Furthermore, the Speaker Policy and the regulations gave too much latitude to the person responsible for making the decision about speakers. The judges stated:

In order to withstand attack, they [policy and regulations] must impose a purely ministerial duty upon the person charged with approving or disapproving an invitation to a speaker falling within the statutory classifications, or contain standards sufficiently detailed to define the bounds of discretion.⁵¹

Lastly, the judges held that no one had an absolute right to speak on campus. If an institution welcomes visiting speakers, it must follow principles which are constitutionally valid.

Various reactions followed the decision. University officials accepted it with relief.⁵² Governor Moore, Chairman of the University Board of Trustees, recommended no appeal of the decision.⁵³ Simultaneously a Congressional candidate asked the Governor to call a special session of

⁵¹Ibid.

⁵²Arthur Johnsey, "UNC Administrators Hoping It's All Over," Greensboro Daily News, 20 February 1968, p. A1.

⁵³Arthur Johnsey, "Moore Urges No Appeal of Speaker Ban Decision," Greensboro Daily News, 21 February 1968, p. B1.

the Legislature to remodel the Law.⁵⁴ The Trustees adopted new visiting speaker rules.⁵⁵ Indicative of the Law's abolishment, Frank Wilkinson was invited to speak to the Carolina Political Union on "The Legal Foundation for a Police State" in May, 1968.⁵⁶ Accepting, he spoke to a ". . . group of about fifty, scattered among empty rows."⁵⁷ Lastly, the current statement about the Law in the state statutes reads as follows:

Article 22.

Visiting Speakers at State-Supported Institutions

§ 116-199. Use of facilities for speaking purposes. Constitutionality.--The 1965 enactment of this section and § 116-200, and the procedures and regulations adopted by the board of trustees of the University of North Carolina on February 28, 1966, pursuant to these statutes, are facially unconstitutional because of vagueness. This is true even though the statutes and regulations, unlike their 1963 counterparts, only regulate, rather than prohibit, the appearance of a special group of speakers. Dickson v. Sitterson, 280 F. Supp. 486 (M.D.-N.C. 1968).

⁵⁴James Ross, "Green Asks Special Session for New Speaker Ban Law," Greensboro Daily News, 21 February 1968, p. A1.

⁵⁵"UNC Board Adopts Interim Speaker Rule Without Veto," Greensboro Daily News, 27 February 1968, p. A7.

⁵⁶Bill East, "UNC Reschedules Speaker Banned by Law Two Years Ago," Twin City Sentinel, 14 May 1968, p. 20.

⁵⁷William W. Van Alstyne, "The North Carolina Speaker Ban Decision . . . One Year Later," North Carolina Civil Liberties News 2 (Winter, 1968-69): 3.

§ 116-200. Enforcement of article.

Constitutionality.--The 1965 enactment of this section and § 116-199, and the procedures and regulations adopted by the board of trustees of the University of North Carolina on February 28, 1966, pursuant to these statutes, are facially unconstitutional because of vagueness. This is true even though the statutes and regulations, unlike their 1963 counterparts, only regulate, rather than prohibit, the appearance of a special group of speakers. Dickson v. Sitterson, 280 F. Supp. 486 (M.D.-N.C. 1968).⁵⁸

Hearing Before the Commission

Issues in Question

The Study Commission, chaired by Representative David Britt, unanimously decided at its initial meeting on July 14, 1965, to study the Law through public hearings. The General Assembly resolution charged the Commission with the duty of making a careful, complete, detailed study. The Commission was to give particular attention to the enforcement of the Law, to the effects of it on accreditation of the institutions, to the relationship of these institutions with other comparable institutions, and to the impact of the laws on the institutions themselves.⁵⁹

Four major issues emerged in the controversy over the 1963 Law. These issues included national security, academic freedom, accreditation, and constitutionality.⁶⁰

⁵⁸N. C. Gen. Stat. ch. 1207, § 116-119, 200 (Cum. Supp. 1971).

⁵⁹North Carolina Speaker Ban Study Commission, The Commission's Report to His Excellency, Dan K. Moore, Governor of North Carolina. (Raleigh, N. C. 1965), pp. 1-12.

⁶⁰Bondurant, "A Study in Content," pp. 230-32, 242-48.

National Security

Proponents of the Law considered national security the major issue. The American Legion representatives, for example, believed it was a necessary national security measure.⁶¹ Tracing the history of the Communist Party in America, the Legion's spokesmen considered a Communist conspiracy imminent, presenting a clear and present danger to the country. Other spokesmen saw the foreign-controlled conspirators gradually seizing the powers of government. In fact, the Secretary of State Thad Eure told a group of Legionnaires that the Law got in a blow at Communism.⁶²

Proponents maintained that the young people would be indoctrinated in Communism. Furthermore, the college campuses were easy prey for that philosophy. They specifically pointed out former students of the University of North Carolina at Chapel Hill who were alleged Communists while at the institution. Also, they specified student organizations such as the Progressive Labor Club as allegedly Communist.

At the same time, the proponents wanted young people educated about the dangers of Communism, but they wanted to specify the methods to be used for teaching them. An acceptable means of education mentioned was Guide Lines,

⁶¹Hearing, 4: 9-11.

⁶²Yoder, "Were Two Speaker Ban Laws Passed," p. C5.

sponsored by the American Legion and the National Education Association. Consequently, the students must be instructed that the Communist Party is not a legitimate political party in this country.

The opponents, educators in particular, thought that an atmosphere of completely free inquiry was the best strategy for combating alien philosophies. Already a 1941 North Carolina State Statute declared it unlawful to advocate overthrow of the government by force, violence, or other unlawful means. No other law seemed necessary.⁶³

Legal restrictions on speakers caused unnecessary excitement about them, possibly creating an appeal to the students. The same restrictions on the appearance of Communist speakers might force their efforts underground. In addition, little evidence existed to indicate that the American Communist Party provided a speaker program of a size to present a national threat.⁶⁴

Some maintained that national security was only a surface issue. The Speaker Ban Law, rather than protecting the government, damaged the basis of our system of government--the limitless freedom to explore.⁶⁵ Other opponents

⁶³Hearing, 3: 17-18, 20-21, 11-12, 30, 5.

⁶⁴Bondurant, "A Study in Content," pp. 246-48.

⁶⁵"Judge Allen H. Gwyn Again Raps N. C.'s Speaker Ban Law," Reidsville Review, 9 June 1965, p. A6.

alleged that the Law was the result of Legislative frustration over racial integration and a few professors participating in protest marches.⁶⁶ To others, the Law seemed a feeble gesture as a deterrent to Communism and subversion.⁶⁷

Academic Freedom

According to the supporters, the Law did not violate academic freedom. The University belonged to all the North Carolina citizens who had entrusted the operation of the institution to the Trustees. Students and faculty were not prohibited from investigating, or learning, or acquiring books and materials, nor experiencing instruction about Communism. However, students were somewhat vulnerable to accepting what the University offered. Consequently, the University should not be allowed to furnish facilities for speakers prohibited by the Law. Also, some of the supporters of the Ban did not believe that Communist propaganda had anything to do with the truth.⁶⁸

The opponents found that the Law negatively affected the academic community. It inhibited the free flow of ideas,

⁶⁶Yoder, "Were Two Speaker Ban Laws Passed," p. C5.

⁶⁷"The Ban's Legal Ambiguities," Greensboro Daily News, 19 September 1965, p. D5.

⁶⁸Hearing, 4: 14, 6-7, 57, 27, 56.

demoralized the faculty, and interfered with the students' learning processes. Even though the Law did not directly apply to classroom discourse and faculty research, it advocated authority over free inquiry. The university functions to communicate and expand an intellectual heritage. Consequently, its environment is enhanced when speakers of unpopular ideologies can present their ideas and can be questioned by their listeners.⁶⁹ Ultimately, the purpose of academic freedom is to benefit society.⁷⁰

Even though the Law seemed to protect the student, student groups as well as others considered this measure unnecessarily protective.⁷¹ Faculty groups found the Ban totally unacceptable to themselves as individuals and as groups.⁷² The administration declared part of their responsibilities usurped. Furthermore, the Trustees of the Consolidated University wanted the Law modified or repealed.⁷³

⁶⁹Bondurant, "A Study in Content," pp. 245-46.

⁷⁰Hearing, 3: 6-9.

⁷¹"Student Council of UNC Urges Repeal of Ban," p. B1; and "Girls State Supports Speaker Ban Repeal," p. B1.

⁷²"Faculty Asks Speaker Ban Bill's Repeal," p. B1; and "The Speaker Ban: A First Step to Political Indoctrination," p. D5.

⁷³Yoder, "Were Two Speaker Ban Laws Passed?" p. C5; and "Trustees Denounce Red Ban," p. A7.

Accreditation

Some advocates of the Law preferred keeping the Law at the risk of losing accreditation and faculty.⁷⁴ They asserted that accreditation did not hinge on inviting Communists to speak on campuses.⁷⁵ Furthermore, they did not anticipate loss of accreditation solely on the basis of this Law. In addition, the Secretary of State questioned the legal right of the Southern Association of Schools and Colleges to do business in the state.⁷⁶

Should accreditation be lost, the advocates did not consider it a significant problem. It primarily affected undergraduate, not graduate education. In fact, one proponent surveyed thirty-four out-of-state universities regarding the effect of accreditation loss on students graduating from North Carolina state institutions who wanted to enter graduate programs at those other institutions. From the twenty-nine replies, the surveyor concluded that these graduates would not be affected.⁷⁷ To the supporters, the issue of accreditation was not very important.

⁷⁴James Ross, "Legion Wouldn't Trade Ban for Accreditation or Faculty," Greensboro Daily News, 13 August 1965, p. A1.

⁷⁵Hearing, 4: 14.

⁷⁶James Ross, "Guilford Legislator Labels Ban Law as 'Interference,'" Greensboro Daily News, 17 August 1965, p. B1.

⁷⁷Hearing, 4: 65-66.

Opponents of the speaker ban as well as Governor Moore considered the question of accreditation a major issue.⁷⁸ Southern Association of Schools and Colleges, a voluntary regional accrediting corporation, informed the Governor of its interest and concern.⁷⁹ According to its Standards for Colleges, an institutional governing board should not be pressured unduly by state officials or outside political and religious groups. Undue pressure violated the principle of intellectual freedom as well as abridged the authority of the governing board. Also, outside influences negatively affected other state-supported institutions. The Southern Association, in its running discourse with the Governor, informed him that the Association would consider the accreditation question before the end of the 1965 calendar year.⁸⁰

Accreditation by a regional association seemed to be a prerequisite for institutional involvement in many instances. Possible ill effects of accreditation loss were specified. Some opponents feared being ineligible to receive funds from the federal government and foundations.⁸¹

⁷⁸"Moore Moves to Forestall Action on Speaker Ban," p. A1; and Hearing, 1: 12-22.

⁷⁹William A. Shires, "Southern Association Answers Eure Challenge," Greensboro Record, 25 August 1965, p. A16.

⁸⁰Hearing, 1: 16-17, 12-13, 20, 22.

⁸¹Johnsey, "Accreditation Loss Could Halt Funds," p. A1.

Membership in the National Collegiate Athletic Association was based on regional accreditation.⁸² Among other specific losses, faculty, students, specialists, projects, and programs would not be attracted to these state institutions.⁸³ Furthermore, many faculty members planned an exodus if accreditation were lost.⁸⁴ Already, nationally known speakers had cancelled plans to speak because of the ban.⁸⁵

Constitutionality

Proponents of the Law stated that the Law was constitutional. The First Amendment was not violated by prohibiting certain speakers to speak on the university campuses. According to some interpretations, these alien speakers were free to speak off-campus, not on the tax-supported property.⁸⁶ Constitutional guarantees do not include ". . . advocacy of a doctrine which would overthrow the very government which guarantees those principles."⁸⁷

⁸²"University NCAA Status in Danger," p. A1.

⁸³James Ross, "Study Commission Is Told of Possible Loss of Funds," Greensboro Daily News, 12 August 1965, p. A1.

⁸⁴"175 Threaten to Quit UNC Faculty Posts," Greensboro Daily News, 1 June 1965, p. A1; and "Accreditation Loss to Bring Mass Resignations at UNC-G," Greensboro Daily News, 4 June 1965, p. A18.

⁸⁵"Wicker Cancels Speech at State," Greensboro Daily News, 3 November 1965, p. A11.

⁸⁶Bondurant, "A Study in Content," p. 243.

⁸⁷Hearing, 4: 29.

Supporters backed by some state officials maintained that the state constitution was not violated, nor was the national one. Furthermore, the Law did not apply to former members of the Communist Party nor to undercover agents of the United States government employed to join the Party.⁸⁸

The opponents believed the statute was unconstitutional.⁸⁹ First, it abridged freedom of speech in violation of the First Amendment to the Constitution which applied to the states through the due process and equal protection clauses of the Fourteenth Amendment. Second, it was considered void on its face because of vagueness and broadness which violated the due process clause. Next, it appeared void on its face because of the impermissible prior restraint on freedom of speech. Fourth, it seemed invalid as it applied to any speaker when substantial evidence was not shown that the speech would probably cause a serious legal violation. Fifth, it was considered unconstitutional as applied to any speaker prohibited from speaking solely because he had previously invoked his constitutional privilege against self-incrimination. Finally, it was considered invalid as a denial of equal protection.⁹⁰ In other words,

⁸⁸Ibid., 2: 7.

⁸⁹Daniel Pollitt, "Campus Censorship: Statute Banning Speakers from State Educational Institutions," 42 N.C.L. Rev. 179 (1963).

⁹⁰William W. Van Alstyne, Memorandum on the North Carolina Speaker Ban Law (Durham, N. C.: Duke University, 1965), pp. 5-6, 37.

it restricted a speaker because of his association with an organization without proving that he intended to accomplish the organization aim through violence.⁹¹

Commission Reaction and Recommendation

Reaction to Issues

On the issue of national security, the Commission felt ". . . that the primary objective of the General Assembly was to prevent Communist rabble rousers and their kind from using the campuses of North Carolina as a forum for their evil activities." After carefully reviewing the Hearing testimony, the Commission remarked that many witnesses directed their statements primarily at the University of North Carolina at Chapel Hill.⁹² Evidence presented failed to show (1) that the Chapel Hill faculty had been infiltrated by Communists, (2) that many students had been directly involved as Communists, (3) that many extremists had spoken on campus, and (4) that ". . . charges of irresponsible radicalism at Chapel Hill" were justified. Furthermore, the Report stated, "There is no evidence before us of any plot, plan, campaign, or conspiracy by anyone to injure the University or any State-supported college."⁹³

⁹¹Bondurant, "A Study in Content," p. 243.

⁹²Report, pp. 6-9. ⁹³Ibid., pp. 8-9.

Therefore, the Commission contended that the University at Chapel Hill has served the state well and that the Commission did not favor legislation which would hamper the educational opportunities which these state-supported institutions provide.⁹⁴

Regarding the second issue, the Commission briefly remarked on the issue of academic freedom. It stated that students should have opportunities ". . . to question, review, and discuss the opinions of speakers representing a wide range of viewpoints."⁹⁵ Institutions must remain free to examine these viewpoints in order to support a free society against the many forms of totalitarianism. However, this examination should be done in a way consistent with educational objectives. In other words, academic freedom requires responsibility. The Commission specifies that the Trustees must assume more responsibility in operating these institutions. In point, they should be more informed of the educational programs as well as be alert to things harmful to their institutions.⁹⁶

Third, the Commission considered that a large part of its inquiry was directed toward accreditation. The Report stated:

⁹⁴Ibid., pp. 9-10. ⁹⁵Ibid., p. 8.

⁹⁶Ibid., p. 10.

A large part of the inquiry of the Commission was directed to the matter of accreditation. At the August hearings Dean Emmett B. Fields of Vanderbilt University, Chairman of the Commission on Colleges, Southern Association of Colleges and Schools, Inc., and Mr. Gordon Sweet, Executive Director of the Southern Association of Colleges and Schools, Inc., were heard and questioned in great detail. The agency represented by these two is the primary accrediting agency for all colleges and universities in North Carolina. The Officials of this agency take the position that these statutes "remove(s) from the governing boards of the State institutions of higher learning in North Carolina, their traditional authority to handle such matters with administrative discretion," and "raise(s) an issue of interference with the necessary authority of the boards".⁹⁷

The Commission studied the significance of accreditation on state-supported colleges and universities. It concluded that accreditation is meaningful financially and otherwise. Accreditation loss would be substantially detrimental. Loss would negatively affect the institutions' relationships with some federal and private agencies, with other accredited institutions, and with students and faculty.⁹⁸ The Report stated:

In considering the impact of the statutes in question on our State-supported institutions of higher learning, we must consider the tangible and the intangible. The most obvious impact would come from loss of accreditation, if such should occur, inasmuch as many financial aids which our institutions now receive are not provided to unaccredited institutions. The Commission made contact with numerous federal agencies and private foundations and although some of the aids and programs provided are not dependent upon accreditation, many of them are, and with others accreditation would be a factor. For example, a R.O.T.C. program is contingent upon accreditation.⁹⁹

⁹⁷Ibid., p. 4. ⁹⁸Ibid., pp. 4-6.

⁹⁹Ibid., pp. 5-6.

Last, the Commission Chairman at the beginning of the study authorized a subcommittee of the five lawyers on the Commission to study the legality of the statute. This committee considered the constitutionality of the laws, various court decisions, and legal memoranda. It studied the memorandum and supplement prepared by Deputy Attorney General Ralph Moody and that of Professor William W. Van Alstyne of the Duke University Law School. Mr. Moody found the Law constitutional and appropriate for the State to administer; Professor Van Alstyne found it unconstitutional regarding the Federal Constitution. The entire Commission's consensus advocated that the study go beyond the legal question. As a result, no steps were taken to determine the validity of the Law.¹⁰⁰

Recommendations to the Governor

The Commission made three recommendations. Subject to the acceptance of the second one, the first one recommended amendment of the 1963 Law ". . . to vest the trustees of the institutions affected by it not only with the authority but also with the responsibility of adopting and publishing rules and precautionary measures relating to visiting speakers. . . ."101 The second recommended that each Board of Trustees adopt the Speaker Policy composed by the Commission. Then the last recommended that the

¹⁰⁰Ibid., pp. 2-3. ¹⁰¹Ibid., p. 11.

Governor request the Boards of Trustees to meet and adopt the Speaker Policy after which he should call a special session of the General Assembly to consider amending the Law.¹⁰² In addition, the Commission submitted a proposed bill.

Because of the crucial importance of the Speaker Policy stated in the Report, the text of the statement follows:

SPEAKER POLICY

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

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

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

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

We feel that the appearance as a visiting speaker on our campus of one who was prohibited under Chapter 1207 of the 1963 Session Laws (The Speaker Ban Law) or who advocates any ideology or form of government which is wholly alien to our basic democratic institutions should be infrequent and then only when it would clearly serve the advantage of education; and on such rare

¹⁰²Ibid., pp. 11-12.

occasions reasonable and proper care should be exercised by the institution. The campuses shall not be exploited as convenient outlets of discord and strife.

We therefore provide that we the Trustees together with the administration of this Institution shall be held responsible and accountable for visiting speakers on our campuses. And to that end the administration will adopt rules and precautionary measures consistent with the policy herein set forth regarding the invitations to and appearance of visiting speakers. These rules and precautionary measures shall be subject to the approval of the Trustees.¹⁰³

¹⁰³Ibid., p. 2.

CHAPTER III
EVIDENTIAL PRESENTATION OF THE AMERICAN ASSOCIATION
OF UNIVERSITY PROFESSORS

Chapter III gives an analysis of the evidence presented to the Study Commission by the American Association of University Professors. The speakers include John P. Dawson, William W. Van Alstyne, and Frances C. Brown. William P. Fidler makes no formal presentation, but answers questions about the AAUP. By speaker, the analysis states the arguments and supporting evidence and applies the speaker and substance criteria to the evidence. This study applies entirely to the testimony provided in the Hearing before the North Carolina Speaker Ban Study Commission.

John P. Dawson

The Arguments and the Evidence

Dawson, as chairman of the AAUP presentation, recommends repeal of the Law based on three arguments: (1) The Law violates academic freedom which benefits the academic community and the entire society. (2) The Law treats students unjustly even though it aims to protect them. (3) The Law is too obscure to be commonly understood.¹

¹North Carolina Speaker Ban Study Commission, Hearing Before Speaker Ban Study Commission: American Association of University Professors 7 vols. (Raleigh, N. C.: State Legislative Building, 1965), 3: 5, 7, 10.

This speaker briefly identifies the AAUP and its participation in the Hearing.² Learning of the Law at its inception, the national AAUP feels

. . . it to be our duty to speak . . . on behalf of the academic profession, because so far as we can discover no other state now has legislation that interferes so drastically with the autonomy and the academic freedom of educational institutions.³

Dawson supports his first argument in behalf of academic freedom with a definition of university education, a written testimony, and a personal opinion. First, he defines university education:

For university students to be educated and for university faculties to learn and to teach, freedom to examine all shades of opinion must be present. Scholars in a free society must have the right not only to read about all points of view in printed form but to meet with the holders of opposing views, to see and hear them, to question them and to argue with them. Once we admit that speakers can be banned, no matter how peaceable, lawful and politically neutral may be the themes that they discuss, we have taken a long step toward the thought control of which we hope to rid the world.⁴

Then he calls academic freedom ". . . a specialized facet of freedom in general . . ." ⁵ using Fritz Machlup's definition of academic freedom. A former AAUP President, Machlup says:

²Ibid., p. 4. The AAUP National Headquarters, Washington, D. C.; 75,000 membership in 50 states; 49 state and regional conferences; 900 local chapters at colleges and universities; 27 North Carolina chapters and over 1800 members in North Carolina.

³Ibid., pp. 4-5. ⁴Ibid., pp. 5-6. ⁵Ibid., p. 6.

Academic freedom consists in the absence of, or protection from, such restraints or pressures--as are designed to create in the minds of academic scholars (teachers, research workers, and the students in colleges and universities) fears and anxieties that may inhibit them from freely studying and investigating whatever they are interested in, and from freely discussing, teaching, or publishing whatever opinions they have reached.⁶

Lastly, Dawson maintains that academic freedom benefits all of society. In his opinion, "It is the people at large who have a right to learn the results of unfettered scholarship, who have a right to the cultural and material results produced by scholars who are free to make honest mistakes without fear of reprisal."⁷

This speaker uses no external evidence to support his argument that the Law treats students unjustly. Instead, he makes several assertions based on his experiences in education and law. First, students can recognize false and threadbare arguments of speakers. In Dawson's opinion, "It is better to have these persons brought out into the open than to give them some mysterious added attraction by leaving them to work underground."⁸ Second, students make decisions in world-wide military conflicts along with their elders; also they can recognize false arguments of opponents.⁹

⁶Ibid. ⁷Ibid., p. 7. ⁸Ibid., p. 9.

⁹Ibid., pp. 8-9.

In addition, the state and the nation already have sufficient legal means of dealing with speakers who advocate the violent overthrow of the government. Dawson states:

There are lines very carefully drawn in our constitutional law advocating violent overthrow of government and discussion of ideas not directed toward action. When that line is crossed, we have sufficient legal means to deal with the offender, . . .¹⁰

Also a 1941 North Carolina law protects the listener on state property:

It is not necessary to remind you that advocating the overthrow of the government, by force, violence or other unlawful means, is already a crime under the North Carolina statute passed in 1941. The coverage of the 1941 statute is wide. It includes advocacy in any public building or through any institution supported in whole or in part with public funds. Surely no more than this is needed.¹¹

In his third argument, Dawson relies on his legal expertise, not external sources, to support his argument that the language is vague in the Speaker Ban Law. Specifically, the three categories of speakers lack clear definition. For example, the known member of the Communist Party is to be known by whom? Also banning a speaker who has taken the Fifth Amendment constitutes ". . . a bill of attainder on a person for relying on a federally guaranteed constitutional right."¹² In addition, the Law does not

¹⁰Ibid., p. 9. ¹¹Ibid., p. 5. ¹²Ibid., p. 11.

clarify the responsibilities placed on the officials of the state institutions. In fact, the statute specifies no criminal penalty on these officials even though it specifies that they enforce the Law.

The Application of the Speaker Criteria

Expertise: Is the speaker an expert on the topic discussed?

Dawson teaches law at Harvard University and holds the office of first vice-president of the national American Association of University Professors.¹³ His arguments on academic freedom, student rights, and the constitutional obscurity of language emerge from his expertise in law and education. He limits his positions to areas of his personal expertise.

This speaker has some first-hand knowledge of Communists speaking on the campuses of Harvard and the University of Michigan. He personally believes ". . . our society has nothing to lose and everything to gain by open,

¹³John P. Dawson, Cambridge, Massachusetts: Born: 1902; College: University of Michigan, A.B., 1922, D.D., 1924; Postgraduate: Oxford University, Oxford, England, Ph.D., Law, 1930; Employment: Hearing: Harvard University Professor of Law; Now: Same; Organization Member: Hearing: AAUP active member (first vice-president); Now: AAUP, not active. (Biographical Questionnaire, March 23, 1973).

free discussion. Especially is this so of centers of higher education which are committed to free inquiry because that is the essence of their whole enterprise."¹⁴ In spite of Dawson's familiarity with Communists speakers, he chooses not to argue the national security issue. Instead, he bases his arguments on his educational experiences, not on mere speculations.

Nearness: Has the speaker personally observed and examined the situation?

Dawson has followed the history of the North Carolina Speaker Ban Law since its enactment. Speaking for the national AAUP, he states:

We first indicated our concern by telegram during the brief 24-hour period over two years ago when the ban was enacted into law, and we have since restated our opposition several times in communications to legislative and executive officers of the State of North Carolina.¹⁵

Dawson has also observed the negative effects on institutions of another speaker ban. For example, a speaker ban at Ohio State caused a faculty exodus. He recounts:

I can say that in about three departments (I get this now from direct testimony of faculty friends of mine at Ohio State) at least half of the faculties have left primarily because of the speaker ban and the turmoil that it engendered over the issue of freedom of speech.¹⁶

Dawson has not been to North Carolina to study the controversy, but he demonstrates familiarity with the issues and effects of speaker bans on university campuses.

¹⁴Hearing, 3: 10. ¹⁵Ibid., p. 4. ¹⁶Ibid., p. 18.

Recency: Has the speaker recently studied the situation?

This speaker specifically indicates a legal study of the 1963 Law. He compares this Law with a 1941 North Carolina statute. The laws have a major difference. Dawson observes, "One very crucial point, of course, about the statute is that it does not refer to violent overthrow as does the 1941 statute."¹⁷ Then from his legal perspective, he points out the vague terminology describing the three categories of banned speakers. Lastly, he notes the lack of penalty for not administering the Law.

Bias: Is the speaker biased personally or collectively (as a member of a group with vested interest in the subject)?

Dawson reveals a lack of group bias. Academic freedom is not the sole privilege of the academic community. He says, "Its purpose is to benefit society as a whole, at least as much as the group in question."¹⁸ To him the campus provides a neutral ground for speakers. He states, "There is no respectability conferred by being invited to a university campus."¹⁹ Furthermore, students share a right to hear along with their elders. Dawson asserts:

They have a right to hear everything that can be said on these issues, to measure those who hold ideas we consider obnoxious, to see and hear these men if they want to. The surest way of demonstrating how threadbare and harmful these ideas are is for their proponents to

¹⁷Ibid., p. 8 (Emphasis added). ¹⁸Ibid., p. 7.

¹⁹Ibid., p. 42.

speak out and expose themselves. It is better to have these persons brought out into the open than to give them some mysterious added attraction by leaving them to work underground.²⁰

The Application of the Substance Criteria

Documentation: Is the evidence completely documented (author, date, publisher, primary source, etc.)?

Dawson's arguments lack documented evidence. His only fully documented source is a definition of academic freedom by Machlup in a 1955 issue of the AAUP Bulletin. Otherwise, this speaker makes assertions based on his educational and legal expertise. For example, Dawson contrasts the North Carolina 1963 and 1941 laws, but he documents neither. The acceptance of Dawson's analysis of academic freedom, student rights, and the weaknesses of the 1963 Law rests on his expertise, not documented evidence.

Consistency: Is the evidence consistent?

This speaker's data appears internally consistent without contradiction and discrepancies. He also answers Commission questions in keeping with his formal statements. For example, the Commission asks him technical questions about the AAUP. Instead of generalizing in his answers, Dawson refers these questions to the General Secretary of the AAUP who responds with specific AAUP statistics and practices.

²⁰Ibid., p. 9.

Recency: Is the evidence recently related to the situation?

Dawson's evidence provides few dates on which to determine recency. Instead, this speaker acknowledges recent familiarity with Communist speakers at Harvard and the University of Michigan. Also, he has associates who recently left Ohio State because of a speaker ban. In addition, he analyzes the 1963 Law and contrasts it with the 1941 North Carolina statute which restricts the use of state facilities by speakers. Nevertheless, he provides no data to support his stated familiarity with the North Carolina controversy.

Bias: Is the evidence biased (slanted, incomplete, or presumptuous, etc.)?

This speaker provides insufficient objective evidence. For example, he says, "There are lines very carefully drawn in our constitutional law between advocating violent overthrow of government and discussion of ideas not directed toward action."²¹ However, he does not support with evidence his understanding of these lines. Also, Dawson discusses the vague terminology of the Speaker Ban. Again he gives no supporting evidence, but he promises a fuller explication saying that the serious constitutional questions will be handled by a later speaker. In conclusion, the acceptance of his analysis of academic freedom,

²¹Ibid.

student rights, and the terminology of the Speaker Ban relies on his authority and experience.

William W. Van Alstyne

The Arguments and the Evidence

Van Alstyne maintains that the Law is unconstitutional on its face and needs repeal. He supports his position with three arguments: (1) The North Carolina Law differs significantly from an Ohio statute on which it is allegedly modeled. (2) State speaker bans applicable to educational facilities have been declared unconstitutional on three occasions. (3) The Law can be subject to a test case under the First and Fourteenth Amendments of the Constitution.²²

In his first argument, Van Alstyne contrasts the North Carolina and Ohio laws. Point one, the Ohio law does not, on its face, ban any speakers; whereas the North Carolina statute does. Point two, the Ohio law does not require the trustees of an institution to ban speakers, but the North Carolina one does. The speaker says the Ohio statute:

. . . reiterates the authority they [trustees] possess under pre-existing Ohio statutes, to regulate the appearance of guest speakers and it goes on in what is in legal substance a gratuitous expression that this power includes the authority to exclude certain groups. It does not require them to do so.²³

²²Ibid., pp. 66-67, 69, 71.

²³Ibid., pp. 66-67 (Insert added).

Furthermore, the Ohio state institutions have independent speaker policies. Van Alstyne adds that the Ohio law was enacted during the time there was controversy over Communist speakers at Ohio State. That controversy did not prevent passage of a democratic speaker statute.

After using the literal analogy, Van Alstyne offers two written testimonies and several instances to support his argument. First, Senator Goldwater gave a speech at Ohio State University when the Ohio bill was pending. He endorsed the right for students to hear all views.²⁴ Second, President Wilson of the University of Minnesota endorsed the appearance of Benjamin Davis, an officer of the American Communist Party. Wilson states:

We believe it would be a disservice to our students and an insult to our nation's maturity if we were to deny Mr. Davis an opportunity to speak. Over-protected students might at once assume that Davis had something to say which was too strong for our reasons and our convictions. The University is the product of a free society. It is neither afraid of freedom, nor can it serve society well if it casts doubts on the ability of our free institutions to meet the challenge of doctrines foreign to our own.²⁵

In his second argument, Van Alstyne cites three occasions where speaker bans became unconstitutional. The first case involves a California statute forbidding "subversive elements" to use school auditoriums. This 1946 statute lacks constitutionality in violation of the equal protection clause of the Fourteenth Amendment.²⁶

²⁴Ibid., p. 68. ²⁵Ibid., p. 69. ²⁶Ibid.

The second case involves a 1962 Hunter College regulation welcoming only speakers the college finds compatible with its interest. Van Alstyne says, "This regulation was held to be unconstitutional under the Fourteenth Amendment as a denial of equal protection as applied and as void on its face for vagueness."²⁷

Third, an appellate court overturns a lower court decision barring Herbert Aptheker from speaking at the New York State University at Buffalo. A portion of the appellate court decision which Van Alstyne states says,

. . . we believe that the tradition of our great society has been to explore and expose their students to controversial issues without government interference.²⁸

Van Alstyne notes that the North Carolina Deputy Attorney General refers to the latter case of Egan v. Moore²⁹ in a memorandum. However, the Deputy Attorney General mentions only the opinion of the lower court.³⁰

In his third argument, Van Alstyne anticipates that the Speaker Ban Law may be subject to a test case under the statutes of the First and Fourteenth Amendments. To support his position, he identifies the defendants, the

²⁷Ibid., p. 70. ²⁸Ibid.

²⁹Egan v. Moore, 245 N.Y.S. 2d 622 (S. Ct. A.D. 3rd Dept. 1963).

³⁰Hearing, 3: 70.

anticipated claims, five bases for attacks, and three constitutional standards for testing the statute. He illustrates these standards with five Supreme Court cases.

Van Alstyne expects either an invited speaker forbidden to speak or a member of the university community forbidden to hear to file suit. The defendant may claim:

. . . the North Carolina Speaker Ban Law is an unconstitutional abridgment of freedom of speech and in violation of the First Amendment to the Constitution as made fully and equally applicable to the states through the due process and equal protection clauses of the Fourteenth Amendment.³¹

Then the speaker specifies five bases for attacking the Law. He maintains:

1. That the Statute is void on its face because it is impermissively vague and excessively broad in violation of the due process clause.
2. The Statute is void on its face because it is an impermissible prior restraint on freedom of speech.
3. The Statute may be invalid as applied to any speaker with respect to whom it cannot be shown by very substantial evidence that the speech he is invited to deliver would probably precipitate a serious violation of law and for whom it can be shown that suitable facilities are available for his appearance and that members of the University Community desire to hear him.
4. The Statute may be invalid as an unconstitutional condition as applied to any speaker who is banned solely because he has previously invoked his Constitutional privilege against self-incrimination, and
5. The Statute may be invalid as a denial of equal protection.³²

The three constitutional standards which the Federal Court may use lie in the First and Fourteenth Amendments.

³¹Ibid., p. 71. ³²Ibid., pp. 71-72.

These standards include (1) abridgment of freedom of speech, (2) denial of equal protection, and (3) violation of due process through vagueness and broadness.

First, Van Alstyne considers abridgment of freedom of political discussion the pervading defect in the Law. He observes:

I would observe first that it has been held to be an unconstitutional abridgment of freedom of political discussion in violation of the First Amendment which does apply equally to the states where direct statutory prior restraints on political discussion or misdirected not to the character of the speech which is proposed to be presented on the particular occasion, but to some unrelated conduct or incidental affiliation of the speaker.³³

He says that the Supreme Court accepts only the test of proving an imminent danger as reason to restrict political discussion. In Van Alstyne's words:

. . . only when you can show that from the proposed speech there will arise a high probability of so grave an evil which cannot be avoided by any other means, that then restriction of the speech itself becomes the necessary and therefore Constitutional means.³⁴

He says that the North Carolina Law, on the contrary, forbids certain classes of people from speaking; it does not forbid dangerous speech. The Speaker Ban restrains speakers, ". . . solely on the grounds of the incidental affiliation or previous conduct. . . ." ³⁵ Van Alstyne cites the DeJonge v. Oregon case to support his statement on political discussion. In that case, the Supreme Court states:

³³Ibid., p. 72. ³⁴Ibid., p. 73. ³⁵Ibid.

Rights of free speech may be abused by using speech, or press, or assembly in order to incite violence and crime. The people through their legislatures may protect themselves against that abuse, but the legislative intervention can find Constitutional justification only by dealing with the abuse. The rights themselves must not be curtailed.³⁶

The second basic consideration applies to the denial of equal protection. The speaker states:

. . . the Statute denies the equal protection of the law by discriminating among invited speakers at public universities on the impermissible basis of unrelated political affiliation or past conduct alone.³⁷

The Supreme Court test maintains that no state is under duty to invite speakers to state institutions, but that a state is forbidden to discriminate among those it does invite.

Van Alstyne cites three court cases to illustrate earlier court decisions on the question of equal protection. The leading case is Brown v. The Board of Education. The case says a state is under no duty to establish schools. If a state provides schools, it must make the schools available to all on equal terms. The Supreme Court makes a similar decision in 1965 regarding postal regulations which restricts the mailing of Communist propaganda. The regulations are invalid because the law endangers the First Amendment. Lastly, Van Alstyne cites the California speaker ban case, Danskin v. the Unified San Diego School. He quotes Judge Roger Trainer:

³⁶Ibid. ³⁷Ibid., pp. 73-74.

It is true that the State need not open the doors of a school building as a forum and may at any time choose to close them. Once it opens the doors, however, it cannot demand tickets of admission in the form of convictions and affiliations that it deems acceptable.³⁸

The speaker states this third and final consideration: ". . . the statute is unconstitutionally vague and impermissibly broad in violation of the due process clause of the Fourteenth Amendment."³⁹ Van Alstyne says that the High Court closely evaluates the wording in statutory restraints on speech. In particular, he explains:

Statutory restraints on speech have been sustained only when the words of the statute were precisely tailored in such a fashion as (1) to provide clear notice of what is covered by the statute, (2) to eliminate discretion in its application by those who are responsible for administering it, (3) to provide unequivocal standards for review by the courts should they be called upon to review it, and finally (4) to keep citizens from having to guess whether or not what they may propose to do or to say would violate the law.⁴⁰

He cites the Bantam Books v. Sullivan case to exemplify this position on prior restraint. In this case, the Court takes the position that ". . . any system of prior restraints of expression came to this Court bearing a heavy presumption against its constitutional validity."⁴¹

In closing, Van Alstyne selects ambiguous phrases from the Speaker Ban Law such as "known member" because the phrases have been a part of other statutes reviewed by

³⁸Ibid., p. 75. ³⁹Ibid. ⁴⁰Ibid., (Numbers added).

⁴¹Ibid., p. 76.

the Supreme Court. He says that in almost every instance the statutes are considered unconstitutionally vague because of imprecise language. This speaker chooses not to recite the other cases listed in his memorandum, but welcomes questions on them.

The Application of the Speaker Criteria

Expertise: Is the speaker an expert on the topic discussed?

Van Alstyne qualifies as an expert to argue the constitutionality of the Speaker Ban Law. He is professor of law at Duke University.⁴² He draws on his experience (1) to compare the Law to the similar Ohio law, (2) to specify other unconstitutional educational speaker bans, and (3) to state the constitutional weaknesses of the Law based on earlier Supreme Court decisions.

Nearness: Has the speaker personally observed and examined the situation?

This speaker demonstrates a thorough understanding of the courts' treatment of speaker bans at educational institutions. He directly relates the High Court's precedent to weaknesses in the North Carolina Law. Specifically, he

⁴²William W. Van Alstyne; Durham, N. C. Born: 1934; College: University of Southern California (magna cum laude), B.A., Philosophy, 1955; Postgraduate: Stanford University, J.D., Law (Order of Coif), 1958; Hague Academy, Certificate, Internal Law, 1961; Employment: Hearing: Duke University, Professor of Law; Now: Same; Organization Member: Hearing: AAUP active member, and American Civil Liberties Union; Now: AAUP, Chairman of Committee A and former General Counsel (Biographical Questionnaire, March 24, 1973).

cites seven Court decisions to show this Law's violation of the First and Fourteenth Amendments to the Constitution. In essence, the Speaker Ban abridges freedom of political discussion, denies equal protection to speakers, and denies due process through the vagueness and broadness of statutory statement. In sum, Van Alstyne examines the North Carolina controversy through the experiences of the courts. He foresees a possible court case emerging from the North Carolina Law.

Recency: Has the speaker recently studied the situation?

Van Alstyne shows a recent study of the Speaker Ban according to some of the sources he cites. He refers (1) to a 1963 Ohio visiting speaker law, (2) to a 1961 statement by Senator Goldwater at Ohio State, (3) to the states that rejected speaker ban laws in 1964, and (4) to the 1963 cancellation by the California Board of Regents of a 1953 speaker ban. However, he omits the dates from four Supreme Court decisions on speaker bans. The Commission members may have these last dates in the written statement of Van Alstyne's presentation, but he does not state them.

Bias: Is the speaker biased personally or collectively (as a member of a group with vested interest in the subject discussed)?

Van Alstyne demonstrates no personal or group bias in his speech. He mentions no organizational philosophy.

Support from his arguments emerges from his legal expertise and from actual court cases. At one point, he notes a bias in the North Carolina Deputy Attorney General's speaker ban memorandum. In reference to the Egan v. Moore case, Van Alstyne states:

The version of the case cited by Deputy Attorney General, however, was solely the opinion of the lower court which had imposed the ban. As we have attempted to point out here, the lower court's decision was subsequently reversed on appeal and the ban was struck down.⁴³

The Application of the Substance Criteria

Documentation: Is the evidence completely documented (author, date, publisher, primary or secondary source, etc.)?

In his presentation, Van Alstyne summarizes a twenty-six page memorandum which he has given the Commission.⁴⁴ He omits complete documentation of the evidence he provides. Primarily he dates the evidence, but omits his sources of information. For example, he states three instances where ". . . state speaker bans applicable to educational facilities and otherwise similar to the North Carolina statute have been tested on constitutional grounds. . . ."⁴⁵ These include (1) a California statute in 1946, (2) a Hunter College regulation in 1962, and (3) a New York State University at Buffalo speaker ban in 1962 decided in 1963. In the first two, Van Alstyne states the court decisions. He identifies the third as the Egan v. Moore case

⁴³Hearing, 3: 70. ⁴⁴Ibid., p. 66. ⁴⁵Ibid., p. 69.

and reads a portion of that appellate court decision. In none of these does he state his information sources.

This speaker gives only two other quotations. He quotes Senator Goldwater's statement opposing speaker bans and President Wilson of the University of Minnesota's statement respecting the campus appearances of Communists. However, he omits the information sources.

Van Alstyne continues to generalize about his data. He names states that recently rejected speaker ban legislation. In his words, "Within the past year, bills were introduced in the New Hampshire, and Virginia and South Carolina Legislatures and failed of adoption."⁴⁶ Since the Hearing occurs in 1965, Van Alstyne supposedly refers to 1964.

Van Alstyne names four Supreme Court cases to point out the unconstitutional elements in the Speaker Ban Law. These include (1) DeJonge v. Oregon, (2) Brown v. Board of Education, (3) Danskin v. Unified San Diego School District, and (4) Bantum Books v. Sullivan. He paraphrases these decisions, but he omits the decision dates and sources.

Lastly, this speaker maintains that the North Carolina Law is modeled on an Ohio bill debated in the Ohio General Assembly during 1963. In an earlier Hearing presentation, Phil Godwin, who introduced the North Carolina

⁴⁶Ibid., p. 68 (Emphasis added).

bill in the House of Representatives, mentions the Ohio bill. However, Godwin does not indicate a close relationship between the bills. He says:

We learned that there was a proposed bill pending the General Assembly of the state of Ohio and we were waiting to see the outcome of the Ohio bill. However, we learned that the House of Representatives passed a bill similar to HB 1395. But at that time, we did not know the action of the Ohio Senate. Due to the lateness of our session, we decided to go forward with the introduction of our bill.⁴⁷

However, Van Alstyne specifies the differences in the bills, but he provides no external proof to show that the Speaker Ban Law is closely allied with the Ohio bill.

Consistency: Is the speaker's evidence consistent?

Van Alstyne offers consistent evidence to argue the unconstitutionality of the Speaker Ban Law. He quotes a United States Senator and a university president to suggest the lack of danger in hearing speakers with unpopular philosophies. Next, he cites Supreme Court cases to show that these speakers are historically protected by the First and Fourth Amendments to the Constitution. Of these, the De Jonge case exemplifies that speech can not be restrained simply because of group affiliation or previous conduct. Next, the Brown and the Danskin cases illustrates that invited speakers share equal protection under the law. Consequently, discrimination among speakers because of

⁴⁷North Carolina Speaker Ban Study Commission, Hearing Before Speaker Ban Study Commission: Testimony of Representative Phillip Godwin, 2: 5.

political association or prior conduct is impermissible. Lastly, the Bantam Books case illustrates that statutory restraints on speech which are "vague and impermissibly broad" violate the due process clause of the Fourteenth Amendment.

Recency: Is the evidence recently related to the situation?

This speaker submits recent evidence according to the dates provided in his testimony. He dates his evidence from the early to mid-sixties for (1) the 1963 Ohio speaker legislation, (2) Senator Goldwater's 1961 testimony at Ohio State, (3) the California Board of Regent's 1963 repeal of a speaker ban, (4) the 1962 Hunter College speaker regulation, and (5) the University of New York at Buffalo 1963 decision on a speaker injunction.

However, Van Alstyne offers four relevant Supreme Court decisions regarding protected speech without giving the dates of the decisions. These decisions establish historical precedences for speaker rights. Nevertheless, the omission of dates weakens the credibility of the evidence because different Supreme Courts vary the interpretations of decisions.

Bias: Is the evidence biased (slanted, incomplete, or presumptuous)?

Van Alstyne offers objective evidence to support his arguments on the constitutionality of the Speaker Ban Law.

His evidence emerges primarily from court decisions on the rights of speakers. He gives seven specific court decisions to conclude that the Speaker Ban Law violates the First and Fourteenth Amendments to the Constitution. In his words,

. . . the North Carolina Speaker Ban Law is an unconstitutional abridgment of freedom of speech and in violation of the First Amendment to the Constitution as made fully and equally applicable to the states through the due process and equal protection clauses of the Fourteenth Amendment.⁴⁸

Frances C. Brown

The Arguments and the Evidence

Brown recommends repeal of the Speaker Ban because of the academic freedom issue. She argues: (1) that the American educational process historically endorses the investigation of all information, and (2) that educational institutions lead the search for truth and its expression.⁴⁹

To support her first argument, Brown offers a definition, a literal analogy, and a quotation. She gives this definition of the educational process:

The process of education is a training in the investigation and the assessment of reliability of facts, of their relationship to each other, and of the reasonable conclusions that can be drawn from them. To achieve this end, all pertinent information should be available. No area of knowledge or facts or ideas should be barred. Similarly, any method of investigation which can reach to discovery of new information or new ideas should be allowed and encouraged.⁵⁰

⁴⁸Hearing, 3: 71. ⁴⁹Ibid., pp. 87, 89-90.

⁵⁰Ibid., p. 87.

She maintains that banning information from investigation reflects a totalitarian view unacceptable to the American educational process. She illustrates the difference in investigative approaches with this analogy:

Many years ago a theory of inheritance of acquired characteristics was investigated by geneticists. In the western world the experimental evidence against this theory led to its abandonment in 1925. But in Russia, this theory fitted in with the Communist ideology and an aggressive geneticist named Lysenko spearheaded the movement to make this theory the dominant one in Soviet genetics and to reject any other basis for investigation. Lysenko, with the support of Stalin, was able to suppress all opponents of his idea and the leader of the group which followed the theories and experimental methods of the western world died in a labor camp in Siberia. Under Krushchev there was some relaxation of the political domination of scientific investigation, especially in mathematics and the physical sciences. Lysenko, while still very influential in the field of genetics began to lose some of his power. The success of free investigation in the western world and the backward state of genetics in Russia have now led to his removal as Director of the Institute of Genetics of the Academy of Sciences of the USSR and the reorganization of the institute along western lines.⁵¹

Then Brown states that the President of the Soviet Academy of Sciences dismissed Lysenko in order to submit genetic theories to ". . . free discussion and normal verification."⁵²

In her second argument, Brown uses a written testimony and a forecast to define higher education's role in the free search for truth. The 1940 AAUP Statement of Principles says that "institutions of higher learning are

⁵¹Ibid., p. 88.

⁵²Ibid., pp. 89-90 (Brown omits quotation marks).

conducted for the common good. . . . The common good depends upon the free search for truth and its free exposition."⁵³ Brown says the faculty leads this research. She forecasts the negative effects on institutions where investigative freedoms are curtailed. As an example of curtailment, the Speaker Ban Law may initiate these negative effects:

(1) faculty members will leave, (2) quality faculty members will be difficult to replace, (3) the prestige of the public institutions will decrease, (4) the institutions will be unable to achieve purposes for which they are founded, and (5) the quality of education for the students will be lowered.⁵⁴

The Application of the Speaker Criteria

Expertise: Is the speaker an expert on the topic discussed?

Brown participates in the AAUP presentation as an organization officer.⁵⁵ She notified the national office of the North Carolina Law at its inception.⁵⁶ To the presentation, she brings her background in science and education.

⁵³Ibid., p. 89. ⁵⁴Ibid., p. 90.

⁵⁵Frances C. Brown, Durham, N. C.: Born: 1906; College: Agnes Scott College, A.B., Chemistry, 1928; Post-graduate: Johns Hopkins University, Ph.D., Chemistry, 1931; Employment: Hearing: Duke University Professor of Chemistry; Now: Same; Organization Member: Hearing: AAUP, Second Vice President; American Chemical Society, Sigma X; American Association Advancement of Science; Now: Active in same organizations. (Biographical Questionnaire, March 23, 1973.) ⁵⁶Hearing, 3: 24-25.

She qualifies to argue the threats to academic freedom that the Speaker Ban Law poses. With her background in science, she states that ". . . all pertinent information should be available. No area of knowledge or facts or ideas should be barred."⁵⁷ Also as Second Vice President of the AAUP, she represents the AAUP philosophy that the free search for truth and its publication benefit all mankind, not just the academic community. Brown argues within the range of her expertise.

Nearness: Has the speaker personally observed and examined the situation?

Brown omits evidence that she has personally observed and examined the North Carolina problem. She opposes the Speaker Ban for philosophical reasons: its ill effects on academic freedom, the education process, and educational institutions. Nevertheless, as an AAUP leader, she is in a position to know the negative effects on institutions caused by the loss of academic freedom. She describes the cause and effect relationship, but omits exact causes where this causal relationship has occurred.

Recency: Has the speaker recently studied the situation?

Brown's evidence does not reveal a recent study of the problems created by the Speaker Ban. However, her

⁵⁷Ibid., p. 87.

approaches to the educational process and the purpose of higher education appear timeless. For example, she illustrates the checks and balances treatment of theories inherent in nontotalitarian philosophies of education. She shows where thought control in Russia allows a theory of genetics to flourish simply because of the power of one man's position, not the tested truth of his theory.

Bias: Is the speaker biased personally or collectively (as a member of a group with vested interest in the topic)?

Brown appears in the AAUP panel as the second vice-president and as the North Carolinian who informed the national association of the Speaker Ban Law. She refers to AAUP principles only once in her statement. That reference claims that the common good of higher education rests on free inquiry and exposition of ideas. She claims no special interest for educators or educational institutions.

This speaker does not appear biased. From her background in science, she testifies to the need to examine all material related to the topic under investigation. She shows where even the President of the Soviet Academy of Sciences thinks that a theory should be ". . . submitted to free discussion and normal verification."⁵⁸ This

⁵⁸Ibid., p. 88.

illustration shows a kinship of thought among some scientists in totalitarian and nontotalitarian schools.

The Application of the Substance Criteria

Documentation: Is the evidence completely documented (author, date, primary or secondary source, etc.)?

Brown's presentation lacks adequate documentation. She uses a definition of the educational process, a literal analogy, two quotations, and a causal relationship, but she omits all sources except one. That exception refers to a 1940 AAUP Statement of Principles regarding the purpose of higher education.

Her presentation requires the Commission to accept it on face value. Her lack of specific sources and dates disallows normal verification. For example, Brown states that geneticists "many years ago" investigated ". . . a theory of inheritance of acquired characteristics. . . ."59 The western world abandoned the theory by 1925 based on experimental evidence. The Russian Institute maintains this theory until the Director of the Institute is removed. Brown does not state the date of his removal nor the source of information.

59Ibid.

Consistency: Is the evidence consistent?

Brown's evidence appears internally consistent with one exception: she attempts to show the preference for a nontotalitarian approach to education. She uses a literal analogy to illustrate thought control under totalitarian circumstances. Her example becomes ambiguous after she says that the Director of the Soviet Institute of Genetics excludes all theories but one. The analogy concludes with the Director being removed. He is expelled in order that his theory may be subjected to free discussion and verification. Brown offers the analogy to point out differences, but she ends saying the Russian Institute of Genetics is reorganizing "along western lines." This ending endorses Brown's preference for the nontotalitarian approach, but the contrast loses emphasis.

Recency: Is the evidence recently related to the situation?

Brown's evidence relates to relevant questions about the Speaker Ban Law. These include: (1) What is the democratic process of education? (2) Does the treatment of a theory differ significantly under totalitarian and nontotalitarian circumstances? (3) Who benefits from academic freedom? and (4) What are some ill effects of academic freedom loss?

Conversely, Brown's evidence lacks dates. The Commission can only conjecture the recency of her material. For example, she gives the genetic study analogy, but dates it "many years ago." Also she states the AAUP statement about the purpose of institutions of higher education. Is this a timeless statement? If so, Brown does not emphasize its time-honored relevance.

Bias: Is the evidence biased (slanted, incomplete, or presumptuous)?

This speaker discusses her evidence from areas of her experience: science, education, and the AAUP. Her definitions of the process of education and the purpose of higher education institutions appear compatible. Both necessitate free inquiry and exposition.

On the other hand, Brown indicates two reversals without supporting evidence. First, she states that the Russian Academy of Science plans to open its genetic studies to free discussion and normal verification. Is there evidence of this philosophical change? Second, she forecasts the negative events visited upon the state institutions by the Speaker Ban Law. Have these controls actually initiated the chain of events in the two years of the Law's existence? Brown does not say.

William P. Fidler

Fidler, General Secretary of the AAUP, participates in the AAUP presentation as an expert on his organization's history and activities. He gives no formal speech, but he imparts information to the Commission on numerous occasions. His testimony appears on twenty-eight of the ninety-eight page text. Fidler's testimony is included in this study because of his active role in this presentation.

The Arguments and the Evidence

Fidler speaks primarily on these AAUP topics:

(1) membership and structure, (2) application and investigation procedures, and (3) academic freedom. He gives statistics, procedures, and principles to explain organizational practices.

First, he states the membership sizes and explains the governing structure. The organization originated in 1915, and fifty years later it has approximately 75-thousand members. Of this number, the North Carolina membership numbers 1,800.⁶⁰ A thirty-seven member council governs the membership. Fidler says, ". . . 20 of whom are elected in geographical districts of our nation, and others are officers of the association who are elected by ballot."⁶¹

The membership decides policies at its annual meetings. Fidler adds that "many other policies are recommended

⁶⁰Ibid., pp. 21, 49.

⁶¹Ibid., p. 22.

by a group of some 12 or 14 standing committees. . . ."62
 He says that committees presently are formulating policy statements on professional ethics and the academic freedom rights of students.⁶³

The speaker explains the application and investigation procedures in a general way. To join the AAUP, he specifies:

One fills out an application form for membership. He is in one of several categories. If he teaches at least half time or more, we call him an active member and if his salary is above \$6,000, he pays \$10 a year dues. If he makes under \$6,000 a year, he pays \$8.00 a year dues.⁶⁴

The speaker describes the investigation process which the AAUP follows when it examines a problem situation in a higher education institution. Fidler states:

We conduct thorough-going investigations and try to examine the evidence and reach certain conclusions relative to the policies that we've set forth in the area of academic freedom and tenure. Many of the cases which we deal with are settled on the basis of due process rather than academic freedom which we think is very, very significant. When we find that either the Board, in some cases, has been guilty of violations of the principles and due process procedures that we uphold, we vote censure against that Board or against that Administration. We are not censuring the faculty, we are not censuring the students, we are not censuring the alumni. In fact, we are very hopeful that conditions will improve soon.⁶⁵

Fidler addresses the academic freedom question using the AAUP 1940 Statement on Academic Freedom and Tenure for support. In response to a question about academic responsibility, he reads this portion:

62Ibid., p. 21. 63Ibid., pp. 22-23.

64Ibid., pp. 21-22. 65Ibid., p. 54.

The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks, or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. A man of learning and an educational officer, as a man of learning or an educational officer, he should remember that the public may judge his profession and his institution by his utterances. Hence, he should show respect for the opinions of others, and should make every effort to indicate that he is not an institutional spokesman.⁶⁶

Fidler responds to a few questions regarding the Speaker Ban controversy. These questions require only opinionated responses. First, Commissioner Joyner asks if the AAUP National Office would open its files on the North Carolina case to the Commission. He reminds the Commissioner, "I would say that one of the functions of our office is to protect the confidentiality of the information that comes to us because we must deal in confidence with those who write us."⁶⁷

Second, Commissioner Thornburg asked, "What, in your opinion, would be the effect of disaccreditation of the institutions of higher learning in the State of North Carolina?"⁶⁸ Fidler answers that the primary group to suffer ". . . would be the students, and among the students would probably be the undergraduates who would like to transfer their credits to accredited schools."⁶⁹ Next,

⁶⁶Ibid., p. 65. ⁶⁷Ibid., p. 52. ⁶⁸Ibid., p. 57.

⁶⁹Ibid.

graduates trying to enter graduate programs elsewhere and then the faculty would feel negative effects. The speaker offers no external material to support these opinions.

The Application of the Speaker Criteria

Expertise: Is the speaker an expert on the topic discussed?

As General Secretary of the AAUP, Fidler qualifies as an expert on AAUP philosophy, principles, and procedures.⁷⁰ The AAUP panel draws on his expertise. First Vice-President Dawson commends Fidler by saying:

Mr. Chairman, could I take advantage of the privilege which I think you conferred on me of fielding questions that can be better answered by others, but let me just say first it is a voluntary membership organization, to get into which you have to pay \$10. But Mr. Fidler [sic] can tell you the rest.⁷¹

Then Fidler answers questions about (1) membership, (2) investigative procedures, (3) Fifth Amendment cases, (4) legal action, and (5) academic freedom.

⁷⁰William P. Fidler, Washington, D.C.: Born: 1906; College: University of Alabama, A.B., English, 1928; Post-graduate: Harvard University, A.M., English 1930; University of Chicago, Ph.D., English, 1947; Honorary, University of Alabama, Doctor of Humane Letters, 1972; Employment: Hearing: Active in AAUP, General Secretary, Washington, D.C.; Now: Emeritus Member of AAUP, Organization Member: Hearing: Modern Language Association, American Civil Liberties Union, and American Studies Association; Now: AAUP; (Biographical Questionnaire, April 10, 1973). His name was misspelled Fiddler in the Hearing transcript.

⁷¹Hearing, 3: 21 (Insert added).

Nearness: Has the speaker personally observed and examined the situation?

Recency: Has the speaker recently studied the situation?

Nothing in Fidler's testimony indicates that he has personally observed or examined the North Carolina situation. However, he has followed the controversy. The speaker says:

We have a file of correspondence related to the North Carolina speaker bill that must be five or six inches high. This file has a great many letters to our chapter officers regarding the bill, regarding local interests, regarding our opinion of the bill.⁷²

On the other hand, Fidler answers all questions asked by the Commission. He demonstrates an acute awareness of AAUP history and its involvement in higher education controversies. For example, he volunteers to correct an implication that arose during the questioning:

May I make a correction in an implication that I let pass earlier this morning because I did not have the information before me? The question was put to me: Is it not a fact that we censured the University of Washington some years ago? and I answered that I had not read the . . . and then the question went on to say what were the circumstances under which the censure, and I begged the question by saying that I had not read the report in some nine years. Since that question was put to me I have read the report and we did not censure the University of Washington. I would like to have the matter straight. Now some, shall we say, so-called right-wing organizations, and I could name them, had distributed literature to the effect that we have not only censured Washington University at St. Louis, presumably they mean, but the University of Washington. We published a report on the University of Washington, but we did not censure the administration of that institution.⁷³

⁷²Ibid., p. 51. ⁷³Ibid., pp. 85-86.

Bias: Is the speaker biased personally or collectively (as a member of a group with vested interest in the subject)?

Fidler presents factual data about the AAUP. He objectively handles his answers to questions free of personal coloring. Furthermore, he is unwilling to speculate on the outcome of a case emerging from the Speaker Ban Law. He states:

Well, as someone put the question to me earlier, if we have a case in which a faculty member has been injured as a result of his connection with this law and injury is suffered, we would look into that case. And it might result in censure. I can't say. I would have to see the facts, the investigation and all that would take place.⁷⁴

This speaker does not demonstrate personal or group biases in his statements.

The Application of the Substance Criteria

Documentation: Is the evidence completely documented (author, date, publisher, primary, or secondary source, etc.)?

Fidler submits information on more than one-fourth of the ninety-eight page text. Primarily his data lacks documentation by sources and dates. As an AAUP authority, Fidler leads the Commission to believe that the official files will verify his data. Also, he demonstrates a respect for accuracy in reporting by offering to correct an erroneous implication which arises about the University of

⁷⁴Ibid., p. 60.

Washington. He corrects that implication by referring to his files during the Hearing.

Consistency: Is the evidence consistent?

Fidler answers questions which are independent of each other. His answers appear uncontradictory. His evidence appears internally consistent.

Recency: Is the evidence recently related to the situation?

Fidler gives so few dates that the recency of his information cannot be determined by them. However, this speaker gives information about the AAUP which the Commission considers related to the North Carolina controversy. The Commission attempts to determine the AAUP's influence on institutions of higher education. Fidler provides answers to these related questions: (1) How does the AAUP operate? (2) How is membership determined? (3) The North Carolina membership represents what percentage of eligible members? (4) How would the Speaker Ban Law affect the AAUP relationship with its North Carolina members? (5) Does the AAUP have members from institutions not accredited by a regional association? (6) Would the AAUP publicize the loss of accreditation if North Carolina lost it? (7) Does the organization have a definition for academic responsibility?

Bias: Is the evidence biased (slanted, incomplete, or presumptuous)?

Fidler's information appears to be AAUP data which includes statistics, procedures, instances, and written policies. The material looks factual, void of opinions. Additional documentation would make the information more complete. For example, Fidler uses the term censure,⁷⁵ but he never defines it. This term is confused with blacklist. Commission Chairman Britt reads a question from the audience using the word blacklist,⁷⁶ Fidler responds that the AAUP does not blacklist institutions, but he does not differentiate the two terms.

Conclusion

In conclusion, the American Association of University Professors speakers emphasize the academic freedom and constitutionality issues. Their evidence emerges primarily from AAUP principles and cases, educational experiences, and court cases. Dawson and Brown speak as AAUP officers with university teaching experience. Fidler, as General Secretary of the national AAUP, speaks as an authority on organization history, procedures, and cases. As an AAUP member, Van Alstyne brings educational experience with legal expertise.

⁷⁵"Censure": To criticize adversely, disapprove. American College Dictionary, 1968: 195.

⁷⁶Hearing, 3: 54.

Evaluation of the speaker criteria indicates that these speakers qualify as experts on academic freedom. Dawson, Van Alstyne, and Brown presently teach in universities. Fidler represents the AAUP which traditionally defends the academic rights of individuals. As Dawson points out, the freedom to discuss and to publicize findings benefits all of society, not just the academic community. As a lawyer, Van Alstyne qualifies to argue the constitutional rights of individuals to participate in political discussions. The First Amendment guarantee of freedom of speech applies to the states through the Fourteenth Amendment to the Constitution.

Dawson, Van Alstyne, and Brown do not belong to the University of North Carolina system, but Van Alstyne and Brown teach in the neighboring Duke University. Also, Dawson has recent knowledge of the negative effects of speaker bans at Ohio State University.

These four speakers reveal recent studies of the North Carolina Speaker Ban. Van Alstyne compares the Law with a similar one adopted in Ohio. The Ohio law does not facially ban any speaker nor does it require the Board of Trustees to do so. This speaker identifies constitutional weaknesses in the Law with the support of Supreme Court decisions. Dawson also points out the unconstitutional vagueness of the Law. Brown and Fidler show the abridgment of freedom placed on the state institutions.

The AAUP speakers show little if any personal or collective bias. They argue in behalf of the academic community and for society. They oppose the mind control imposed by the Speaker Ban on the grounds that it is a totalitarian technique. They state that academic freedom does not confine its benefits to the academic community. Specifically, Dawson says, "It is the people at large who have a right to learn the results of unfettered scholarship. . . ."77 Furthermore, the First Amendment grants citizens the right to political discussions. Van Alstyne says the Constitution prohibits political speech ". . . only when you can show that from the proposed speech there will arise a high probability of so grave an evil which cannot be avoided by any other means. . . ."78 The North Carolina Law does not ban the speech, it places unconstitutional prior restraints on the speaker.

The substance criteria evaluation indicates that the AAUP speakers do not fully document their evidence. Dawson completely documents only one of his sources. Fidler states AAUP statistics, procedures, and cases without giving specific sources. Van Alstyne dates some court decisions, but he gives few complete sources of information. Also Brown primarily omits documentary details from her evidence.

77Ibid., p. 7. 78Ibid., p. 73.

These speakers provide evidence which appears internally consistent without blatant contradictions. Also the evidence seems recently related to the Speaker Ban arguments. Van Alstyne excels in providing dates except for four Supreme Court decisions. Even though his evidential content has impact, his omission of dates leaves unnecessary room for conjecture.

The AAUP evidence lacks obvious biases. Van Alstyne's evidence seems the most objective since it comes from legal case histories. Fidler's evidence emerges from AAUP history. Dawson relies heavily on his personal analyses and experiences. However, Brown offers little objective data.

In summary, this study of evidence indicates that the AAUP opposes the Speaker Ban because of its abridgment of academic freedom and its constitutional weaknesses. The speakers speak from professional experiences using evidence from their areas of specialization. They have recently studied the controversy. They rely heavily on critical evaluations, but they underestimate the significance of complete documentation of data. However, they oppose the Law not for personal gain, but for the sake of the academic community and for society.

CHAPTER IV

EVIDENTIAL PRESENTATION OF THE AMERICAN LEGION

Chapter IV gives an analysis of the evidence presented to the Study Commission by the American Legion. The speakers include W. Dudley Robbins, Robert Morgan, Clarence Stone, A. C. Jordan, and Henry E. Royall. By speaker, the analysis presents the arguments and evidence and applies the speaker and the substance criteria to the evidence. This study applies exclusively to the testimony provided in the Hearing before the North Carolina Speaker Ban Study Commission.

. W. Dudley Robbins

The Arguments and the Evidence

Robbins introduces the American Legion presentation supporting the Speaker Ban Law.¹ He bases his arguments on the national security issue. As a National Committeeman of the American Legion, he argues (1) that the Legion historically opposes American Communism, (2) that young people

¹The American Legion was organized in 1919 and held its first convention in Minneapolis, Minnesota in November, 1919. In 1965, it had 2,500,000 members in the United States with 40,000 of them in North Carolina. (North Carolina Speaker Ban Study Commission, American Legion Vol. 4 (Raleigh, N. C.: State Legislative Building, 1965), pp. 7-8.

need to learn the dangers of Communism from "one hundred per cent Americans," and (3) that most North Carolinians support the Law.²

Robbins supports his first argument with three pieces of Legion data and two analogous references. First, in 1919 four Legionnaires were murdered by members of the Industrial Workers of the World.³

Robbins states:

At Centralia, Washington, on November 11, on Armistice Day in 1919, four members of our organization were murdered by the IWW or Communist organization. These murders happened while the American Legion was holding its first convention in Minneapolis. From that convention and each ensuing convention, strong resolute statements and warnings have been given to our government and to the American people.⁴

²Ibid., pp. 7, 8, 12.

³"Industrial Workers of the World," The Industrial Workers of the World was a revolutionary labor union organized in July, 1905 by E. V. Debs, William D. Haywood, and Reverend T. J. Hagerty, among others. The organizers felt that all workers should organize so that the unskilled could be included; the American Federation of Labor had a craft line organization which excluded the unskilled. The new union advocated using any tactic to obtain desired results in the shortest length of time using the least amount of energy. Paid membership numbered 66,000 in 1906 and 35,000 in 1919. The union suffered many divisions due to the many factions of political thought. Encyclopedia Britannica, 1958, XII, 310-11.

⁴Hearing, 4: 7-8.

Second, the American Legion fosters "Americanism" through educational programs designed for young people.⁵ Third, in second-hand testimony, Robbins refers to Don Johnson, the National Commander of the Legion, who quotes a statement by J. Edgar Hoover on the subject of the Communist influence on youth.⁶ Fourth, Robbins alludes to the Berkeley riots at the University of California saying, "Your own legislature by its timely action may well have prevented similar instances from occurring here."⁷ Lastly, the speaker offers a figurative analogy to support his view that Americans should fight Communism at home and abroad. Speaking for the Legion, Robbins states:

We contend that if hoodlums are trying to break in our house to do harm and we're standing them off with a gun in the front door, then our trusted wife should not invite them in the kitchen at the back door for coffee.⁸

The speaker supports his second argument about the education of young people to the dangers of Communism with American Legion data and his own opinion. First, he mentions the Legion's cooperation with the National Educational Association in sponsoring the first American Education Week in

⁵Robbins says, "Within our program we have the American Legion baseball program, our oratorical contests in which youth write and speak on our national Constitution, our Boys State, Girls State, Boys Nation, Girls Nation, a high school award program which we give awards for citizenship, our Sons of the Legion program, flag presentation awards, our Back to God program, all of these are part of our Americanism program." Ibid., p. 5.

⁶Ibid., p. 9.

⁷Ibid., pp. 9-10.

⁸Ibid., p.10.

December, 1921. Then the two organizations publish Guide Lines, a publication about Communism. Second, he quotes National Commander Johnson's commendation of the Legion's involvement in national education. Third, Robbins couples his belief in the "teaching of one hundred per cent Americanism" with the sentiments of Hoover. The speaker states:

I can see as a public official in schools that without a good watch dog the evils of Communism that are now infecting the college campuses of America, as quoted by Mr. J. Edgar Hoover, could soon be reaching into the secondary schools through the teachers, administration, and textbooks. We all know that the easiest group of people in a country to indoctrinate are the youth.⁹

Robbins gives his third argument based on his personal experience void of specific data. He maintains that only a minority of citizens oppose the Law. The few who oppose it are ". . . some of the officials of the Greater University."¹⁰

The Application of the Speaker Criteria

Expertise: Is the speaker an expert on the topic discussed?

Robbins's background indicates that he was educated in horticulture. In addition, he has educational experience as Chairman of the Pender County Board of

⁹Ibid., p. 11.

¹⁰Ibid., p. 12.

Education. Also, in 1957 he headed the American Legion as State Commander and as National Executive Committeeman.¹¹

He demonstrates expertise on the Legion's view of Communism, but he does not qualify as an expert on national security. He uses the terms Communism and Americanism in his evidence without defining either term. In essence, he testifies to a philosophy of the American Legion. In his words, "We feel that the youth of America should be educated to the dangers of Communism, and we feel that teaching of one hundred per cent Americanism is necessary."¹²

Nearness: Has the speaker personally observed and examined the situation?

Robbins offers no evidence that he has personally observed Communist activity in North Carolina or studied American Communism. He merely states the views on Communism of his organization and the Director of the Federal Bureau of Investigation.

¹¹W. Dudley Robbins, Willard, North Carolina: Born: 1921; College: North Carolina State University, B.S., Horticulture, 1942; Employment: Hearing: Robbins Nursery, Inc., part-owner; Now: Same; Organization Member: Hearing: American Legion, North Carolina National Executive Committeeman, State Commander, 1957-58; Veterans of Foreign Wars, Ruritan; Department of Veteran Affairs; N. C. State School Board Association; Pender County Board of Education Chairman; Episcopal Church Vestryman, Superintendent of Sunday School; Now: American Legion, active; Veterans of Foreign Wars; N. C. Department of Veteran Affairs; Ruritan; N. C. State School Board Association; Pender County Board of Education, Chairman; Episcopal Church. (Biographical Questionnaire, March 23, 1973).

¹²Hearing, 4: 11.

Recency: Has the speaker recently studied the situation?

This speaker mentions no study of the controversy created by the Speaker Ban Law. He has traveled throughout the state supporting the Law. No where in his evidence does he explicate his experiences. Without justifying his position, he states for the American Legion, "We feel that if the people of North Carolina are called on to express themselves at the polls any attempt to appeal [sic] it [the Law] would be overwhelmingly defeated."¹³

Bias: Is the speaker biased personally or collectively (as a member of a group with vested interest in the topic)?

Robbins proclaims the American Legion bias opposing Communism. He fails to prove the dangers of Communism or to define this alien philosophy. Throughout his presentation he speaks of "we" referring to the American Legion. Then he expands the use of this pronoun saying, "We all know that the easiest group of people in a country to indoctrinate are the youth."¹⁴

The Application of the Substance Criteria

Documentation: Is the evidence completely documented (author, date, publisher, primary or secondary source, etc.)?

Most of the evidence used by Robbins is undocumented. The speaker twice alludes to the Director of the

¹³Ibid., p. 12 (Inserts added).

¹⁴Ibid., p. 11.

Federal Bureau of Investigation without exact references to Hoover's positions. Robbins credits Hoover with the need for a "good watch dog" to check Communism, but the speaker does not give the context of the statement. Then Robbins quotes Hoover through the second-hand testimony of American Legion National Commander Johnson. Robbins dates Johnson's speech as January 15, 1965, in Dunn, North Carolina. However, the only portion stated is an undocumented statement by Hoover. The first part of the quotation credited to Hoover follows:

The Party expresses encouragement over what it detects as a gradual awakening of American youth to its social responsibilities as evidenced by increase in participation in the struggle for Negro rights and academic freedom.¹⁵

Robbins paraphrases Hoover without putting the statement in any context.

Robbins also uses two analogies which illustrate, but do not prove anything. First, he alludes to the relationship between the North Carolina Speaker Ban Law and the California campus riots at Berkeley. He draws no significant comparisons. Then he offers a figurative analogy of "hoodlums at the door" to show the need to fight Communism in the United States and in foreign countries. This analogy merely illustrates a point; it adds no proof of a need to combat Communism.

¹⁵Ibid., p. 9.

Robbins feels qualified to speak for the populace on the Speaker Ban question, but he omits documentation for his appraisal. He merely offers an opinion stating:

I have traveled all over the state, extensively, since this Law was enacted and have addressed many groups and many, many people. The only people that have openly taken issue with our support of the Communist Ban Law have been some of the officials of the Greater University. The point is that the rank and file of the people in North Carolina are in favor of this Law as it is, or in favor of making it stronger.¹⁶

Lastly, this speaker does not document his organizational data. He gives facts from American Legion history about membership size, programs, and activities without stating verification sources. In essence, Robbins's evidence lacks documentation.

Consistency: Is the evidence consistent?

Robbins's evidence appears internally consistent; it does not contain contradictions. His evidence rests on subjective information from the American Legion viewpoint. He omits objective evidence on which to compare the organizational data.

Recency: Is the evidence recently related to the situation?

This speaker offers no recent information to indicate that American Communism endangers national security. His evidence simply describes the American Legion

¹⁶Ibid., pp. 11-12.

and its historical opposition to Communism. The Director of the Federal Bureau of Investigation seems to share the Legion's view. However, Robbins gives no specific data from the Director relevant to the Speaker Ban controversy. Director Hoover generalizes on Communism and youth saying, "Because Communism thrives on turmoil, the Party is continuously attempting to exploit all grievances, right or imagined, for its own tactical purposes."¹⁷ This second-hand testimony lacks specifics which can be directly related to the North Carolina situation.

Bias: Is the evidence biased (slanted, incomplete, presumptuous, etc.)?

Robbins gives evidence strictly from American Legion sources. He offers his personal Legionnaire experiences, information about this organization, and quotations from a National Commander. His one attempt to offer objective testimony of Hoover comes through secondary sources without documentation. Consequently, his evidence appears slanted.

Robert Morgan

The Arguments and the Evidence

Morgan gives three arguments supporting the Speaker Ban Law: (1) The Law protects national security against

¹⁷Ibid., p. 9.

the dangers of Communism. (2) The Law does not infringe on academic freedom. (3) The First Amendment guarantee of freedom of speech does not apply to advocacy of doctrines to overthrow the government.¹⁸

In his first argument, this speaker states ". . . that at the time of the passage of the Communist Speaker Bill, there was a clear and present need for such law and that that need exists today."¹⁹ Then Morgan divides his argument into two parts: the Communist Party in America and the Party in North Carolina. In part one, the speaker quotes two sources. First, he refers to Supreme Court Justice Jackson in the American Communications Association v. Dowds case. Jackson says, "The goal of the Communist party is to seize powers of government by and for a minority rather than to acquire power through the vote of a free electorate."²⁰ Second, Hoover testifies before the House Sub-committee on Appropriations on March 4, 1965, that ". . . the Communist Party in the United States has made every effort to obstruct all measures which our nation has taken to defend itself . . . against the threat of further Communist aggression."²¹

¹⁸Ibid., p. 14.

¹⁹Ibid.

²⁰Ibid., p. 15.

²¹Ibid.

Morgan prefaces his discussion of Communists in North Carolina by mentioning an American Legion resolution and former President Harry S. Truman's philosophy. In June, 1962, the Chapel Hill American Legion Post Number 6 resolved that the State Legislature investigate UNC for "certain activities."²² The state Legion adopted this resolution at its June, 1963, convention in Charlotte. This resolution was adopted by the State Department of the American Legion in Charlotte on June 22, 1963:

Just three days after the adoption of that resolution by the American Legion in Charlotte and approximately seven or eight months after the adoption of the resolution in Chapel Hill, the Communist Speaker Law that we are now looking into was adopted. So that there may be no doubt as to the activities and events which made this law necessary.²³

Then Morgan refers to Truman's reverence for the past. The speaker says, ". . . I submit that his philosophy that those who refuse to be mindful of the events and activities of the past have little regard for the future."²⁴

In part two, Morgan enumerates sixteen references to Communists in Chapel Hill dating from the 1930s to the mid-sixties. Table 1 lists these instances according to the dates, places, events, and sources that Morgan gives.

²²Ibid., p. 16. ²³Ibid., pp. 16-17.

²⁴Ibid., p. 17.

Name	Date	Place	Source of
8. Sylvia Chalouche, 2446 1/2 Study Club	1950		Book obtained at 2446 1/2 Literature
9. George A. Pitted, 2700 Langston Hughes, The Delta Worker	1928 1960	UNC	Comic of ybears from the (1927 7th floor) speech, Doug Clark
10. Sam Hayes, 2446 1/2 The Delta Worker (UNC Advisor)	1928-30	Chapel Hill	Speech, Doug Clark from the floor, 4th floor circulated
11. M. C. Committee Hall of M. C. Committee, Director	1920s	UNC	Speeches by Richard Crowder & M. C. Committee
12. M. C. Committee, 2446 1/2 M. C. Committee, 2446 1/2 M. C. Committee, 2446 1/2	4-9-62	UNC	Speeches by Richard Crowder & M. C. Committee
13. M. C. Committee, 2446 1/2 M. C. Committee, 2446 1/2	10-10-63 1930s	Chapel Hill	Speeches by Richard Crowder & M. C. Committee
14. M. C. Committee, 2446 1/2 M. C. Committee, 2446 1/2	Late 1963	UNC Chapel Hill	Speeches by Richard Crowder & M. C. Committee
15. M. C. Committee, 2446 1/2 M. C. Committee, 2446 1/2	1930s	UNC	Speeches by Richard Crowder & M. C. Committee
16. M. C. Committee, 2446 1/2 M. C. Committee, 2446 1/2	1930s	UNC	Speeches by Richard Crowder & M. C. Committee

SOURCE: Robert Morgan, Hearing, 4: 17-25

TABLE 1

ROBERT MORGAN'S LIST OF COMMUNIST INSTANCES IN CHAPEL HILL, N. C.

<u>Name</u>	<u>Date</u>	<u>Place</u>	<u>Event</u>	<u>Source of Information</u>
1. Young Communist League	1930s	UNC		
2. Communist Printing Press		Chapel Hill	Communist Propaganda	
3. Clarence Hathaway, editor of <u>The Daily Worker</u>	1930s	UNC	Speech	
4. Paul Crouch, leader of N. C. Communist Party			Writings	
5. Junious Scales, Director of N. C. Communist Party (UNC student)	1950s	UNC	Graduated 1946, Post-graduate student	
6. John Gates, editor of <u>The Daily Worker</u>	1948-50	Chapel Hill	Speech from truck (1941 Law forbid him on campus)	
7. <u>Scales v. United States</u>	1958		Court of Appeals	<u>Federal Reporter</u> 3,2d ed., p.21
8. <u>Scales v. United States</u>			U. S. Supreme Court opinion	<u>U. S. Reports</u> 367, p. 230

<u>Name</u>	<u>Date</u>	<u>Place</u>	<u>Event</u>	<u>Source of Information</u>
9. Junius Scales, Karl Marx Study Club	1950		Distributed Literature	<u>Federal Reporter</u> 260, 2d ed.
10. Langston Hughes, Communist poet	1960	UNC	Appearance	Morgan's speech
11. Chapel Hill Progressive Labor Club	7-30-62	UNC	Marxist magazine Part of Progressive Labor Party; Milton Rosen, Chairman	
12. Progressive Labor Club	4-9-62	UNC	Speeches by Richard Crowder & Hal Reep	UNC news
13. Progressive Labor Club Spokesman (no name)	10-10-62	Chapel Hill	Newspaper quote	<u>Chapel Hill Weekly</u>
14. Nicholas Bateson (UNC student)	Late 1963	UNC graduate student	Pled 5th Amendment before Congressional Committee	
15. Milton Rosen, Communist	12-3-62	UNC	Speech	
16. Carl Braden, Communist	5-17-65	Chapel Hill	Speech (1941 Law forbids speech on campus)	

SOURCE: Robert Morgan, Hearing, 4: 17-25.

He identifies two UNC students as Communists: Junius Scales and Nicholas Bateson. Seven of these instances refer to speakers, two of whom do not speak on campus because of the 1941 state law forbidding Communists to use state facilities. Three of the other instances identify Communist organizations at UNC, namely the Young Communist League, the Karl Marx Study Club, and the Progressive Club.

Then Morgan cites two American Legion communications to the University administration concerning Communist activity at UNC. In October, 1962, the Legion protested the Progressive Labor Club's speaker invitation to Crowder and Reep who had been charged in a kidnap case along with Williams who escaped to Cuba. Morgan omits comments about the invited speakers, but uses second-hand testimony about Williams. According to Hoover, Williams ". . . is now writing and supplying the writings for the revolutionary action movement. . . ."25 On another occasion, the Legion protested the UNC employment of Bateson. He had taken the Fifth Amendment before a Congressional committee concerning possible Communist affiliations.

Morgan mentions two University administration responses to the Legion communications. He quotes parts of each reply without naming the writers. The speaker states,

²⁵Ibid., p. 21.

"The Chancellor issued a statement dismissing the charges by saying simply . . . 'We have no evidence that there is a Communist cell on campus. . . .'"²⁶ The statement further states that a few students are associated with a progressive labor movement, but the University has received no request to recognize a Progressive Labor Club. Second, the UNC administration states on April 3, 1964, that it will review Bateson's employment status along with the status of other nontenured personnel.²⁷

In his second argument, Morgan uses three written sources to support his position that the Law does not hamper academic freedom. First, he quotes a television editorial given by WBTB on April 21, 1965. The editorial differentiates the Law's application. A typical excerpt follows:

There is no restriction or prohibition against either students or faculty. Under this Law the Communist can speak and the students and faculty can listen. The only condition it sets is that it must not be on state property. The Law is not an answer to the possibility of Communist indoctrination or influence on college campuses, one way or the other.²⁸

Next, Morgan quotes a statement on Communist faculty members attributed to Frank P. Graham. Graham is a former UNC President and a United States Senator at the time of the Hearing. Without stating a source, Morgan credits Graham with the following statement:

²⁶Ibid., p. 22. ²⁷Ibid., p. 24.

²⁸Ibid., pp. 26-27.

A member of the Communist Party who is necessarily under the tyranny of the Party line and therefore automatically without freedom of mind has no valid place as a teacher in a free university.²⁹

Third, Morgan quotes "The Present Danger" (1953) statement of the University Presidents of the Association of American Universities. The quotation begins, "We condemn Russian Communism as we condemn every other form of totalitarianism."³⁰ Furthermore, the statement specifies opposition to world-wide revolution for power, deceitful persuasion, thought control, and dictated doctrines.

In his final argument, Morgan says the First Amendment does not protect speech advocating the overthrow of the government. He opens his argument with this statement:

The guarantees made to us by the Constitution and especially the first amendment do not apply, our courts have held, to the advocacy of a doctrine which would overthrow the very government which guarantees those principles.³¹

The speaker does not state any court positions to support his position. Instead, as his one piece of evidence he refers again to Hoover's testimony before the Congressional Committee. Hoover's comment refers to public appearances of Communists:

²⁹Ibid., p. 27.

³⁰Ibid., p. 28.

³¹Ibid., p. 29.

The increased number of public appearances by leaders of the Communist Party USA in the last few years whether it be in the form of press conferences or radio programs or on college campuses is utilized in the effort to project the image that the Party is a legitimate political party to gain increased acceptance and respectability for the Party, to generate an atmosphere of good will and understanding and to spread Communist propaganda.³²

The Application of the Speaker Criteria

Expertise: Is the speaker an expert on the topic discussed?

At the time of the Hearing, Morgan is President Pro Tempore of the North Carolina Senate and Chairman of the East Carolina College Board of Trustees. His educational background and experience are in law. The available data does not specify his particular expertise in law or in education.³³

In the Hearing text, Morgan devotes ten of fifteen pages to the national security issue. However, during Commission questioning, this speaker admits that he is not an expert on Communism. The text states:

³²Ibid.

³³Robert Morgan, Lillington, North Carolina: College: East Carolina College, B.S.; Postgraduate: Wake Forest University, LL.B., Law, 1950; Employment: Hearing: North Carolina Senate, President Pro Tempore; Now: North Carolina Attorney General; Organization Member: Hearing: American Legion, East Carolina University Board of Trustees, Chairman; Now: American Bar Association, local and state; Masons; Rotary Club; Air Force Reserves; American Legion; Board of Trustees of East Carolina University, ninth term. (Sketch from Office of North Carolina Attorney General, March 17, 1973; and Biographical Questionnaire, May 22, 1973).

Mr. Myers: . . . Is it true that there is a fairly large number of Russians who are not members of Communist Party or better stated, isn't it also true that the Communist Party is not the universal membership, individual membership in Russia?

Mr. Morgan: Of course I am not an expert on Communism, but it is my understanding that that's true.³⁴

Morgan does not even draw on his legal background to argue the constitutionality of the Law. He asserts that the First Amendment does not protect speech advocating the overthrow of the government. Even though he maintains that "our courts have held" this position, he offers no evidence from court decisions. This speaker reveals a lack of expertise on the issues directly related to the Speaker Ban Law.

Nearness: Has the speaker personally observed and examined the situation?

Morgan demonstrates no first-hand knowledge of Communists at UNC or Chapel Hill. Because he mentions sixteen references to Communists in the Chapel Hill area during a thirty-five year period, he appears to have personally observed the controversial situation. However, no where in his list does he indicate having heard Communists speak or personally knowing Communists or their activities.

³⁴Ibid., p. 51.

In actuality, Morgan knows that the American Legion keeps records identifying Communists. The Commission asks this speaker about the number of Communists speakers appearing at UNC during the 1930-65 period he discusses. An excerpt from the questioning follows:

Senator Kirby: Senator Morgan, you began by giving us information beginning back in the 30's concerning Communist activity at Chapel Hill. Now, over that period of time and coming up to 1965, how many Communist speakers do you have record of appearing on the campus at Chapel Hill?

Mr. Morgan: Senator, I do not have that information. There . . .

Senator Kirby: Well, will other speakers follow you with that information.

Mr. Morgan: It will not be documented this afternoon, but we can supply it to the Committee. There have been others that I have not named. For instance, I had one in my notes which I verified only shortly before coming up here. His record . . . but then there was some question about the exact dates that he spoke and so on. But I can . . . we can supply that and furnish the Committee copies of it.³⁵

Recency: Has the speaker recently studied the situation?

Morgan cites instances of Communists at Chapel Hill as recent as the early sixties, but he omits most of his sources of information. Therefore, his evidence appears to be mere hearsay. More importantly, Morgan commits two misrepresentations because of not using recent data.

³⁵Ibid., p. 34.

First, he states United States Senator Graham's 1963 statement opposing Communist faculty members. In June, 1965, Graham states that the Law shames the state.³⁶

Second, Morgan states in his third argument that the courts maintain that advocacy of a doctrine to overthrow the government is not protected by the First Amendment. This speaker does not name cases in which the courts hold this position. On the contrary, Supreme Court decisions since the Schenck v. United States decision in 1919 avoid perpetuating the earlier doctrine of remote bad tendency, i.e., the nip-it-in-the-bud approach to unpopular speech.³⁷

³⁶"Ban Law Shames State, Says Dr. Frank Graham," Greensboro Daily News, 26 June 1965, p. A3.

³⁷In the 1919 Schenck v. United States decision, Mr. Justice Holmes gave the famous clear-and-present danger formula for determining protected speech. He said, "The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evil that Congress has a right to prevent. It is a question of proximity and degree." Franklin S. Haiman, "Political Heresy and the Problem of National Security," Freedom of Speech: Issues and Cases, 249 U.S. 47 (1919) (New York: Random House, 1967), p. 52.

In two more recent cases, the High Court made clearer the distinction between advocating abstract doctrines and advocating illegal dangerous actions. In the 1925 Gitlow v. New York decision, Mr. Justice Sanford said, "The statute does not penalize the utterance or publication of abstract 'doctrine' or academic discussion having no quality of incitement to any concrete action." Ibid., 268 U.S. 652 (1925), p. 57. Then in the 1957 Yates v. United States decision, Mr. Justice Harlan stated the opinion of the court, ". . . The distinction between advocacy of an abstract doctrine and advocacy directed at promoting unlawful action is one that has been consistently recognized in the opinion of this Court. . . ." Ibid., 354 U.S. 298 (1957), p. 74.

Instead, the Supreme Court says in the Schenck case that speech is not forbidden unless it creates a clear and present danger which causes an evil which Congress should prevent. Consequently, Morgan ignores or misrepresents recent Supreme Court decisions on constitutional speech.

Morgan alludes to the clear and present danger philosophy. He states that ". . . at the time of the passage of the Communist Speaker Bill there was a clear and present need for such law and that that need exists today."³⁸ He tries to prove that danger by specifying the presence of Communists. He indicates instances, but he does not prove a danger.

Bias: Is the speaker biased personally or collectively (as a member of a group with vested interest in the topic)?

Morgan relates all three of his arguments to data focused on the ills of Communism--the position of the American Legion. He treats freedom of speech from the view that public appearances of Communists gives the Party

Furthermore, Haiman has said that the Supreme Court has held that ". . . in order to be punished, one's membership in the Communist Part must be 'active,' and evidence must be presented of the advocacy of revolutionary action rather than abstract revolutionary doctrine." (Ibid, p. 76) Based on this decision about Party membership, the Supreme Court in 1961 reversed the decision in the Noto v. United States, but upheld the Scales v. United States decision. Ibid., 367 U.S. 290 and 367 U.S. 203 (1961) respectively, p. 76.

³⁸Hearing, 4: 14.

an appearance of legitimacy and respectability. He maintains that academic freedom stops short of permitting speakers of alien philosophies to be heard at state institutions. Also he argues that permitting occasional Communist speakers to speak threatens the security of the nation. He concludes his presentation saying:

But if there is an occasional Larry Phelps who is lost to the cause or others of whom we will never know, who may use their Party influence and activities while we are engaged in periods of hostilities as we are now, then this Law is warranted and justified.³⁹

This speaker clarifies in his introduction that he speaks for himself and the American Legion. He states:

I would at this time, . . . like to make it clear that while I am presenting my own views as well as those of the Legion, I do not purport to represent the views of any other group, organization, or club, or official body to which I may belong or hold an office.⁴⁰

The Application of the Substance Criteria

Documentation: Is the evidence completely documented (author, date, publisher, primary or secondary source, etc.)?

Morgan uses numerous pieces of evidence to support his three arguments, but he seldom completely documents them. For example, he mentions three court cases: (1) American

³⁹Ibid., p. 30. ⁴⁰Ibid., pp. 12-13.

Communications Association v. Dowds; (2) Scales v. United States, Court of Appeals (1958); and (3) Scales v. United States, United States Supreme Court. He identifies these by volume and page, but he dates only one of the cases. From the first case, he reads a comment on the Communist Party by Mr. Justice Jackson. Furthermore, Morgan reads none of the decisions, but he commends them to the Commission.

Morgan commits a severe documentation omission when he argues the First Amendment's application to freedom of speech. He says:

The guarantee made to us by the Constitution and especially the first amendment do not apply, our courts have held, to the advocacy of a doctrine which would overthrow the very government which guarantees those principles.⁴¹

However, he states no court positions to support his position. In fact, Morgan misrepresents the Supreme Court position. As recent as 1957, the Supreme Court in Yates v. United States recognizes the difference between advocacy of a doctrine and advocacy of an illegal action. Mr. Justice Harlan states in Yates, ". . . the distinction between advocacy of abstract doctrine and advocacy directed at promoting unlawful action is one that has been consistently recognized in the opinion of this Court. . . ."42

⁴¹Ibid., p. 29. ⁴²Haiman, p. 74.

Consequently, advocacy of an abstract doctrine to overthrow the government is constitutionally protected.

The speaker refers three times to Hoover's testimony before the House Sub-Committee on Appropriations dated March 4, 1965.⁴³ Morgan does not state the purpose of Hoover's testimony before the Sub-Committee. Nevertheless, two of Hoover's statements make generalizations about the Communist Party in the United States, and one identifies the activities of Williams who is exiled in Cuba. In one quotation, Hoover completely omits the grounds for his statement. For example, Hoover generalizes:

The Communist Party in the United States has made every effort to obstruct all measures which our nation has taken to defend itself and to strengthen our allies against the threat of further Communist aggression. The Party has opposed practically all military, economic, and political agreements which we have made with other nonCommunist nations throughout the world.⁴⁴

With incomplete documentation, Morgan cites sixteen references to Communists individuals and activities in Chapel Hill. In total, Morgan names four categories of Communists during a thirty-five year span. These include: (1) UNC students (Scales, Bateson), (2) UNC organizations (Young Communist League, Karl Marx Study Club, Progressive Labor Club), (3) Speakers (Hathaway; Gates, off campus; Rosen;

⁴³Hearing, 4: 15-16, 21, 29.

⁴⁴Ibid., pp. 15-16.

Braden, off campus; Crowder and Reep), and (4) Activities (Communist printing press, Crouch's writings, Hughes' appearance). With four references to Scales and three to the Progressive Labor Club, Morgan specifies only nine different individuals or activities.

The speaker gives sources of information for only four of these. Two of these already mentioned in this analysis are the references to the Scales cases found in the Federal Reporter and the United States Supreme Court Reports [sic]. The other two state references to the Progressive Labor Club found in the Chapel Hill Weekly and the UNC news. The Commission expresses concern over Morgan's lack of documentation. An example of the questioning follows:

Senator Kirby: Well, would you be able to give us information as to how many were Communists before they went to the University and how many were converted once they got to the University?

Mr. Morgan: Those that we list, we can, Mr. . . . we will only list those that are a matter of record. We do not choose to engage in the field of speculation or guesswork.⁴⁵

Consistency: Is the evidence consistent?

Morgan's evidence shows incongruences on three occasions. He argues in his first argument that a "clear and present need" for the Speaker Ban Law exists. However, he quotes a television editorial in his second argument

⁴⁵Ibid., p. 35.

which seems to weaken his first position. Near the end of the quotation, the statement reads, "The Law is not an answer to the possibility of Communist indoctrination or influence on college campuses, one way or the other."⁴⁶ Morgan indicates the beginning of the long quotation, but he does not note its ending. If the statement is not a part of the editorial, then it makes the Law seem insignificant which is a contradiction to the speaker's position.

Morgan states in his second argument that academic freedom is not adversely affected by the Law. Nevertheless, two pieces of his evidence treat the subject of Communist faculty members, not academic freedom. One is a comment by Frank P. Graham; the other is part of the "Present Danger" statement by the University Presidents of the Association of American Universities. Morgan does not explain the relationship of these statements to his academic freedom argument.

Third, the speaker misrepresents Graham's statement in a later paraphrase. According to the earlier quotation, Graham says that a Communist Party member ". . . has no valid place as a teacher in a free university."⁴⁷ Later Morgan refers to the statement and expands it saying:

⁴⁶Ibid., p. 27. ⁴⁷Ibid.

. . . I can go back to Dr. Graham's quotation which puts it very well: that a member of the Party who is necessarily under the tyranny of the Party line and is automatically without freedom of mind has no valid place on the University campus because he has no freedom to necessarily speak or teach about the truth.⁴⁸

Recency: Is the evidence recently related to the situation?

Morgan uses over two dozen pieces of evidence to support his arguments. Only one of these has a directly recent relationship to the North Carolina controversy. That evidence is the 1965 WBTB editorial which interprets the implications of the Law. At best, that interpretation is just one attempt to interpret the ambiguous Law.

This speaker tries to show a clear and present need for the Law by citing sixteen instances of Communists in Chapel Hill and by mentioning Legion communications with the University and the State Legislature. The instances date from the 1930s to 1965 with only five specific dates given in the 1960s. Even though some of the dates are recent, the data does not directly prove the need that Morgan proclaims. The instances include random speeches on and off campus, names of court cases, and a few writings. The speaker does not indicate any relationship among the instances. He does not say that any of them are illegal or that any caused problems for the community.

⁴⁸Ibid., p. 37.

Lastly, Morgan misrepresents the recent position of the Supreme Court regarding protected speech. He refers to no recent cases to support his position that speech advocating the overthrow of the government is unprotected by the First Amendment.

Bias: Is the evidence biased (slanted, incomplete, or presumptuous)?

Some of Morgan's evidence appears omitted and some seems slanted. First, he refers to three specific court cases without mentioning the decision in any of them. Second, he states sixteen instances of Communists in Chapel Hill and omits his sources of information in ten of them. Only one of the nine people mentioned has been convicted of illegal action regarding Communism. Then third, he states the court's position on constitutionally protected speech without mentioning a single case to support his position. Last, Morgan misuses a witness's statement. He erroneously interprets Graham's opposition to Communists on the faculty as indication that the Law does not infringe on academic freedom. Furthermore, Graham later made a public statement opposing the Speaker Ban Law.

Clarence Stone

The Arguments and the Evidence

Stone introduces three arguments supporting the Law. (1) The Law is adopted in a customary way under suspension of the rules. (2) Communism has nothing to do with truth. (3) Students are vulnerable to instruction.⁴⁹

This speaker cites the Senate Journal as his source of information for his first argument. He refers to these three particulars: (1) 128 bills and resolutions passed under suspension of the rules during the 1963 Legislative session, (2) eight of these passed the day of the Speaker Ban passage, and (3) fourteen Senators signed a statement opposing the Speaker Ban Law.⁵⁰

Stone offers no outside sources to support his other arguments. Instead, he gives five beliefs. First, educational institutions have the right to pursue truth. However, the State should not sanction speeches by Communists because Communists frequently misrepresent and lie. Third, students should learn the differences between freedom and Communism from ". . . good, loyal, free Americans and not from men who cannot speak except

⁴⁹Ibid., pp. 54, 56-57.

⁵⁰Ibid., p. 55.

if their language is approved by the Kremlin in Moscow."⁵¹
 Fourth, students readily accept instruction sanctioned by their students. Lastly, the trustees should operate The University of North Carolina to benefit the citizenry, not the professors and institutions.⁵²

The Application of the Speaker Criteria

Expertise: Is the speaker an expert on the topic discussed?

Stone presided over the Senate during the Speaker Ban Law enactment.⁵³ Therefore, he is qualified to recount the Law's passage. However, he exploits the power of his position by adding unsupported judgments about Communists and education.

Nearness: Has the speaker personally observed and examined the situation?

Stone presided at the Legislative session when the controversial Bill passed. Beyond that routine role, he

⁵¹Ibid., p. 57. ⁵²Ibid., pp. 56-57.

⁵³Thomas Clarence Stone, Stoneville, North Carolina: Born: 1899; Died: 1969; College: Davidson College, B.S., 1919; N. C. House of Representatives, 1935-47; N. C. Senate, 1955, 1961-63; Senate President, 1961-63; Employment: Stoneville Grocery Co., Secretary and Treasurer; Superior Oil Co., Secretary and Treasurer; Insurance Company owner; Organizations: Rockingham County Clubs of Young Democrats, President; Rockingham County Clubs of Young Democrats, President; Rockingham County Democratic Executive Committee. (North Carolina Manual 1963, Issued by Thad Eure, Secretary of State, (New Bern, N. C.: Owen G. Dunn, Co., 1963), p. 518; "Clarence Stone, Ex-Senator Dies," Raleigh News and Observer, 17 January 1969, pp. 1-2).

does not indicate that he has personally observed or examined the issues raised by the Law. He simply relies on the prestige of his position to oppose the Law.

Recency: Has the speaker recently studied the situation?

This speaker mentions no specific study of the Law regarding the issues of national security, academic freedom, accreditation, or constitutionality. However, he tries to dispell the criticism that the Law is rushed through Legislative procedures. Stone explains that passage under suspension of rules is customary. He notes that eight bills passed in the Senate on the day of the Speaker bill. Nevertheless, he fails to define the phrase suspension of the rules.⁵⁴ He causes the audience to conjecture the meaning of this phrase which he uses frequently.

Bias: Is the speaker biased personally or collectively (as a member of a group with vested interest in the topic)?

Stone participates in the American Legion presentation to give a first-hand account of the Law's passage and to discount rumors that the Law passed in an unusual way. Having him give his account seems appropriate since he was President

⁵⁴"The rules that can be suspended are those relating to priority of business or to business procedure. . . ." General Henry M. Robert, Robert's Rules of Order Revised, (New York: Scott, Foresman and Co., 1951), p. 85.

of the Senate. However, Stone appears personally biased on two accounts. First, he seems personally offended at rumors that the Law passed in an unordinary way in the Senate. He says, "No ruling of the presiding officer of the 1963 session was ever challenged by any member of that body."⁵⁵ Second, he does not conclude his presentation with the account of the Law's passage. Without objective support, he states his views on Communism and student vulnerability.

The Application of the Substance Criteria

Documentation: Is the evidence completely documented (author, date, publisher, primary or secondary source, etc.)?

Stone gives little documentation for his three arguments. He cites the Senate Journal on June 26, 1963, to account for the passage of the visiting speaker Law. The speaker does not quote this source. Then he states statistics on the number of bills which passed under suspension of the rules without stating exact references.

The speaker bases his other arguments on his opinions alone. These opinions state his beliefs about educational institutions, the duty of the State, and the vulnerability of students. In essence, Stone omits proof of his beliefs.

⁵⁵Hearing, 4: 56.

Consistency: Is the speaker's evidence consistent?

Stone gives little evidence on which to measure consistency. He mentions the Senate Journal three times to give a chronology of the Law's passage, but he never quotes the source. In essence, the audience has to accept this account based on the authority of the speaker's position as Senate President.

However, Stone appears inconsistent in his statement of beliefs. For example, he believes that educational institutions should pursue truth, but then he qualifies that pursuit. Stone states:

I believe in the right of the University and other educational institutions of North Carolina to pursue truth, but I do not believe that Communist propaganda have got a thing in the world to do with the truth.⁵⁶

Recency: Is the evidence recently related to the situation?

Stone's presentation suffers from scarcity of evidence. As far as reviewing the passage of the Law, the Senate Journal account is recent. However, this account stops with the passage of the Law. Stone does not offer evidence related to the issues which emerge from the Law's passage. This speaker does not offer objective evidence related to the issues.

⁵⁶Ibid.

Bias: Is the evidence biased
(slanted, incomplete, presumptuous)?

Stone's evidence is incomplete. He merely mentions one source, but he never quotes its contents. Actually he gives a personal account of the passage of the Speaker Ban Law based on his first-hand observation. His arguments suffer the bias of omission of external support. He relies entirely on the prestige of his position to support his views.

A. C. Jordon

The Arguments and the Evidence

Jordon presents three arguments supporting the existing Law. (1) Southern Association accreditation does not seriously affect graduate education. (2) The Southern Association opposes noninstitutional pressures on schools, but it tolerates federal government contract restrictions. (3) The Communist conspiracy imminent at the University of California at Berkeley will spread to the universities in North Carolina.⁵⁷

Reversing the order of his arguments, Jordon argues his second one first. He states:

. . . I attended the session yesterday morning, and the representative of Vanderbilt made this statement. The representative of the Southern Association stated that the Association objected to influence from the outside, political or religious. Why did he not include regulatory restrictions in government contracts and regulatory controls from the AAUP and perhaps from some of the foundations?⁵⁸

⁵⁷Ibid., pp. 60, 66, 78.

⁵⁸Ibid., p. 60.

The speaker supports his argument with two written sources: pamphlets from government agencies and a Bulletin of the American Association of University Professors. As his first source, the speaker refers to ". . . material of the National Science Foundation, Health Research Facilities for the Department of Education, Health and Welfare, and for graduate construction. . . ."59 Jordon omits the exact titles of the materials, and he offers no specific quotations. He merely states:

. . . there are very definite spots that restrict the Board of Trustees, the faculties of our schools in how they shall handle the funds that the Federal government will contribute or else the Federal government doesn't contribute it.60

Second, Jordon refers to "the last issue" of the AAUP Bulletin to underscore the government influence on higher education. He points out particular controls such as the following, "Here's one thing, the government regularly retains control for 20 years of the facilities that it helps pay for."61 The speaker does not specifically relate the contents of the article to controls on North Carolina institutions.

Making a transition to his argument about accreditation and graduate education, Jordon quotes a newspaper article on the subject of grants and accreditation. He names the article, "Speaker Ban Declared Jeopardizing Schools," in an undated issue of the Durham Morning Herald. The

59Ibid.

60Ibid.

61Ibid., p. 61.

article mentions several agencies that say accreditation loss may affect grants. Those agencies include the National Defense Education Act; Health, Education and Welfare; the Peace Corps; Agricultural Extension programs; and the Defense Department. Jordon adds that the Ford Foundation and the Carnegie Institute state that accreditation loss will not necessarily affect their grants. Jordon concludes, "I think that the headline was too much for what it really says."⁶²

The speaker relies on two sources in his accreditation argument. One is an unidentified article in an AAUP Bulletin, and the other is solicited responses from thirty-four graduate schools. The AAUP reference discusses accrediting agencies affecting graduate programs. Paraphrasing the information, Jordon says that there are (1) six regional accrediting associations, (2) twenty-nine accrediting associations for professional schools and graduate schools, and (3) two national accrediting organizations. The speaker then concludes that Southern Association accreditation only applies to undergraduate education. He states:

Now then, if 29 accrediting associations will determine what is to be taught in graduate schools, you see the Southern Association accrediting association applies only to the undergraduate. Now, that was not brought out yesterday; that's a very serious thing because we are concerned with the graduates primarily. . . .⁶³

⁶²Ibid., p. 64.

⁶³Ibid., p. 66 (Emphasis added).

The bulk of Jordon's second argument hinges on the thirty-four responses to a letter sent to graduate schools throughout the country. According to the speaker, "A friend of the University of North Carolina . . ."64 wrote to a representative group of universities to find out if his son can enter their graduate schools if the University of North Carolina loses accreditation. Jordon gives the gist of the letter interspersed with his own comments:

North Carolina has what is generally known as a Speaker's Ban Law which is simply this, the Law restricts Communists or those persons who plead the Fifth Amendment from speaking on campuses of state-supported colleges in North Carolina. Attached is a college [sic] of this Law. Each man got a copy of the Law and incidentally, the only school that emphatically said no, qualified it by saying that he didn't understand the meaning of the Law and said it should be interpreted by the Southern Association of Colleges and Secondary Schools. That's Oklahoma University. The University of North Carolina is now accredited by the Southern Association of Schools and Colleges. However, the SASC has threatened to remove its accreditation unless the Law is removed from the North Carolina statutes. I would like for my son to graduate from the University of North Carolina and then do graduate work at some out-of-the-state university. In the event that the University of North Carolina loses its accreditation from the Southern Association of Secondary Schools and Colleges, only on the grounds of the Speaker's Ban Law, and my son is eligible in every respect to enter graduate school at your university, would this lack of accreditation by SASC prevent him from doing so if you have an opening? I am naturally interested in the educational welfare of my son and would appreciate very much if you would give me your unofficial opinion on this most vital subject.⁶⁵

⁶⁴Ibid., p. 64.

⁶⁵Ibid., pp. 66-69.

Jordan concludes that twenty-nine universities give favorable responses.⁶⁶ Four state reservations because of lack of information; and one, Oklahoma University, gives a negative answer.⁶⁷ Oklahoma wants the Southern Association's interpretation of the Law. The speaker states:

Twenty-nine of these 34 schools that replied, and they include the best universities in America, said emphatically that if the Speaker Ban Law is the basis on which accreditation is denied, it will not affect our acceptance of a graduate of a North Carolina university into our graduate school.⁶⁸

Finally, Jordan plans to read eight of the letters, but he actually reads parts of twelve.⁶⁹

The speaker ends his two arguments related to the Southern Association and offers a third argument which he does not mention in his introduction. In the last argument, he draws an analogy between the alleged Communist conspiracy

⁶⁶Ibid., pp. 67-68. Universities with favorable responses: Notre Dame, Harvard, Missouri, Iowa, Southern Methodist, Auburn, Cornell, Colorado, Syracuse, Kentucky, Johns Hopkins, Northwestern, Purdue, Pennsylvania State, Washington (State of Washington), Texas, Oregon State, Michigan, Ohio State, Pittsburgh, Southern California, Tulane, South Carolina, Yale, Princeton, Georgia, Chicago, Massachusetts Institute of Technology, Georgia Institute of Technology.

⁶⁷Ibid., p. 68. Universities raising questions: Idaho, Florida, New York, and Michigan State.

⁶⁸Ibid., p. 65.

⁶⁹Ibid., pp. 68-77. Letters quoted from these universities: Idaho, Southern Methodist, Johns Hopkins, Texas, Ohio State, Southern California, Yale, Princeton, Massachusetts Institute of Technology, Northwestern, Purdue, and Iowa.

at the University of California at Berkeley and the imminence of one in North Carolina. To support this argument, Jordon refers to two written sources and to one oral, second-hand witness. First, he notes a study of the Berkeley riot published January 18, 1965, by a Senate Committee of the California Legislature. He plans to give the Commission his copy with this commendation: "If you'll check the pattern of Communism as it's demonstrated here, you'll see that some pattern is in bloom right here in our area."⁷⁰

Second, Jordon wants the Commission to read "Anarchy on Campus" in the April, 1965 issue of The Police Chief, a publication of the International Chiefs of Police Association. The speaker does not indicate that he personally has read the article. Third, he says that a security guard, whom he does not identify, tells him about the article. The guard has heard a Yale University security guard discuss the article at a recent meeting of the International Chiefs of Police Association.

Jordon comments on the Communist factions in California without stating his source. Then he abruptly ends with a forecast: ". . . They are the ones who have promoted the Viet Nam marches, they are the ones who are in Washington today and according to alerts there'll be such a thing in our area starting from Duke or Carolina between now and the 23rd of August."⁷¹

⁷⁰Ibid., p. 78.

⁷¹Ibid., p. 79.

The Application of the Speaker Criteria

Expertise: Is the speaker an expert on the topic discussed?

At the time of the Hearing, Jordan is a professor of English at Duke University. He holds memberships in many organizations including the American Bar Association and the American Association of University Professors.⁷²

He develops his arguments outside his areas of expertise. Two of his arguments center on Southern Association's positions on accreditation and on government grants. His third argument speculates on the relationship between two universities regarding Communist conspiracies. This speaker sees an analogous relationship between the Berkeley riots and the Speaker Ban controversy. However, he merely asserts that relationship without drawing realistic parallels between them.

⁷²Archibald Currie Jordon, Durham, North Carolina: Born: 1897; College: Duke University, M.S., 1924; Post-graduate: Duke University Law School, Columbia University; Employment: Hearing: Duke University Professor of English; Now: Duke University Emeritus Professor; Assistant to Medical Center professors in Cardio-Vascular, Neuro-Surgery and Orthopaedics (edits medical research); Organization Member: Hearing: North Carolina State Bar Association, American Bar Association, American Association for the Advancement of Science, Phi Delta Kappa, American Association of University Professors, American Dialect Society, Southern Atlantic Modern Language Association, North Carolina English Teachers Association, Council for Basic English (North Carolina, Virginia, and West Virginia), not a member of the American Legion; Now: same as above. (Biographical Questionnaire, March 30, 1973).

Recency: Has the speaker recently studied the situation?

Jordon's evidence indicates that he has indirectly related information on accreditation which he wishes to relate to the Speaker Ban Law. He attempts to discredit Southern Association accreditation by saying it applies only to undergraduate school. He attempts to associate the AAUP to his position on accreditation by citing an AAUP Bulletin article's reference to the large number of agencies accrediting graduate programs. This does not show a direct study of the controversy.

Bias: Is the speaker biased personally or collectively (as a member of a group with vested interest in the topic)?

Jordan indicates no group bias. In fact, his view opposes that of the AAUP in which he holds membership. He offers his personal opposition to a Communist conspiracy. He does not clarify the meaning of the phrase, Communist conspiracy. In fact, at no time does he deal with the categories of speakers banned by the Law. Jordon lets the audience infer the relationship between a possible Communist conspiracy and the North Carolina Law.

The Application of the Substance Criteria

Documentation: Is the evidence completely documented (author, date, publisher, primary or secondary source, etc.)?

Jordon affirms the Law with three arguments which he partially documents. He refers to two written sources to support his argument that the Southern Association tolerates federal government contract restrictions. First, he mentions pamphlets from governmental agencies. Without giving specific titles, he refers to the material of the "National Science Foundation, Health Research Facilities for the Department of Education, Health, and Welfare." Then he paraphrases several restrictions placed on the Board of Trustees and the faculty regarding funds. Without giving examples of restrictions, he proclaims, "The restrictions are so definite in these matters."⁷³

Second, he refers to the "last issue" of the Bulletin of the American Association of University Professors. Without specifically identifying quotations, he reads from an article stating neither title nor author. He plans to give the Commission his copy of the Bulletin, and he says, "On the front page of this I have made several notations, and inside there you can/may find references."⁷⁴ In one of his general references, he cites page 178 stating that about four and one-half billion of the annual seven billion dollars for higher education operating expenses came through

⁷³Hearing, 4: 61.

⁷⁴Ibid.

government channels. Also from the article, he notes without documentation the government control of facilities.

Jordon quotes a newspaper article as he makes his transition to his second argument. He mentions the article, "Speaker Ban Declared Jeopardizing Schools," in the Durham Morning Herald which he has with him. He omits the date of the article, but he reads from it. This time he uses a quotation, but he does not designate how much of the article he reads. As the article appears in the Hearing text, it names funds such as the National Defense Education Act which say grants may be affected by loss of accreditation. Others such as the Ford Foundation state that funds will not necessarily be affected.⁷⁵

Jordon states in his second argument that Southern Association accreditation does not seriously affect graduate education. To support that view, he uses a letter, its responses, and a Bulletin of the AAUP. None of those sources are dated nor are they fully documented with the writers' names. Jordon paraphrases the Bulletin saying that there are six regional accrediting agencies and twenty-nine accrediting associations for professional and graduate schools.

In this argument, Jordon primarily deals with a letter and its responses. He reads the letter which he intersperses with comments. According to Jordon, a friend

⁷⁵Ibid., pp. 63-64.

of the University of North Carolina wrote to selected universities throughout the country. In this personal letter, the writer asks if his son can be admitted to the graduate school in face of accreditation loss at the University of North Carolina. Jordon has thirty-four responses to give to the Commission. He does not indicate the total number of letters mailed. From the responses, he concludes that twenty-nine universities will accept the student, four raise questions about acceptance, one gives a negative response, and one asks for anonymity.

Jordon says the letter asks for the universities unofficial opinions. He indicates in no way that he has gotten permission from the institutions to use the responses in a public hearing. Nevertheless, he names thirty-four institutions and reads excerpts from twelve responses. One example of those excerpts states:

Princeton University: The accreditation of the college from which an applicant applies is not a direct concern to us in arriving at our admissions decisions. We certainly would not refuse an applicant from North Carolina solely on the grounds that the University had lost its accreditation. I am not in a position to say what interuniversity relations might be affected by the action you indicate in your letter, but I am sure that there would be no effect on the students from the University of North Carolina applying to this institution.⁷⁶

Jordon does not state whether or not he completely reads the responses that he quotes.

⁷⁶Ibid., p. 72.

Without prior indication of another argument, the speaker offers a third argument to show the relationship between the University of California at Berkeley and the University of North Carolina at Chapel Hill. He says that there is a Communist conspiracy on the Berkeley campus and the imminence of one in North Carolina.

Jordon refers to two written sources and hearsay oral testimony to support his view. First, he identifies the January 18, 1965, California Senate Committee Report on the Berkeley riot. He does not give the exact title, the method of study, or the findings. He wants the Commission to read the Report.

Next, Jordon refers to "Anarchy on Campus" in the April 1965 issue of The Police Chief, a publication of the International Chiefs of Police Association. He recommends the article based on the hearsay testimony of an unnamed security officer who heard a Yale University security officer commend the article during a speech at an Association convention. Jordon does not say that he himself has read the article.

Without explanation, he begins to talk about the Chinese Communists in San Francisco. Then he mentions the Berkeley rebellion and predicts Communist events in North Carolina beginning in August, 1965. During this explication, he states "page 13," but not the source to which it refers. Jordon sees an analogous situation. However, he

does not clearly draw the relationship. He merely supports his argument by suggesting titles. He documents those titles, but not the information contained in them.

Consistency: Is the evidence consistent?

Jordon's pieces of evidence appear uncontradictory. However, in one instance he asserts a presumptuous conclusion about his data. He states that Southern Association accreditation affects only undergraduate education. He bases this conclusion on one undocumented AAUP Bulletin article which states that twenty-nine accrediting associations accredit graduate and professional education. He provides no evidence from the Southern Association regarding its accreditation coverage.

Recency: Is the evidence recently related to the situation?

Jordon treats dates rather casually. He specifically dates one California Senate Committee Report, but approximately dates his other written testimony. For example, he refers to the "April issue" of The Police Chief, and to the "last issue" of the AAUP Bulletin.

He omits dates from four other pieces of evidence. Those include the government pamphlets, a Durham Morning Herald article, a letter, and responses to the letter. The pamphlet references give no clues to the publication dates nor to the exact titles of the materials. The contents of

the newspaper article and the letter responses date them within the two-year period of the Speaker Ban controversy.

Bias: Is the evidence biased (slanted, incomplete, or presumptuous)?

Jordon's evidence suffers the bias of omission.

First, in four of five references to material, he identifies the sources, but he fails to quote the material. He simply discusses portions of each without distinctly differentiating his arguments from objective, supportive material. However, he does quote one article in the Durham Morning Herald, but he omits the date of the article.

Second, the speaker fails to inform thirty-four universities that their unofficial responses to a letter will be used in a public presentation. Later Commission correspondence from seventeen of those universities indicate that their responses have been misused.⁷⁷

⁷⁷The Commission wrote the twenty-nine universities who said loss of UNC accreditation would not affect acceptance of graduates applying to their graduate programs. Of the seventeen replies received by September 9, 1965, thirteen were not aware of the official use of their statements. In sum, those respondents thought that Mr. Monroe's personal inquiry had been misused and misunderstood. The Commission inquiry also gained the name of the initial letter writer. Jordon had not named him.

Nearness: Has the speaker personally observed and examined the situation?

Jordon does not indicate a personal examination of the North Carolina situation. In fact, he does not deal with the implications of the Law on the state institutions. He tries instead to destroy the credibility and significance of the Southern Association, the regional accrediting agency. This speaker does not ask the University of North Carolina about the significance of accreditation; instead he uses solicited evidence from out-of-state universities concerning the acceptance of a student in their graduate programs if UNC loses accreditation.

In addition, Jordon does not state the position of the AAUP on the North Carolina controversy. Nevertheless, that organization clearly opposes the Law in an earlier presentation before the Study Commission.

Lastly, this speaker argues the imminence of a Communist conspiracy in North Carolina, but the evidence he offers applies to California. In fact, Jordon's evidence does not even elaborate on the alleged conspiracy on the Berkeley campus.

Henry E. Royall

The Arguments and the Evidence

Royall addresses the Study Commission as author of the American Legion resolution requesting the State Legislature to investigate the permeation of Marxism at the University of North Carolina. He organizes his presentation around one argument: Communists have already entered the University; therefore the Law may prevent further permeation.⁷⁸ The speaker divides his argument into two parts: (1) instances of Communists at Chapel Hill and at UNC and (2) the American Legion's reaction to the presence of Communists at UNC.

Royall enumerates nine Communist instances during a period of eighteen years. Table 2 lists the persons named along with the dates, places, and sources of information stated in the speech. The speaker names eight different people and identifies only three as UNC students.⁷⁹

As written testimony to the presence of Communists, Royall quotes Scales and Phelps from their statements in the Daily Tar Heel, the UNC campus newspaper. First, Scales states, "Communists are the most human, the most principled people I have ever known."⁸⁰ Second, Phelps

⁷⁸Hearing, 4: 82. ⁷⁹Ibid., pp. 82-85.

⁸⁰Ibid., p. 83.

TABLE 2

ROYALL'S ACCOUNT OF COMMUNISTS IN CHAPEL HILL, N. C.

<u>Name</u>	<u>Date</u>	<u>Place</u>	<u>Event</u>	<u>Source</u>
Hans Friestadt, graduate student		UNC	Speech	Royall attended
Junius Scales, student	1947	UNC	Quote about comments	<u>Daily Tar Heel</u> (student paper)
Junius Scales, student	Korean War	Chapel Hill	Circulated pamphlets	Pamphlet signed by Junius Scales, Communist Party Chairman
Progressive Labor Club		Chapel Hill	Marxist-Leninist Group	
Richard Crowder and Harold Keep		UNC	Speech	
Larry Phelps, student, President of Progressive Labor Club	4-14-63		Quotation	<u>Daily Tar Heel</u> (student paper)
Ann Braden	10-25-61	UNC	Speech	
Carl Braden	5-17-65	Chapel Hill	1963 Law prohibited his UNC invitation	
Milton Rosen	12- 3-62	UNC	Speech	Royall attended

SOURCE: Henry E. Royall, Hearing, 4: 82-85.

says, "I had no Marxist-Leninist feelings until I entered the University of North Carolina."⁸¹

Royall uses the Legion's resolution and the oral testimony of a friend to support the second part of his argument. The speaker raises a Legion query, "We want to know and still want to know who converted Junius Scales and Larry Phelps to Communism."⁸²

Royall authors a resolution asking the State Legislature to investigate ". . . the University of North Carolina to determine to what extent Marxism had permeated the University."⁸³ The Chapel Hill Post accepts the resolution; the Legion State Convention endorses it and sends it to the Legislators on January 5, 1963.⁸⁴ The speaker does not state any responses by the Legislators.

Royall uses oral testimony as his last bit of evidence. The speaker refers to a friend who escapes Estonia after Communism overtakes it. Royall reports that the Estonian ". . . grabbed my hand and with an emotion-filled voice said, 'Keep the Communist Speaker Ban Law.'"⁸⁵ Royall implies a relationship between occasional speakers at Chapel Hill and political experience of a foreigner, but Royall does not meaningfully develop the comparison.

⁸¹Ibid., p. 85.

⁸²Ibid., pp. 84-85.

⁸³Ibid., p. 84.

⁸⁴Ibid. ⁸⁵Ibid., p. 86.

Speaking for the American Legion, Royall opposes Communists with national security as his justification. He offers no evidence to prove that the national security has been threatened. Only this one issue is of consequence to his organization. Royall states that the other issues are unimportant saying:

We believe that the matter of grants, accreditation, and much abused academic freedom all pale into insignificance when our national life is at stake. Therefore Legion Post Number 6 wholeheartedly approves the Communist Speaker Ban Law and believes that under no circumstances should the Law be amended unless it be to strengthen the Law.⁸⁶

The Application of the Speaker Criteria

Expertise: Is the speaker an expert on the topic discussed?

Royall retired in Chapel Hill after spending seventeen years (1930-47) in the United States Army. In 1952, he received a Master of Arts degree in Political Science from UNC. At the time of the Hearing, he worked for an engineering firm.⁸⁷

⁸⁶Ibid., p. 85.

⁸⁷Colonel Henry E. Royall, Chapel Hill, North Carolina: Born: 1904; College: United States Military Academy, B.S., 1930; Postgraduate: University of North Carolina, Chapel Hill, M.A., Political Theory, 1952; Employment: Hearing: William F. Freeman, Inc. (Engineers and Architects); Now: not employed; Organization Member: Hearing: U.S. Army, Retired American Legion (Americanism Chairman); Veterans of Foreign Wars; Military Order of the Purple Heart; Now: U.S. Army, Retired; Veterans of Foreign Wars; Military Order of the Purple Heart; American Legion. (Biographical Questionnaire, March 30, 1973).

This speaker argues the permeation of Communists at UNC. He has some first-hand knowledge of Communists. Also, he is chairman of the Americanism Committee of the Chapel Hill Legion Post. Royall states, "From that vantage point I have shared with our townspeople and the thousands of my fellow University of North Carolina alumni the humiliation of seeing Communism make its inroads into our beloved University."⁸⁸

Commission questions reveal that Royall is not qualified as an expert on Communists at UNC. The Commission asks the speaker six statistical questions which he cannot answer. These include: (1) the number of Communists at the University since 1947, (2) the number of students graduating from the University since 1947, (3) the percentage of students and faculty who are active Communists, (4) the number of faculty members charged with being active Communists, (5) the number of faculty under Federal Bureau of Investigation surveillance, and (6) the number of Communists produced by the University.⁸⁹

In actuality this speaker's evidence is based on the belief that the UNC campus atmosphere is conducive to producing Communists. Royall reveals this belief during questioning:

⁸⁸Hearing, 4: 82.

⁸⁹Ibid., pp. 86-88.

Rep. Thornburg: Then you wouldn't know what percentage of actual active Communists had permeated the University with regards to its number of students or faculty, and so forth?

Mr. Royall: No Sir, I would not, this not a matter of numbers or percentages.

Rep. Thornburg: I was a little bit disturbed about the indication that perhaps Commies were making inroads over there or that it was a, I just was interested in to what extent, and I mean the general statement I thought perhaps you would be able to tell.

Mr. Royall: I can only describe that by feeling, sort of an atmosphere, and I believe that if the Commission really wanted to go into this matter, you could get students to tell you that they feel that to pass their work and get good grades they have to take a Leftist tinge.⁹⁰

Nearness: Has the speaker personally observed and examined the situation?

As a UNC alumni and a Chapel Hill resident, Royall has some first-hand knowledge of a few people associated with the Communist philosophy. He has heard Friestadt and Milt Rosen speak, and he has read pamphlets and student newspaper accounts of Scales and Phelps. Royall, however, shows only a surface familiarity with these individuals and events.

Recency: Has the speaker recently studied the situation?

The Commission questions reveal that Royall has not made a complete study of Communists at UNC. Among other questions, he does not know the number of Communists at UNC

⁹⁰Ibid., pp. 87-88.

nor the number of Communists produced by the University. In actuality, this speaker gives a personal account of alleged Communists whom he identifies.

Bias: Is the speaker biased personally or collectively (as a member of a group with vested interest in the topic)?

Royall argues in favor of the Speaker Ban Law under the bias of the organization he represents. He gives first-hand identification to eight alleged Communists whom he identifies in a period of eighteen years. This speaker argues the national security issue, but he fails to prove that these few Communists commit illegal acts or endanger UNC. In conclusion, Royall perpetuates the American Legion bias toward Communists.

The Application of the Substance Criteria

Documentation: Is the evidence completely documented (author, date, publisher, primary, or secondary source, etc.)?

Royall partially documents the evidence to support his argument that Communists have permeated UNC (Table 2). He identifies nine instances of Communists in the University and Chapel Hill during the eighteen years between 1947-1965. Only four occasions indicate speeches on campus. Royall attends two of these speeches, but he omits his sources of information for the Braden and Rosen speeches. Through the Daily Tar Heel, a student newspaper,

he quotes Scales's and Phelp's comments on Communists, but he does not elaborate on the contexts of their statements. Royall completely omits sources from four other instances.

This speaker mentions only one source where the individual clearly identifies himself as a Communist. Royall saw a pamphlet circulated during the Korean War signed by Junius Scales, Communist Party Chairman. The speaker identifies Scales as a UNC student at the time the pamphlet circulated.

Consistency: Is the evidence consistent?

Table 2 indicates that Royall does not specify the instances in a chronological order. This lack of chronology during an eighteen-year span creates an impression of inconsistency. Royall further complicates the problem by omitting part of the documentation from six of the nine instances.

Recency: Is the evidence recently related to the situation?

This speaker identifies only four dates during the first half of the 1960s to indicate Communist speakers in Chapel Hill. Just two of these refer to speeches on the UNC campus. Ann Braden spoke on October 25, 1961, and Rosen spoke on December 3, 1962. In compliance with the Speaker Ban Law, Carl Braden spoke off campus on May 17, 1965.

Bias: Is the evidence biased (slanted, incomplete, or presumptuous)?

Royall's evidence suffers the bias of presumptuousness. He argues the seriousness of the Communist infiltration at UNC by saying ". . . our national life is at stake."⁹¹ However, his evidence does not prove this seriousness. Covering an eighteen-year period, the speaker identifies infrequent appearances of alleged Communists. Also, Royall cannot supply answers to questions of the Commission about the severity of Communist infiltration.

Conclusion

In conclusion, the American Legion speakers emphasize the need for the Speaker Ban Law for national security reasons. More specifically the American Legion historically fights Communism. Robbins, Morgan, and Royall especially present their evidence from the American Legion perspective. Stone and Jordon add their personal convictions on the subject to the organization's position. Analysis of the evidence by speaker criteria reveals that none of these speakers qualify as experts on Communism.

The speaker evaluation also reveals that the speakers have not directly studied the effects of the Law on the state-supported institutions. Morgan dismisses the academic freedom question by stating two sources' objections to Communists as faculty members. He does not state the

⁹¹Ibid., p. 85.

University's position on the issue. Jordon dismisses the question of accreditation status by concluding without evidence that Southern Association accreditation applies only to undergraduate schools. He does not present the fear of accreditation loss experienced by the state institutions.

Without revealing a recent study, Morgan and Royall identify alleged Communists and Communist activity in Chapel Hill and at the University of North Carolina. Also, they specify no illegal activity during the twenty to thirty years mentioned. Only Royall states that he has had any first-hand experiences with Communists; he says he has heard two speeches by Communists.

Evaluation of the substance tests indicates that much of the evidence presented lacks complete documentation. Sources of information are stated infrequently. Commission questions highlight the desire for verification of facts. For example, the Commission asks Morgan for the number of Communist speakers at UNC during the thirty-five year period he discusses. He does not have a figure, but he says the Legion can supply one later. As another example, Jordon refers several times to an article in the Bulletin of the American Association of University Professors, but he never titles the article.

Most of the evidence presented by each speaker appears internally consistent. However, Morgan quotes Frank P. Graham's opposition to Communist faculty members. During questioning, Morgan later extends the statement making it apply to appearances of speakers on campus.

The substance tests reveals that some of the evidence is recent. In spite of recent dates, much of the data appears only indirectly related to the North Carolina controversy. For example, Jordon relies heavily on a 1965 California study of the campus riots at Berkeley. He does not directly relate the study to the North Carolina institutions. Also, Jordon reports a study of random universities that would accept a UNC graduate if UNC loses accreditation. Again, this study does not directly show the effects of accreditation loss on the North Carolina institutions.

The evidence offered indicates some American Legion bias. Much of the evidence of Robbins, Morgan, and Royall emerges from the Legion files which is not an objective source. The speakers indicate no other sources for their data. Also, Stone recounts the passage of the Speaker Ban based on the Senate records, but then he offers arguments supporting the Law based alone on his personal opposition to Communism. And without supporting evidence, Jordon forecasts the imminence of a Communist conspiracy on the North Carolina campuses.

In summary, this study of evidence indicates that the American Legion supports the Speaker Ban Law because of its opposition to Communism. None of the speakers are experts on the Communist philosophy, nor do they provide evidence to prove the imminence of a threat of Communism in North Carolina. They identify a few alleged Communists in the state, but specify no illegal action. Because of the mere presence of Communists, the American Legion is willing to ignore freedom of speech, academic freedom, and accreditation. In Royall's words, "We believe that the matter of grants, accreditation, and much abused academic freedom all pale into insignificance when our national life is at stake."⁹² However, the evidence submitted does not prove that a desperate situation exists.

⁹²Ibid.

CHAPTER V

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

The Law and the Commission Hearing

The 1963 North Carolina General Assembly enacted a statute to regulate visiting speakers at state-supported colleges and universities on the last day of the Legislative session. This Law (commonly called the Speaker Ban Law) forbade three categories of speakers to use state institution facilities. The forbidden speakers included (1) known members of the Communist Party, (2) persons known to advocate the overthrow of the government, and (3) persons having taken the Fifth Amendment before a governmental committee concerning possible Communist or subversive connections. This Law also gave the Board of Trustees of each institution enforcement responsibilities.

The Speaker Ban stirred controversy because of four major issues. They included national security, academic freedom, accreditation, and constitutionality.¹

Under pressure of accreditation loss, Governor Dan K. Moore at the end of the 1965 General Assembly appointed

¹Bondurant, Gift, Nelson, Patterson, Secor, and White, "North Carolina Speaker Ban Law: A Study in Content," 55 N.C.L. Rev. (1966), 179: 230-32, 242-48.

a commission to study the Law and to make recommendations to him. Moore named Representative David Britt chairman of the nine-member Commission. The Governor asked the Commission to study (1) the enforcement of the statutes, (2) the relationship of the statutes to accreditation, (3) the relationship of the affected institutions to other institutions of higher education, and (4) the effect of the statute on the development of the state institutions.²

The Commission held four days of public hearings during the study. Sixty-six speakers gave formal presentations.

On November 5, 1965, the Commission filed its Report with the Governor. In a compromise decision, the Commission recommended amendment of the Law: (1) to give the trustees of each institution the authority to enforce the Law after adopting speaker rules and regulations, and (2) to grant this authority contingent upon adoption of the Speaker Policy contained in the Commission Report.³

At the Governor's request, the state institutions accepted this Report. And in Special Session, the 1965 General Assembly amended the Law accordingly.

²North Carolina Speaker Ban Study Commission, The Commission Report to His Excellency, Dan K. Moore, Governor of North Carolina. Raleigh, North Carolina, 1965, p. 2.

³Ibid., pp. 11-12.

Nevertheless, the Speaker Ban controversy continued until a decision by a three-judge United States District Court in 1968 ruled the Law unconstitutional on its face. The case filed by fourteen plaintiffs in the District Court in Greensboro, North Carolina on March 31, 1966, culminated in its significant decision on February 19, 1968. The judges concluded that the Law and regulations violated the First and Fourteenth Amendments to the Constitution. They reasoned that the Law and the regulations were too vague to be enforceable; therefore, both were null and void. These violated the due process clause of the Fourteenth Amendment. Also the judges reasoned that the Supreme Court historically required clear, narrow, and objective standards to control the licensing of First Amendment rights.⁴ As a result of the court decision, the Trustees of the state institutions adopted new visiting speaker rules.

Critical Standards Conclusions

This thesis focuses on one aspect of the Commission Hearing: the evidence presented by the American Association of University Professors and the American Legion. The AAUP opposed the Speaker Ban, and the Legion supported it.

⁴David S. Greene, "State's Speaker Ban Law Nullified by Federal Court," Greensboro Daily News, 20 February 1968, p. A1.

To analyze these presentations, speaker and substance criteria are applied to the oral statements of the participants transcribed in the Hearing texts. The criteria evaluates each speaker's (1) expertise, (2) nearness, (3) recency, and (4) bias. The substance criteria evaluates the evidence for (1) documentation, (2) consistency, (3) recency, and (4) bias.

Speaker Criteria

Evaluation of the speaker criterion of expertise shows that the AAUP speakers present evidence from their areas of expertise, namely education, law, and AAUP principles. They are qualified to argue the issues of academic freedom and constitutional rights. Accordingly, only lawyers, Dawson and Van Alstyne, treat the constitutional issue.

On the other hand, the American Legion spokesmen emphasize the national security issue because of a threat of Communism. Robbins, Morgan, Jordon, and Royall have little, if any, expertise in the study of Communism. They merely endorse the American Legion view of obliterating Communism. Furthermore, the Commission Report points out the lack of evidence of a Communist conspiracy at The University of North Carolina. The Report states, "There is no evidence before us of any plot, plan, campaign, or conspiracy by anyone to injure the University or any state-supported college."⁵

⁵Commission, Report, p. 9.

Evaluation of the speaker test of nearness indicates that little of the evidence of either of the organizations comes from personally examining the controversial situation. Legionnaire Royall alone has heard a Communist speak at UNC. Also, none of the speakers are employees of the North Carolina system.

However, the recency test reveals that the spokesmen of both organizations have studied the Speaker Ban controversy. The AAUP speakers show evidence of the loss of academic freedom rights in related campus situations. For example, Dawson has faculty friends who left Ohio State University because of a speaker ban. Van Alstyne specifies court decisions which deem unconstitutional speaker restraints similar to those in the North Carolina Law.

The American Legion studies rely heavily on the organization's identification of Communists in Chapel Hill and at UNC. Covering a thirty-five year span, Morgan identifies less than a dozen individuals which he labels as Communists. Neither Morgan nor Royall identify illegal actions by the people they specify. Also, Morgan reads a communication from a UNC administrator which denies the existence of a recognized Communist organization on campus. In addition, Jordon refers to a study of the University of

California riots at Berkeley, but this study relates only indirectly to the North Carolina controversy.

The last speaker criteria evaluates the bias of the speakers. The AAUP evidence indicates that the speakers oppose the Speaker Ban because of its negative effects on the academic community as well as on society at large. They consider that the rights of speakers on campus are protected by the freedom of speech guaranteed by the First Amendment to the Constitution. Van Alstyne points out the Speaker Ban's violation of constitutional rights. Even though AAUP principles endorse unhampered research and publication, the AAUP speakers do not claim special privileges for the academic community.

On the other hand, the American Legion spokesmen support a Legion principle, i.e., to rid the world of Communism. None of the speakers are experts on Communism. Their evidence does not even define the term Communism. The speakers personally operate under a group bias without significant evidence to support their position.

Substance Criteria

Evaluation of the substance criteria indicates that the acceptance of each speech relies heavier on the speaker's personal qualifications than on his treatment of evidence. For example, evaluation of documentation reveals that the evidence of each speaker is presented

incompletely. In the American Legion presentation, Morgan's evidence is a prime example. He identifies sixteen instances of Communist or Communist-related activities in Chapel Hill, but he states sources of information for only four of these. Furthermore, Morgan refers to the position of the courts on First Amendment rights, but he names no decision or case. In the AAUP presentation, Van Alstyne tells the Commission that he is summarizing a twenty-six page memorandum of which the Commission has copies. He proceeds to state court decisions and to date them, but he omits exact source citations. But when Van Alstyne discusses four Supreme Court cases, he names the cases, but he omits their dates and documentary locations.

Next, the consistency test concludes that the American Legion and the AAUP presentations appear internally consistent. However, Legionnaire Morgan presents several inconsistencies. For example, he quotes Frank P. Graham's opposition to Communist faculty members. During questioning, Morgan broadens Graham's statement to apply to the campus appearances of Communist speakers.⁶

⁶North Carolina Speaker Ban Study Commission, Hear-Before Speaker Ban Study Commission: American Legion, (Raleigh, North Carolina: State Legislative Building, 1965) 4: 37.

Evaluation of the recency of the evidence indicates that not all evidence is dated. Morgan and Royall of the American Legion and Van Alstyne of the AAUP state chronologies of events and cases, but they do not give all dates. Royall, in particular, does not stick to a chronological order of events by dates. In all, the omission of dates causes the audience to conjecture the recency of the data in many instances.

Lastly, the AAUP evidence appears less biased than does the American Legion evidence. The AAUP refers most of the questions about the organization's statistics, procedures, and experiences to Fidler who is the General Secretary of the AAUP national headquarters. Fidler participates in the presentation only to answer Commission questions about the organization. Otherwise, Dawson, Van Alstyne, and Brown present evidence based on their expertise in education or law.

To the contrary, the Legion speakers Robbins, Morgan, and Royall, by implication, rely almost entirely on evidence from American Legion data. They do not state exactly where the information can be verified. For example, Commissioner Kirby asks Morgan for the number of UNC students who are Communist before entering UNC. Morgan states, "Those that we list, we can Mr. . . . we will

only list those that are a matter of record."⁷ This speaker does not state which record or whose record. In addition, he states no specific source for eleven of the sixteen Communist instances he cites.

References to American Legion data on Communism can not be considered objective. Robbins states in the introduction of the American Legion presentation that this organization from its first convention in 1919 has opposed Communism. He says, "From the convention and each ensuing convention, strong resolute statements and warnings have been given to our government and to the American people."⁸

Morgan reiterates the Legion view saying, "The American Legion supports the Communist Speaker Law which is now the subject of this inquiry and is and has been opposed to Communism in any form or in any place."⁹

Recommendations for Further Research

Several suggestions for future research emerge from this study. These include: (1) To evaluate the completeness and external reliability of the evidence presented by the AAUP and the American Legion, (2) To determine the effects on the Commission Report of the presentations by the Southern Association of Schools and Colleges and by the University Presidents, (3) To ascertain other factors ultimately affecting the Commission's recommendations,

⁷Ibid., p. 35. ⁸Ibid., p. 8. ⁹Ibid., p. 14.

and (4) To determine which aspects of evidence primarily influence public decision-making.

"Accreditation Loss to Bring Mass Resignations at UNC-G." Greensboro Daily News, 4 June 1965, p. A18.

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APPENDIX 1

NORTH CAROLINA SPEAKER BAN COMMISSION HEARING

CHRONOLOGY OF SPEAKERS

Speaker	Identification	For	Against	Other
Session 1: 10 a.m. 11 August 1965:				
Emmett B. Fields	Sou. Assoc. of Colleges & Schools		x	
Session 2: 2 p.m. 11 August 1965:				
Phil Godwin	N.C. House of Rep.	x		
Howard Boozer	N.C. Board of Higher Ed.		x	

Session 3: 10 a.m. 12 August 1965:				
John P. Dawson	AAUP		x	
William W. Van Alstyne	AAUP		x	
Frances C. Brown	AAUP		x	
Session 4: 2 p.m. 12 August 1965:				
Dudley Robbins	American Legion	x		
Robert Morgan	American Legion	x		
Clarence Stone	American Legion	x		
A. C. Jordon	American Legion	x		
Henry C. Royall	American Legion	x		

Session 5: 10 a.m. 8 September 1965; (Administrative Officers and Trustees of The University of North Carolina and North Carolina State-Supported Colleges):				
Watts Hill, Jr.	N.C. Board of Higher Ed.		x	
W. Frank Taylor	UNC Board of Trustees		x	
William C. Friday	N.C. Consolidated Univs.		x	
Robert Spearman	Former UNC Student		x	
William C. Aycock	Former UNC Chancellor		x	
Paul F. Sharp	UNC-Chapel Hill		x	
Bonnie E. Cone	UNC-Charlotte		x	
James E. Ferguson	UNC-Greensboro		x	
John T. Caldwell	N.C. State Univ.		x	
William Medford	UNC Board of Trustees		x	
Frank Taylor	UNC Board of Trustees		x	

APPENDIX 1--Continued

Speaker	Identification	For	Against	Other
Session 6: 2 p.m. 8 September 1965; (Administrative Officers and Trustees of The University of North Carolina and North Carolina State-Supported Colleges):				
Frank G. Dickey	Nat'l Commission of Accrediting		x	
Robert H. Fraizer	N.C. A & T College, Board of Trustees		x	
Lewis Dowdy	N.C. A & T College		x	
W. H. Plemmons	Appalachian State Teachers College		x	
William J. Conrad	ASTC Board of Trustees		x	
William E. Highsmith	Asheville-Biltmore College		x	
Leo Jenkins	East Carolina College		x	
Robert Morgan	ECC Board of Trustees	x		
Walter Ridley	Elizabeth City State College		x	
Rudolph Jones	Fayetteville State College		x	
Samuel Massie	North Carolina College		x	
English Jones	Pembroke State College			x
Paul Reid	Western Carolina College		x	
William M. Randall	Wilmington College Board of Trustees		x	
L. Bradford Tillery	Wilmington College Board of Trustees		x	
Kenneth Williams	Winston-Salem State College		x	

Session 7: 10 a.m. 9 September 1965; (Students, Individuals, Representatives of Organizations, and Alumni of the University):				
Ralph C. Clontz, Jr.	Attorney		x	
Luther Hodges	Former N.C. Governor		x	
John A. Wilkerson	N.C. Alliance of Conservative Republicans	x		
Mrs. Charles Wakeman	N.C. League of Women Voters		x	
John G. Thomas	Newsman	x		
Charles A. Poe	Wake Co. Phi Beta Kappa		x	
Hugh Wells	UNC Alumnus		x	
James B. McMillan	UNC Alumnus		x	
Vermont Royster	UNC Alumnus, <u>Wall Street</u> <u>Journal Editor</u>		x	

APPENDIX 1--Continued

Speaker	Identification	For	Against	Other
Malcolm Seawell	State Board of Elections		x	
Kemp D. Battle	Former UNC Trustee		x	
J. Dewey Dorsett, Jr.	UNC Alumnus		x	
D. Ed Hudgins	UNC Alumnus		x	
L. P. McLendon	-----		x	
Si Parker	UNC Alumnus		x	
Session 8: 2 p.m. 9 September 1965:				
Ed Croom	Teen-Dems		x	
Walter Turner	N.C. Young Democrats Clubs		x	
Leslie Syron	American Association of University Women		x	
Bill Goodman	N.C. Commander of VFW	x		
Steve Dolley	N.C. House of Rep.	x		
Tom White	N.C. Senate	x		
Harold Dudley	N.C. Presby. Synod.		x	
B. Frank Hall	N. C. Presby. Synod.		x	
Spearman	UNC Student		x	
Andrews	UNC Consolidated Student Council		x	
Paul Dickson	UNC Student Body		x	
Gerald Partin	Wake Forest Student Body		x	
Richard E. Gift	Davidson College, AAUP		x	

TOTAL SPEAKERS:	66	POSITIONS:	12	53 1

Source: Hearing, 1-7.

APPENDIX 2
BIOGRAPHICAL QUESTIONNAIRE

1. NAME _____ DATE _____
2. MAILING ADDRESS _____
Street/Box No. City State Zip Code
3. YEAR OF BIRTH _____
4. EDUCATION School City & State Major Degree Yr.
High School: _____
College: _____
Postgraduate: _____
5. EMPLOYMENT:
- a. How were you employed at the time of the Hearing?
- | | | |
|----------|---------------|--------------|
| | | |
| Employer | Your Position | City & State |
- b. How are you presently employed?
- | | | |
|----------|---------------|--------------|
| | | |
| Employer | Your Position | City & State |
6. MEMBERSHIP IN ORGANIZATIONS (Professional, civic, social, religious, etc.):
- a. What are some organizations you held membership in at the time of the Hearing? (Optional) List those that you would like included in this biographical statement.
- | | |
|-----------|-----------|
| (1) _____ | (5) _____ |
| (2) _____ | (6) _____ |
| (3) _____ | (7) _____ |
| (4) _____ | (8) _____ |
- b. What are some organizations in which you presently hold membership? (Optional) List those you would like included in this biographical statement.
- | | |
|-----------|-----------|
| (1) _____ | (5) _____ |
| (2) _____ | (6) _____ |
| (3) _____ | (7) _____ |
| (4) _____ | (8) _____ |
- c. At the time of the Hearing, were you an active member of the American Association of University Professors?
 Yes No. Comment: _____
- d. Are you presently an active member of the American Association of University Professors? Yes No
 Comment: _____
- **An abstract of this thesis will be sent to you on request.
 Yes**

APPENDIX 3
SAMPLE LETTER

323 Wilson Street
Eden, N. C. 27288
March 21, 1973

Mr. Robert Morgan
Attorney General
North Carolina Department of Justice
Raleigh, North Carolina 27602

Dear Mr. Morgan:

In the summer of 1965, you participated in the historical North Carolina Speaker Ban Commission Hearing held in Raleigh, North Carolina.

Last spring I wrote a brief history of the Speaker Ban Law for a course I was taking at the University of North Carolina at Greensboro. Out of interest in the controversy, I read a stenographic report on the Hearing. Presently, I am writing a thesis on the evidence presented during those presentations.

In the thesis I want to include a brief, factual biographical statement for each Hearing participant that I mention. Unable to find this information readily available, I need your assistance.

Please complete the enclosed biographical questionnaire. A stamped, self-addressed envelope is included for your convenience in returning it. Of course, I am eager to receive your response.

If you would like a copy of the thesis abstract, I would gladly send you one at the completion of the study which should be in June, 1973. Please indicate on the questionnaire if you want this summary.

Thank you for considering my request.

Sincerely yours,

(Mrs.) Gloria T. Best
Graduate Student
Department of Drama & Speech