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Suggested Citation:

Klein, Milton M. "Academic Freedom at the University of Tennessee: The McCarthy Era." *The Journal of East Tennessee History* 69 (1997): 62-83.

## ACADEMIC FREEDOM AT THE UNIVERSITY OF TENNESSEE: THE MCCARTHY ERA

MILTON M. KLEIN\*

Academic freedom, or the right to teach, research, and publish in their fields of scholarship without fear of outside political, economic, or religious pressure, is the most highly valued privilege of those who constitute the faculties of American colleges and universities. Tradition has given the privilege widespread legitimacy except in authoritarian societies, but even in democratic governments, academic freedom has often been challenged by those who consider it a license to teach "subversive" or "disloyal" doctrines. The most serious attack on academic freedom in the United States occurred during the early 1950s in what has been called the McCarthy Era.

As chairman of a U.S. Senate subcommittee, McCarthy investigated and "exposed" a variety of individuals in government, education, the arts, the churches, and the military whom he considered Communists or Communist sympathizers, but other congressional committees and numerous private watchdog organizations joined in the effort. These investigations produced major controversies on the campuses of the Universities of California, Wisconsin, and Colorado, Cornell University, and the City College of New York, but the University of Tennessee was not immune to the hysteria that gripped the nation in the 1950s.<sup>1</sup>

A foretaste of these attacks occurred as early as 1923, when seven UT faculty members were dismissed somewhat summarily.<sup>2</sup> Not all were terminated for reasons that raised issues of academic freedom, but

\* Milton M. Klein, professor emeritus of history at the University of Tennessee, Knoxville, was historian of that campus from 1988 to 1997. He would like to acknowledge the invaluable assistance of Margaret Ellen Crawford, Research Associate in the Office of the University Historian. An earlier, unfootnoted version of this article appeared in the University of Tennessee, Knoxville, campus newsletter, *Context*, on March 3, 1995. It is used here with the permission of the editor of that publication.

<sup>1</sup> On the general theme see Ellen W. Schrecker, *No Ivory Tower: McCarthyism and the Universities* (New York, 1986); Peter L. Steinberg, *The Great 'Red Menace': U.S. Persecution of American Communists* (Westport, 1985); and Stanley I. Kutler, *The American Inquisition: Justice and Injustice in the Cold War* (New York, 1982).

<sup>2</sup> The incident is discussed fully in James R. Montgomery, *Threshold of a New Day: The University of Tennessee, 1919-1946* (Knoxville, 1971), 19-37.

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there was enough of the appearance of such to warrant an investigation by the young American Association of University Professors (AAUP). One of the professors ran into trouble for assigning a history text which included the statement that "We are all descended from lower animals." Although Tennessee did not pass its anti-evolution law until 1925, public sentiment was already strongly against the teaching of Darwinian evolution before the law was passed.<sup>3</sup> The AAUP undertook an investigation and concluded that UT's system of one-year faculty appointments was "neither just nor compatible with the dignity of the profession"; that the timing of the dismissals during the summer, when the discharged professors were away and unable to seek alternative employment, was unfair; and that while the administration's actions may have been legal, they were not equitable or "honorable."<sup>4</sup> The association at its 1924 meeting declared the dismissals unjustified and criticized conditions at UT as "detrimental to the purposes of the institution and to the interests of higher education in general."<sup>5</sup>

In 1932 another dismissal—this time of Alfred Mueller, an associate professor of education—for allegedly failing to teach effectively, produced a second AAUP investigation and a renewed charge that tenure at UT was not in keeping with "good academic custom and usage." The AAUP now placed UT on its censure list, a blacklisting that continued from 1939 until 1947.<sup>6</sup> The AAUP gave no public reasons for the reinstatement of UT to the association's good graces, but local chapter members surmised that the retirement in 1946 of President James Hoskins, who had been behind the dismissals, and the trustees' agreement to abide by the AAUP's 1940 "Statement of Principles on Academic Freedom and Tenure" were factors in the organization's actions.<sup>7</sup>

None of these earlier incidents reflected a national pattern of hostility to institutions of higher education. The McCarthy Era of the 1950s would be different in both the virulence and the extent of the attacks on faculty, administrators, and the universities themselves.

<sup>3</sup> Robert E. Corlew, *Tennessee: A Short History*, 2nd ed. (Knoxville, 1981), 540; George E. Webb, *The Evolution Controversy in America* (Lexington, 1994), 81-82.

<sup>4</sup> *AAUP Bulletin*, 10 (April 1924): 21-68.

<sup>5</sup> *Ibid.*, 11 (February 1925): 69-70.

<sup>6</sup> Montgomery, *Threshold of a New Day*, 48-50; *AAUP Bulletin*, 25 (June 1939): 310-19; *Knoxville Journal*, 30 December 1939.

<sup>7</sup> James R. Montgomery et al., *To Foster Knowledge: A History of the University of Tennessee* (Knoxville, 1984), 187.

Knoxville was no hotbed of "radical" politics and never experienced the intensity of inquisitorial activity from legislative committees, demagogic politicians, or private anti-Communist organizations that characterized other academic centers. Nevertheless, the decade of the 1950s witnessed several forcible efforts to uncover "radicalism" on the UT campus. After all, it was not difficult for anti-Communists to find targets when "subversion," "disloyalty," and Communism were defined in very vague ways. A 1954 Army pamphlet entitled *How to Spot a Communist* warned that one could identify Communists by their predisposition to discuss civil rights, social and religious discrimination, or the immigration laws. A naval intelligence officer advised that Communists were most likely to be found among "intelligent people," and an opinion poll disclosed that the general public believed Communists to be people who talked about world peace, "read too much," and had "an affinity for causes."<sup>8</sup>

Senator Joseph McCarthy did not begin his public campaign against subversives until February 9, 1950, when he claimed to have a list of 205 Communists in the State Department, but President Harry Truman's 1947 executive order instituting a loyalty-security program for all federal civilian employees had already produced what the *New York Times* in 1951 called "a subtle, creeping paralysis of freedom of thought and speech" on university campuses.<sup>9</sup> A mild manifestation of this phenomenon occurred in Knoxville in late 1948, when the Rev. R. O. Eller of the Central Methodist Church denounced Mary Elizabeth Barnicle, a University of Tennessee lecturer in English, for allegedly distributing campaign literature for Henry Wallace among her students. (Wallace, Franklin D. Roosevelt's third-term vice president, ran for president in 1948 under the Progressive Party label.) Eller also charged that Barnicle was being investigated by the FBI as a Communist. What action the University took is unknown, but Barnicle resigned on August 31, 1950.<sup>10</sup>

Late in that same year, while the Korean War was in progress, an assistant professor of philosophy, Howard Lee Parsons, became the object of a curious accusation by a local patriotic group because of a question he had placed on a logic examination. In the question, he asked students to use their knowledge of formal logical processes to

<sup>8</sup> Edward Pessen, *Losing Our Souls: The American Experience in the Cold War* (Chicago, 1993), 130.

<sup>9</sup> Lionel S. Lewis, *Cold War on Campus* (New Brunswick, 1988), 22.

<sup>10</sup> *Knoxville Journal*, 6 December 1948; University of Tennessee Board of Trustees Minutes, 8 September 1950, University Archives, University of Tennessee, Knoxville.

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"prove" that "the South Korean Republic was like the Franco Spanish  
 Regime" and that the North Koreans were "peace-loving and non-  
 aggressive." UT Vice President Fred Smith explained that the question  
 was only one of six, all of which drew upon contemporary newspaper  
 quotations and which challenged the students to apply the principles  
 of logic they had learned in their course to particular situations. The  
 "small flurry" created by the incident appears not to have aroused  
 much excitement either way. While Parsons was defended vigorously  
 by Professor Willis Moore, who was in charge of the philosophy  
 program, the rest of the faculty remained silent. Parsons was generally  
 known to be a political liberal and an opponent of racial segregation,  
 and it is likely that the McCarthyite atmosphere of the time discouraged  
 active faculty partisanship on his behalf.<sup>11</sup>

A few years later Parsons was again the subject of public controversy  
 because of his membership in the Southern Conference Educational  
 Fund, an organization devoted to advancing racial desegregation. The  
 U.S. Senate's Internal Security Subcommittee had earlier announced  
 that it was investigating the fund for "Communist activities." The fund  
 issued a public denial of any Communist connections, but Parsons  
 remained suspect for the next several years as a member of the  
 National Association for the Advancement of Colored People (NAACP),  
 a critic of American foreign policy, and a supporter of liberal causes.  
 Although he was never threatened with dismissal, he was advised by  
 his dean that he would be neither promoted nor advanced in salary.  
 Both the head of his department, Edward Cureton, and the senior  
 philosophy professor in the department, Merrit Moore, wrote strong  
 recommendations in April 1957 for Parsons's promotion, noting that he  
 was an effective teacher, a "recognized and productive scholar," and  
 the recipient of numerous "unsolicited" favorable comments from  
 students about his teaching. As for the allegations that he was a  
 "liability" to the University, his colleagues responded that these charges  
 were based on "hearsay evidence." They conceded that Parsons held  
 views on "sensitive" social and political matters that were controversial,  
 but they insisted that a democratic society should expect "honestly  
 held differences of opinion." Failure to promote Parsons would be

<sup>11</sup> Montgomery et al., *To Foster Knowledge*, 226; phone conversation, Milton  
 Klein with Howard Parsons, 14 July 1994; Parsons to Klein, 21 July 1994,  
 Historian's Files, University of Tennessee, Knoxville.

interpreted as "an infringement on intellectual and academic freedom of a peculiarly insidious type."<sup>12</sup>

The appeal to Dean Lexemuel Hesler of the College of Liberal Arts fell on deaf ears. Parsons resigned on August 31, 1957. He moved to Coe College in Iowa, where he became head of the department of Philosophy and Religion, and then to the University of Bridgeport as chairman of the Philosophy department. He retired in 1989 after an active career in teaching and scholarly publication.<sup>13</sup>

In the fall of 1952 another incident occurred on the Knoxville campus that indicated the pervasiveness of national suspicion and fear at American universities. A number of students organized a Film Society and announced that they would show classic and foreign films to student audiences in the Ferris Hall auditorium. Unfortunately, the society's first choices proved to be highly controversial, although neither the students nor their faculty advisers—Samuel Baron, an instructor in history, and Richard Brothers, a music instructor—expected them to be so. The films were four Charlie Chaplin comedy shorts—*The Cure*, *The Floorwalker*, *The Firemen*, and *The Pawnshop*—and *Alexander Nevsky*, a Russian epic set in the thirteenth century, directed by the well-known Sergei Eisenstein with music by the equally well-known Sergei Prokofiev.<sup>14</sup>

The Knoxville *Journal* launched the attack in a front-page story on October 5. It criticized the University for showing "a Soviet-produced film glorifying Russia" and Chaplin films only months after the movie star had been barred from the U.S. because of "grave moral charges" against him.<sup>15</sup> The Chaplin charges were ten years old in 1952. The fifty-four-year-old comedian had been sued in 1943 by a young woman, Joan Barry, who claimed he was the father of her child. Chaplin denied this charge. A year later the comedian was indicted for violating the Mann Act, which made it a federal crime to transport a woman across state lines for purposes of prostitution. Barry had allegedly received money from Chaplin for interstate travel. Chaplin was acquitted after a trial in April. The paternity suit initiated by Barry led to a mistrial; a

<sup>12</sup> Montgomery et al., *To Foster Knowledge*, 226; Knoxville *Journal*, 8 February 1954; Merritt H. Moore and Edward E. Cureton to Dean L. R. Hesler, 23 April 1957, Historian's Files, University of Tennessee, Knoxville.

<sup>13</sup> Faculty Records, UT, Knoxville, Office of Human Resources; *Directory of American Scholars*, 8th ed. (New York, 1982), 4: 411; phone conversation, Klein with Parsons, 14 July 1994.

<sup>14</sup> Knoxville *News-Sentinel*, 5 October 1952; Montgomery et al., *To Foster Knowledge*, 226.

<sup>15</sup> Knoxville *News-Sentinel*, 5 October 1952.

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In September 1952 the film *Limelight* was shown. It was a security risk in the United States because of its depiction of a man thereupon began to act as a persecutor and sympathizer.<sup>17</sup>

Knoxville's American Legion protested locally. Early in October 1952 John Duncan, assistant commander of the Knoxville and U.S. Legion, was protesting the UT resolution charging the film as a subversive organization. He sent a letter to President C. B. Brehm, Board of Trustees, asking that future film showings be for student audiences only. He also protested, calling the film "a good dose of poison." The writer had never seen the film.

The day after the films would be shown, Brehm said in a letter to the Film Society that the comedy and a number of the offending films. He also mentioned the Legion's charges.

Student response in the newspaper, the *Orange and White*, called the "nonsense" and

<sup>16</sup> Charles Maland, *Orange and White*, 280, 301-3.

<sup>17</sup> *Ibid.*, 280, 301-3.

<sup>18</sup> Knoxville *Journal*, 8 October 1952.

<sup>19</sup> *Ibid.*, 8 October 1952.

<sup>20</sup> *Orange and White*, 280, 301-3.

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second suit held Chaplin to be the father even though blood tests showed otherwise.<sup>16</sup>

In September 1952 Chaplin was in London for the premiere of his film *Limelight* when the U.S. attorney general announced that the actor was a security risk and should not be allowed to reenter the United States because of his "unsavory character." The American Legion thereupon began a national boycott of Chaplin films, portraying the actor as a perennial alcoholic, megalomaniac, and Communist sympathizer.<sup>17</sup>

Knoxville's American Legion Post No. 2 carried out the attack locally. Early in October the post adopted a resolution introduced by John Duncan, assistant attorney general of Knox County and commander of the Legion's East Tennessee Division (later mayor of Knoxville and U.S. congressman from Tennessee's second district), protesting the UT Film Society's showing of the Chaplin films. The resolution charged that Chaplin was a member of a number of subversive organizations and criticized him for failing to take out U.S. citizenship during his long residence in the country. The resolution, sent to President Cloide Brehm and all the members of the University's Board of Trustees, demanded that the Chaplin films not be shown and that future film showings be screened to insure that they were suitable for student audiences. The Knoxville *Journal* added its voice of protest, calling the Chaplin films "ludicrous" rather than artistic and protesting the Russian film on the ground that it undoubtedly carried "a good dose of Communist propaganda"—even though the *Journal* writer had never seen the film.<sup>18</sup>

The day after the Legion protest President Brehm announced that the films would not be shown. "I'm sorry the matter has come up," Brehm said in a letter to the local post commander, Charles Siegal.<sup>19</sup> The Film Society's faculty advisers indicated that a Buster Keaton comedy and a Peter Lorre mystery would be substituted for the offending films. Neither faculty adviser commented on the validity of the Legion's charges.<sup>20</sup>

Student response was less muted. An editorial in the student newspaper, the *Orange and White*, blasted the ban on the films as "nonsense" and called the Legion's and the *Journal's* charges "half-

<sup>16</sup> Charles Maland, *Chaplin and American Culture* (Princeton, 1989), 201.

<sup>17</sup> *Ibid.*, 280, 301-302, 307-308.

<sup>18</sup> Knoxville *Journal*, 6, 7 October 1952.

<sup>19</sup> *Ibid.*, 8 October 1952.

<sup>20</sup> *Orange and White*, 16 October 1952.



Cloide Brehm, president of the University of Tennessee, 1946-1959. *Courtesy UTK Special Collections.*

cocked." What connection, the paper asked, was there between Chaplin's private life and the films he made years ago? "Is that the meaning of academic freedom?" A student columnist was even more critical of the ban. He ridiculed the charge that *Alexander Nevsky* contained Communist propaganda: "It is difficult to believe that there could be any Communist pitch to a movie dealing with thirteenth

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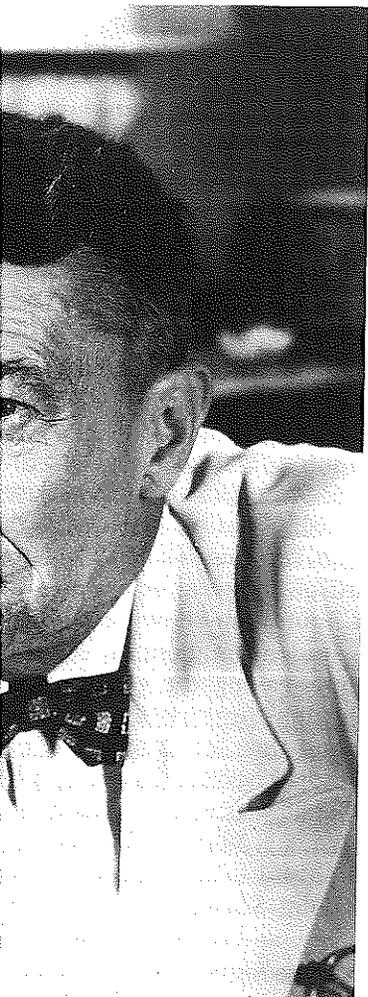
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<sup>21</sup> *Ibid.*, 9 October 1952

<sup>22</sup> Lee S. Greene, *Lead*  
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<sup>23</sup> *Knoxville Journal*, 5  
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century Teutonic knights, especially since the dialogue is in Russian. . .  
. I just can't imagine a sturdy Russian peasant of 1250 vintage cursing  
'the capitalistic American dogs.'" The columnist ended with an appeal:  
"[L]et's have an end to witch-hunting in Knoxville, shall we?"<sup>21</sup>

The student's plea went unheeded. Less than six months later, the  
campus was enmeshed in another controversy, and Sam Baron, the  
history instructor who had been one of the Film Society's faculty  
advisers, was squarely in the middle of it. As legislators in many states  
fell under the spell of Joe McCarthy's campaign of fear, they sought to  
ferret out subversive influences appearing in textbooks. In Tennessee a  
legislative inquiry of such a nature was launched early in 1953, at the  
beginning of Frank Clement's first term as governor. Clement did not  
particularly favor the investigation, but he found it impossible to  
oppose it. As an official of the American Legion he had been somewhat  
active in pursuing subversives, and he had been an FBI agent during  
the period when the agency was involved in carrying out the Truman  
loyalty-security program.<sup>22</sup>

Senator Sterling Roberts of Roane County chaired the committee,  
which had received complaints about sociology and history texts. On  
February 5, 1953, the committee held a one-day hearing on the UT,  
Knoxville, campus. Two books appeared to interest the committee, *An  
Introduction to Economics* by Theodore Morgan and *Russia, A History*  
by Sidney Harcave, although the probers also quizzed the heads of the  
Sociology, Political Science, and Psychology/Philosophy departments  
about their texts. Fred Holly, head of the Economics department, was  
questioned about statements in the Morgan text that referred to income  
taxes, the inequalities of wealth distribution, the national debt, and  
socialized medicine. Holly responded that while he did not agree with  
everything in the text there was no reason for not using it. Students  
should learn to read textbooks critically, and, in any case, instructors  
were more important in conveying information to students than texts.  
The committee's suspicions were apparently eased by Holly's statement  
that the book had been used only in the Extension Division, that it was  
not complete enough for a full-year course, and that it had already  
been replaced by another text.<sup>23</sup>

<sup>21</sup> Ibid., 9 October 1952.

<sup>22</sup> Lee S. Greene, *Lead Me On: Frank Goad Clement and Tennessee Politics*  
(Knoxville, 1982), 102.

<sup>23</sup> *Knoxville Journal*, 5 February 1953; *Chattanooga Free Press*, 9 February 1953;  
*Orange and White*, 6 January, 13 February 1953; *Knoxville Journal*, 5  
February 1953.

The Harcave book was used in Baron's Russian history courses, a three-term survey from the time of Peter the Great to the Soviet regime. Under questioning, Baron stated that the text was evenly balanced in its treatment of Communism, and that appeared to satisfy the committee.<sup>24</sup> The day's hearings seemed to be the finale of the "Red Scare" on the Knoxville campus. Senator Roberts had intended the investigation to be limited, and he had managed to keep it so. His committee's final report, presented to a joint session of the legislature, concluded that it had uncovered no evidence of Communist material in the state's textbooks. It did urge publishers to produce texts that "present a vigorous, dynamic, and patriotic approach to American democracy and government." As for those used in the state's colleges, the committee expressed its satisfaction that Tennessee's colleges and universities were employing adequate safeguards against "the infiltration of subversive influences" into texts.<sup>25</sup>

When the report was introduced into the legislature, it was spread on the journals of each house by a joint vote of 110 to 6, but without specific endorsement. From the viewpoint of a later historian of Tennessee politics, the investigation had "fizzled like a half-wet firecracker." A student columnist in the *Orange and White* derided the entire inquiry as an example of the craze for investigating that was characteristic of America's "harried society . . . from Joe McCarthy . . . down to . . . state legislatures." The student warned Americans to be on guard against publicity-seeking politicians who failed to respect the time-honored American principle that "no man has the right to pass laws telling all other men what they may or may not read."<sup>26</sup>

The fireworks, however, had only begun. A local assemblyman, Judd Acuff, bitterly attacked the report of the joint investigating committee as a cover-up. He turned his wrath on Sam Baron, charging that the UT history instructor was a native-born Russian teaching Communism from a Russian textbook. In an oblique reference to the fact that Baron was Jewish, Acuff added: "He's against the Christianity we were taught." As an added fillip to his anti-Communist audience, Acuff claimed that Baron had told his classes that only two things mattered, sex and internationalism!<sup>27</sup>

<sup>24</sup> Knoxville *News-Sentinel*, 5 March 1953; *Orange and White*, 13 February 1953.

<sup>25</sup> Greene, *Lead Me On*, 102-103; Knoxville *Journal*, 3 March 1953.

<sup>26</sup> Knoxville *Journal*, 3 March 1953; *Orange and White*, 12 March 1953.

<sup>27</sup> Knoxville *News-Sentinel*, 3, 9 March 1953; Knoxville *Journal*, 5 March 1953.

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y begun. A local assemblyman, port of the joint investigating his wrath on Sam Baron, charging a native-born Russian teaching In an oblique reference to the ed: "He's against the Christianity o his anti-Communist audience, is classes that only two things

; *Orange and White*, 13 February

*Journal*, 3 March 1953.

*and White*, 12 March 1953.

; *Knoxville Journal*, 5 March 1953.



J. Wesley Hoffman, head of the UT History department and a target of anti-Communist zealotry in the 1950s. *Courtesy UTK Special Collections.*

Acuff now enlarged the objects of his attack. In addition to at least two Communists on the UT faculty, he alleged that as many as five professors made up a club called the "League of Industrial Democracy" which taught still another foreign "ism" on the campus. Further, he asserted that History department head J. Wesley Hoffman, on leave teaching at the 7120th Air Base Group in Wiesbaden, Germany, under the auspices of the University of Maryland Extension Service, was a Communist sympathizer who had belittled the U.S. Army, made fun of democracy, and taught that Moscow should be the world capital.<sup>28</sup>

<sup>28</sup> *Knoxville Journal*, 5 March 1953.

The breadth and ludicrousness of Acuff's charges resulted in some angry responses. Baron issued a point-by-point reply stating that he had been born in New York City, was not a Communist sympathizer, and had never belonged to a League for Industrial Democracy. Further, he asserted that the textbook under attack was the most widely used text in college Russian history courses. (Its author was, in fact, a native-born American with a Ph.D. from the University of Chicago, a professor at the State University of New York, and a former analyst with the Office of Strategic Services and the U.S. State Department. The textbook in question was so popular that it went through six editions by 1968.) UT Vice President Fred Smith said there was no such club as the League for Industrial Democracy on the campus. Two of Baron's students, one a Korean War veteran and the other a senior social studies major, wrote strong letters of endorsement of his teaching, which they said they never found tinged with any pro-Communist bias.<sup>29</sup>

Hoffman received a unanimous vote of confidence from the pastor and board of Knoxville's First Methodist Church, of which he was an active member. They denounced the charges as "vicious, unwarranted and ridiculous."<sup>30</sup> Professor Stanley Folmsbee, acting head of the History department, said he had never found anything in Hoffman's letters to his friends in the department belittling the army.<sup>31</sup> The UT chapter of the AAUP on March 10 passed a resolution expressing "entire confidence" in the loyalty of both Baron and Hoffman.<sup>32</sup> James Stokely of Newport, Tennessee, derided Acuff's charges and in a letter to the *News-Sentinel* warned that "Today our colleges are being investigated and intimidated; tomorrow it may be our newspapers or the sanctity of our homes."<sup>33</sup> The *Nashville Tennessean* criticized Acuff for his "loose" remarks, defended the investigating committee's report for its "fairness and honesty," and denounced Acuff's supporters for seeking to "undermine confidence in public schools and colleges."<sup>34</sup> A fellow assemblyman accused Acuff of "irresponsible slander" and of having handed UT a "damaging blow." Senator Roberts defended his committee's report and decried Acuff's criticisms: "We felt irreparable

<sup>29</sup> Knoxville *News-Sentinel*, 6, 13, 16 March, 12 April 1953; Knoxville *Journal*, 6 March 1953.

<sup>30</sup> Knoxville *News-Sentinel*, 22 March 1953.

<sup>31</sup> Ibid., 8 March 1953.

<sup>32</sup> Ibid., 12 March 1953; AAUP Resolution, 10 March 1953, UTK Archives.

<sup>33</sup> Knoxville *News-Sentinel*, 10 March 1953.

<sup>34</sup> Nashville *Tennessean*, 5 March 1953.

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<sup>38</sup> Nashville *Tenne*  
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Acuff's charges resulted in some point-by-point reply stating that he had been a Communist sympathizer, and a proponent of Industrial Democracy. Further, he was the most widely used textbook author was, in fact, a native-born professor at the University of Chicago, a professor at the University of Illinois, a former analyst with the Office of Economic Warfare, and a member of the Department. The textbook in question had gone through six editions by 1968.) UT had no such club as the League of Women Voters. Two of Baron's students, one a senior social studies major, criticized his teaching, which they said showed a clear communist bias.<sup>29</sup>

Acuff lost confidence from the pastor of the First Baptist Church, of which he was an active member. Charges as "vicious, unwarranted" against Folmsbee, acting head of the Board of Trustees, found anything in Hoffman's charges belittling the army.<sup>31</sup> The UT Board passed a resolution expressing confidence in Baron and Hoffman.<sup>32</sup> James Acuff's charges and in a letter to the Board. "Today our colleges are being attacked by it may be our newspapers or our radio. The *Tennessean* criticized Acuff's charges. An investigating committee's report found Acuff's supporters for their role in public schools and colleges."<sup>34</sup> A letter of "irresponsible slander" and of "unsubstantiated" Senator Roberts defended his charges: "We felt irreparable

12 April 1953; Knoxville *Journal*,

March 1953, UTK Archives.

harm could be done to our school system if we launched a witch hunt without trying to prove or disprove charges."<sup>35</sup>

UT's administration promised to look into Acuff's charges but cautioned that the matter was "delicate," affecting the reputation of every faculty member. The administration must have "positive evidence instead of generalities in dealing with matters of this kind."<sup>36</sup> While this statement offered some reassurance, faculty morale remained low. Dean L.R. Hesler conceded as much. The anti-Communist hysteria sometimes took curious forms. A newly appointed history instructor was informed in the fall of 1953 to shave off his beard lest it arouse suspicion of his loyalty!<sup>37</sup> Sam Baron left the University at the end of the summer in 1953, but he had already been advised that his contract would not be renewed. The accusations against him during the Chaplin incident the year before and the textbook charge hurt his career as he moved to various universities on one-year contracts before joining the faculty of Grinnell College in Iowa, then the University of California at San Diego, and finally the University of North Carolina at Chapel Hill, from which he retired in 1989 as an Alumni Distinguished Professor.<sup>38</sup> Wesley Hoffman was not affected by Acuff's charges. He retained his position as head of the History department, from which he retired in 1965.

Senator McCarthy's censure by his own colleagues on December 2, 1954, by the overwhelming vote of 67 to 22 ended his influence and produced a beginning to the end of the "Great Fear" that had pervaded the American professoriate. But incalculable damage had been done. An editorial in the *Orange and White* in May 1953 noted with sorrow that "We have already had first-hand experience here at U-T of just how much anger and injustice can result from inaccurate accusations." A *Time* magazine survey had disclosed that "professors are losing confidence in their chosen field," and one dean had reported that

<sup>35</sup> Knoxville *News-Sentinel*, 4, 8 March 1953.

<sup>36</sup> *Ibid.*, 5 March 1953.

<sup>37</sup> The faculty member was Leo Loubere, later professor of history at the State University of New York at Buffalo. Telephone conversation, Loubere with Milton Klein, 18 July 1994.

<sup>38</sup> Nashville *Tennessean*, 9 March 1953; *Directory of American Scholars*, 8th ed. (New York, 1982) 1: 34; telephone conversation, Baron with Milton Klein, 29 August 1994.

"students were reluctant to discuss controversial subjects." "This is not the American way," the UT student editorial writer concluded.<sup>39</sup>

Within the next year, positive action was initiated to strengthen academic freedom within the University. A joint committee of faculty representing the local chapter of the AAUP and various colleges on the Knoxville campus drafted a strong statement on faculty rights to freedom of teaching and research on June 30, 1954. President Brehm submitted it on October 26 to the Board of Trustees, which voted to send it to the Martin and Memphis campuses for faculty and administrative review and comments. Memphis proposed a few changes; Martin had none.<sup>40</sup> In February 1955 Brehm forwarded the revised statement to the trustees urging approval on the ground that it affirmed the faculty's freedom to teach while providing for disciplining those "who do not conform to the ethics set forth in the policy statement." These ethics included a caution to faculty against expressing views either in or out of the classroom on subjects about which they had no professional competence.<sup>41</sup> Brehm elaborated his views a month later in welcoming the national AAUP at its annual meeting, which was held in Gatlinburg and was hosted by the UT chapter. No one wanted to restrict teachers in expressing opinions they were "qualified to discuss with authority," he said, but they must not use the "prestige and dignity" of their position for propaganda purposes or to express views on matters they were not qualified to discuss. He urged teachers to exercise "judgment, discretion and wisdom" in such matters.<sup>42</sup>

The proposed policy statement evoked some animated discussion among the trustees. One protested that there was too much emphasis on freedom and not enough on responsibility; another feared that the statement would encourage socializing between UT and the city's black Knoxville College faculty! Still another trustee demanded an explicit acknowledgment of UT's obligation to uphold the U.S. and Tennessee Constitutions. A new statement was ultimately drafted by the board,

<sup>39</sup> Richard H. Rovere, *Senator Joe McCarthy* (New York, 1959), 229; *Orange and White*, 7 May 1953. An earlier *Orange and White* editorial (12 March 1953) warned of the dangers of "half-cocked" accusations.

<sup>40</sup> Dean of the School of Biological Sciences Thomas P. Nash to Medical Vice President O.P. Hyman, 1 April 1955; Dean of Martin Branch Paul Meek to President Cloide Brehm, 10 March 1955, UTK Archives.

<sup>41</sup> Brehm to the Board of Trustees, 1 February 1955, UTK Archives; "The University of Tennessee Policy Statement Regarding Academic Freedom and Responsibility," 30 June 1954, UTK Archives.

<sup>42</sup> *Orange and White*, 10 March 1955.

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approved by the faculty committee that had drafted the original  
 proposal, and adopted on November 4, 1955.<sup>43</sup>

The "Statement of Principles Governing Freedom, Responsibility,  
 and Tenure" included all the principles governing appointments,  
 probationary periods, the grant of tenure, and terminations of  
 appointments contained in the AAUP's 1940 statement on those  
 subjects. On academic freedom, the board reiterated President Brehm's  
 position that while faculty members were free to discuss their subjects  
 in the classroom and to research and publish within their areas of  
 competence, they should exercise care in expressing personal views or  
 introducing controversial matter unrelated to their subjects into their  
 teaching. Similar discretion should be exercised in speaking or writing  
 outside the classroom lest the University be judged unfairly by such  
 remarks.<sup>44</sup>

The statement was surprisingly liberal both in its content and in the  
 process that produced it. A faculty committee had written the original  
 draft, and the board's revision was referred back to the faculty  
 committee for approval. The statement, while reminding faculty of  
 their obligations to uphold the constitution and laws of the state and  
 nation, did not demand oaths of loyalty (as some states did at the time)  
 or require faculty to cooperate with legislative or administrative efforts  
 to ferret out subversion in the University (as some university presidents  
 did in a joint statement on March 24, 1953).<sup>45</sup> With only one  
 amendment in 1971, the trustees' statement has remained the  
 University's policy on academic freedom and tenure. (The 1971 change  
 merely stated that tenure could be attained "only through positive  
 action" by the Board of Trustees, after the appropriate probationary  
 period was served.)<sup>46</sup>

The trustees' policy was a reassuring safeguard against future broad-  
 based attacks on academic freedom at UT, but it did not prevent critics  
 from engaging in skirmishes. In 1958 Henry Crane, minister of the  
 Central Methodist Church of Detroit, Michigan, was the principal  
 speaker at the Mid-Winter Convocation, an annual event sponsored by  
 the UT Christian Association and two other campus religious  
 organizations. Crane had spoken at the convocation on four previous

<sup>43</sup> Jerome G. Taylor to Brehm, 23 February 1955; Harley Fowler to Brehm, 10  
 February 1955; Vice President Eugene A. Waters to Harley Fowler, 25 April  
 1955, UTK Archives.

<sup>44</sup> Brehm to the Board of Trustees, 6 October 1955; UT Board of Trustees  
 Minutes, 4 November 1955, UTK Archives.

<sup>45</sup> Schrecker, *No Ivory Tower*, 188-89.

<sup>46</sup> UT Board of Trustees Minutes, 17 June 1971, UTK Archives.

occasions without incident, but this time he was attacked violently by the *Knoxville Journal* as a Communist sympathizer who had been associated with twenty-seven left-wing movements since 1940. (Three days later the *Journal* raised the number to fifty-five!) The paper demanded an investigation into the propriety of Crane's appearance on the UT campus.<sup>47</sup> Undaunted by the assault, Crane in his address, titled "The Fate We Face," denounced the "so-called Patriots" who threatened democracy by their contempt for free speech. "Democracy thrives on controversy," Crane warned, "but it dies if you try to shut it up."<sup>48</sup>

While the *Journal* continued to criticize UT for allowing Crane to appear on the campus, there was no administrative response. The only reply was a letter to the *Journal* from the associate dean of liberal arts, Kenneth Knickerbocker, protesting the effort to smear Crane by his associations with various organizations. "The basic test of freedom," Knickerbocker wrote, "is the freedom to be wrong in one's opinions without being sent to Siberia."<sup>49</sup>

Three years later another incident was more disturbing to the trustees. It involved George Soule, an economist who had been appointed visiting professor for the 1961-1962 academic year. The department of Economics was about to embark on a doctoral program and wanted an economist of stature to strengthen the faculty for this purpose. The department was delighted when Soule accepted the invitation to come to Knoxville. Soule, the author of fifteen books, had been recommended by Arthur Burns, president of the National Bureau of Economic Research and formerly chairman of the Council of Economic Advisers under President Dwight Eisenhower. Burns had lauded Soule as an "economist of extraordinary range and ability."<sup>50</sup>

A month after his arrival, Soule gave a luncheon address to the Knoxville Economic Club, a group headed by Lewis Sinclair, a black economist at TVA. The *Knoxville Journal*, in reporting the event, noted that Sinclair was also a director of Knoxville's Highlander Research and Education Center, formerly the Highlander Folk School, located at Monteagle, Tennessee.<sup>51</sup> To conservatives, the center was suspect because it brought black and white union members together in

<sup>47</sup> *Knoxville Journal*, 24, 27 January 1958.

<sup>48</sup> *Knoxville News-Sentinel*, 31 January 1958.

<sup>49</sup> *Knoxville Journal*, 30 January 1958.

<sup>50</sup> UT Board of Trustees Minutes, 10 November 1961, UTK Archives.

<sup>51</sup> *Knoxville Journal*, 12 October 1961.

workshops that trained and interracial relations.

The editor of the trustee that Soule had taught Fabian Socialism should not be used to the free enterprise system publicly in his newspaper to remedy the situation. A pamphlet published by the influence of the Board and the left-wing in the department there. Some group who taught Fabian

The trustees demanded who passed the task Spivey, in turn, asked a report. Holly's report charges: Keynes was not a socialist nor a Center; the National a director, was highly Soule's writings showed the American economic reservations about the foundation."<sup>53</sup>

President Holt advised of the Board of Trustees evidence coming from and the California State purportedly tied Soule to organizations. Holt, an economist, he was Holt continued so Socialist, it might not. When asked whether he responded that there

<sup>52</sup> Guy Smith to Jerry Trustees Minutes.

<sup>53</sup> Fred Holly to Vice UTK Trustees Minutes.

he was attacked violently by a sympathizer who had been active since 1940. (Three copies to fifty-five!) The paper's report of Crane's appearance on the "so-called Patriots" who were for free speech. "Democracy dies if you try to shut it

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a luncheon address to the by Lewis Sinclair, a black reporting the event, noted's Highlander Research and Folk School, located at s, the center was suspect on members together in

workshops that trained them in labor organization, voting procedures, and interracial relations.

The editor of the *Journal*, Guy Smith, followed by writing a UT trustee that Soule had close connections with Harvard economists who taught Fabian Socialism. Smith said that Tennessee taxpayer money should not be used to pay a professor who taught the destruction of the free enterprise system. Smith threatened to air the whole matter publicly in his newspaper unless the trustees took prompt action to remedy the situation. To support his charges, Smith enclosed a pamphlet published by a conservative group at Harvard that described the influence of the British economist John Maynard Keynes at Harvard and the left-wing ideology his ideas brought to the Economics department there. Soule was mentioned as one of the members of the group who taught Fabian Socialism.<sup>52</sup>

The trustees demanded an explanation from President Andrew Holt, who passed the task on to the academic vice president, Herman Spivey. Spivey, in turn, asked the Economics department head, Fred Holly, for a report. Holly's report was an utter repudiation of the *Journal's* charges: Keynes was not a socialist but a classical economist; Soule was not a socialist nor did he have any association with the Highlander Center; the National Bureau of Economic Research, of which Soule was a director, was highly regarded by American business corporations; Soule's writings showed a "full appreciation of the accomplishments of the American economy"; and as far as Holly was concerned, any reservations about Soule's loyalty were "completely without foundation."<sup>53</sup>

President Holt added his own support for Soule at a heated meeting of the Board of Trustees on November 10. One trustee introduced new evidence coming from the House Un-American Activities Committee and the California State Subcommittee on Un-American Activities that purportedly tied Soule to a variety of Communist or Communist-linked organizations. Holt insisted that while Soule might be called a "liberal" economist, he was not a Communist, a Socialist, or a Fabian Socialist. Holt continued somewhat facetiously that even if Soule were a Socialist, it might not be such a bad thing to have one on the faculty! When asked whether he would ever appoint a known Socialist, Holt responded that there was no constitutional bar to doing so. The trustee

<sup>52</sup> Guy Smith to Jerome Taylor, 12 October 1961, Exhibit 2 to UT Board of Trustees Minutes, 10 November 1961, UTK Archives.

<sup>53</sup> Fred Holly to Vice President Herman Spivey, 24 October 1961, Exhibit 4 to UTK Trustees Minutes, 10 November 1961, UTK Archives.

<sup>51</sup> UTK Archives.



Andy Holt, UT president from 1959 to 1970. *Courtesy UTK Special Collections.*

persisted in his attack, charging that the administration had allowed a suspect faculty member to "slip into" the University. Indeed, he went so far as to suggest that since Soule had not instituted a libel action against the *Knoxville Journal*, he had confessed his guilt. Finally, the trustees, dissatisfied with Holt's responses, entertained a motion to establish a committee of three trustees to screen all future faculty appointments.

Holt objected vehemently to the University. When the committee in the administration expressed a lack of confidence in him, he recommended faculty trustees to back down, but he felt that such a course can not happen again.

In the resolution of the trustees made clear that patriotism and loyalty was to bar UT faculty from the Highlander Center. He prevented faculty members from agreeing to keep them interested, but it did not.

Twice during the 1960s, Holt's connections with it led to his resignation in April 1963 the Knoxville Journal reported that an "axis" existed between the Student Center and Reverend Ewell J. R. Reagin, who was targeted for attendance at the Highlander during the 1960s. Reagin's critics at these meetings were the minister at Knoxville, who was a graduate of the University and received a Bachelor of Divinity from the Church in Bowling Green.

Reagin responded to the charges as "false" and "defamatory." The Highlander, denied its primary function, was used on contemporary issues.

54 UT Board of Trustees

55 *Ibid.*

56 *Knoxville Journal*,  
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57 *Knoxville Journal*



courtesy UTK Special Collections.

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Holt objected vehemently to this interference with the administration of the University. When pressed to promise to establish a similar committee in the administration, he refused, stating this would imply a lack of confidence in the deans and department heads who recommended faculty appointments. Holt's firm stand caused the trustees to back down, although some of them grumbled that "this just can not happen again."<sup>54</sup>

In the resolution of the matter, although they took no formal action, the trustees made clear to Holt that UT should employ no one "whose patriotism and loyalty" were in doubt. A special admonition to Holt was to bar UT faculty members from any association with the Highlander Center. Holt would not go as far as one trustee wanted—to prevent faculty members from even speaking at Highlander—but he did agree to keep them from teaching at the school. There the matter rested, but it did not end.<sup>55</sup>

Twice during the next five years the Highlander Center and UT's connections with it became the focus of further public controversy. In April 1963 the *Knoxville Journal*, in a series of two articles, charged that an "axis" existed between the Knoxville campus's Presbyterian Student Center and the "Communist leaning" Highlander Center. The Reverend Ewell J. Reagin, head of the student center, was specifically targeted for attending "a famous Communist training session" at Highlander during the Labor Day weekend of 1957. Again, what agitated Highlander's critics most was that blacks and whites were both in attendance at these meetings.<sup>56</sup> Reagin, age thirty-five, was the son of the minister at Knoxville's First Cumberland Presbyterian Church. He was a graduate of UT, had attended divinity school at Vanderbilt, received a Bachelor of Divinity degree from the University of Chicago, and formerly served as student pastor of the Cumberland Presbyterian Church in Bowling Green, Kentucky.

Reagin responded to the *Journal's* charges by denouncing them as "false" and "defamatory."<sup>57</sup> Myles Horton, founder and director of Highlander, denied that the center was a Communist organization. Its primary function, he pointed out, was to educate adults in the South on contemporary social issues, and it had been granted tax exemption

<sup>54</sup> UT Board of Trustees Minutes, 10 November 1961, UTK Archives.

<sup>55</sup> Ibid.

<sup>56</sup> *Knoxville Journal*, 30 April, 1 May 1963; *The Southern Patriot* [Southern Conference Educational Fund], 21 (September 1963): 3.

<sup>57</sup> *Knoxville Journal*, 2 May 1963; *Orange and White*, 3 May 1963.

by the U.S. Treasury as a public service agency.<sup>58</sup> The *Orange and White* added the information that Highlander did not appear on the U.S. attorney general's list of subversive organizations.<sup>59</sup>

Students rushed to Reagin's defense. One called the *Journal's* charges "scandalous." Another lauded Reagin's concern for social justice.<sup>60</sup> The Wesley Methodist Center on the campus acquired over three hundred signatures to a public statement protesting the *Journal's* "false and malicious" statements and its McCarthyite tactics of attempting to discredit people through "guilt by association" and affirming its complete confidence in Reagin's integrity and loyalty. The petition was published as a paid advertisement in the *Knoxville News-Sentinel*. When it reappeared in the *Orange and White*, the petition carried over four hundred names.<sup>61</sup> An editorial in the *Orange and White* expressed similar sentiments and particularly criticized the *Journal* for attacking the Presbyterian Student Center for the alleged association of its director with the Highlander Center. This constituted a "form of trial by newspaper" that was undemocratic.<sup>62</sup>

The directors of the Presbyterian Center took official action to support Reagin. After a five-and-a-half hour session, the Board of Directors pronounced its confidence in his "integrity, Christian dedication, and loyalty." Rejecting the *Journal's* charges, the board decried the "dangerous habit of arousing suspicion through the reckless use of subversive labels for those with whom one disagrees." Other statements of support came from the Knoxville Roundtable of the National Conference of Christians and Jews and the United Presbyterian Church, U.S.A. UT's academic vice president, Herman Spivey, expressed his personal view that the *Journal* had not offered any evidence to support a charge of disloyalty against Reagin. Officially, Spivey dissociated the University from the controversy by stating that UT had no control over the religious centers that provided services to students.<sup>63</sup>

The climax of the controversy was not favorable to Reagin or the Presbyterian Center. The adverse publicity generated by the *Journal's* charges influenced the Appalachian Synod of the Presbyterian Church, U.S. (South), which had provided 60 percent of the student center's

<sup>58</sup> *Orange and White*, 3 May 1963.

<sup>59</sup> *Ibid.*, 10 May 1963.

<sup>60</sup> *Ibid.*, 3, 14 May 1963.

<sup>61</sup> *Ibid.*, 7, 14 May 1963; *Knoxville News-Sentinel*, 8 May 1963.

<sup>62</sup> *Orange and White*, 3 May 1963.

<sup>63</sup> *Ibid.*, 3, 7, 10 May 1963.

financial support, to void subvention. In taking this step, implying "in any manner disloyal to our country," the decision was the result of emphasis, methods, and procedures constituted."<sup>64</sup>

The Presbyterian Student Center's financial crisis; it was the Appalachian Synod of the United Presbyterian Church provided 40 percent of the center's support by the southern churches. The Knoxville for another year to pursue graduate studies again in the news. This was the History department's anti-Communist crusade carried a banner headed Highlander workshop. The workshop, mystifying, as the story appeared in June 1964. Once again, a variety of other groups were involved by the House Un-American Activities workshop was not described.

In fact, Graf explained the Populist movement in terms of farmers united to protest against rates. Graf had no connection with a favor to Myles Horton. Graf's neighbor on Lincoln Street

Apart from a few letters criticizing him, the affair incident did not affect his head for fifteen years. For twenty, was named and commanded widespread

<sup>64</sup> *Ibid.*, 29 October 1963.

<sup>65</sup> Personal information from the Student Center, 13 May 1965.

<sup>66</sup> *Knoxville Journal*, 3 May 1963.

<sup>67</sup> *Ibid.*, 21 April 1965.

agency.<sup>58</sup> The *Orange and* under did not appear on the organizations.<sup>59</sup>

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t favorable to Reagin or the y generated by the *Journal's* l of the Presbyterian Church, cent of the student center's

financial support, to vote at its October 24 meeting to discontinue that subvention. In taking this action, the synod announced that it was not implying "in any manner that the director of the center has been disloyal to our country." On the other hand, it conceded that its decision was the result of "unresolved differences concerning emphasis, methods, and administration of the center as presently constituted."<sup>64</sup>

The Presbyterian Student Center survived the controversy and the financial crisis; it continues to serve students today. The Mid-South Synod of the United Presbyterian Church, U.S.A. (North) which had provided 40 percent of the Center's support made up the loss created by the southern church's withdrawal. Ewell Reagin remained in Knoxville for another two years before leaving, under pressure, to pursue graduate studies in Chicago.<sup>65</sup> By then Highlander and UT were again in the news. This time it was LeRoy P. Graf, newly named head of the History department, who was the target of the Knoxville *Journal's* anti-Communist crusade. A story in the paper on March 30, 1965, carried a banner headline proclaiming that Graf had assisted in a Highlander workshop. Why this was news on that date was somewhat mystifying, as the story disclosed that Graf's appearance had been in June 1964. Once again, the paper linked the Highlander Center through a variety of other groups to one that was labeled a "Communist front" by the House Un-American Activities Committee. Graf's role in the workshop was not described.<sup>66</sup>

In fact, Graf explained, all he had done was deliver a lecture on the Populist movement in U.S. history, a period when black and white farmers united to protest low agricultural prices and high railroad rates. Graf had no connection with the Highlander Center but spoke as a favor to Myles Horton, Highlander's director, who happened to be Graf's neighbor on Little Switzerland Road off Chapman Highway.

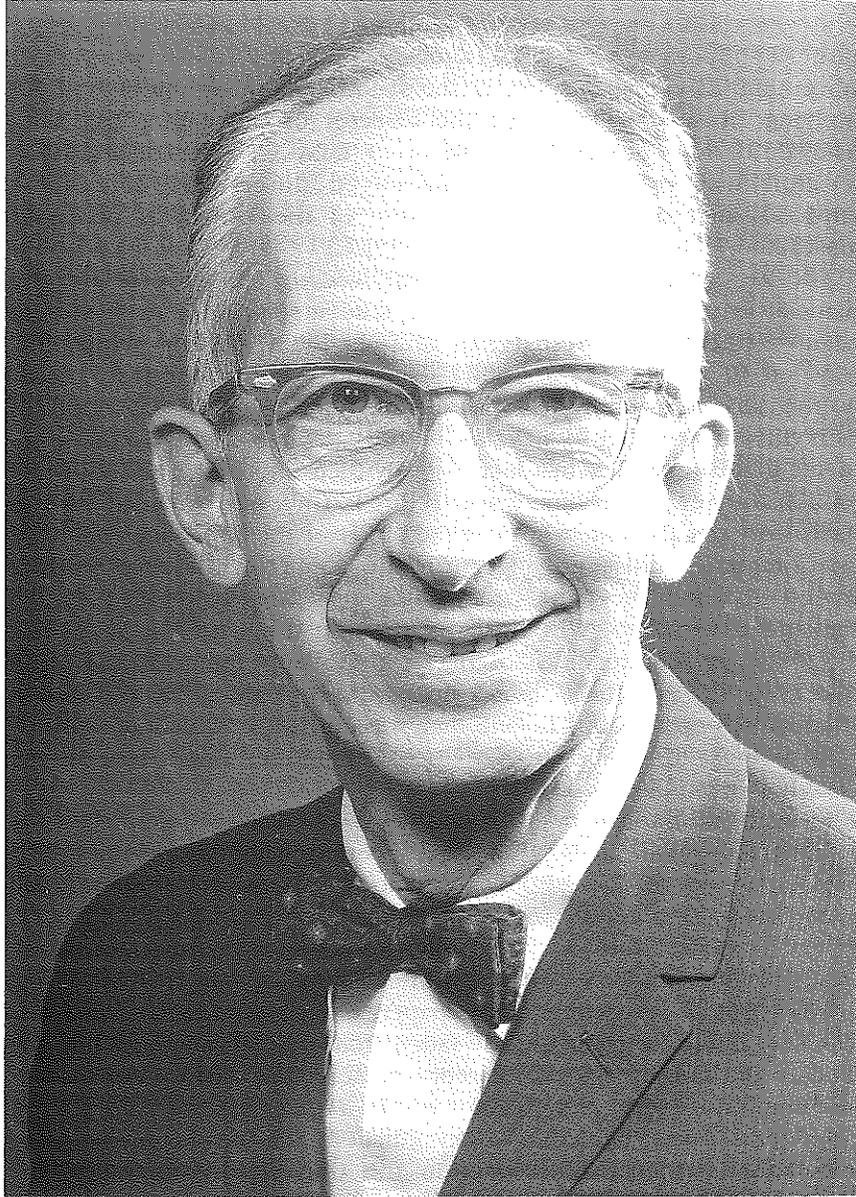
Apart from a few letters in the paper, one supporting Graf and one criticizing him, the affair quickly faded from public view.<sup>67</sup> While the incident did not affect Graf's career—he served as History department head for fifteen years and coeditor of *The Papers of Andrew Johnson* for twenty, was named a Distinguished Service Professor, and commanded widespread respect in the University community, the

<sup>64</sup> Ibid., 29 October 1963.

<sup>65</sup> Personal information from Ewell Reagin; Minutes of the UT Presbyterian Center, 13 May 1965.

<sup>66</sup> Knoxville *Journal*, 30 March 1965.

<sup>67</sup> Ibid., 21 April 1965.



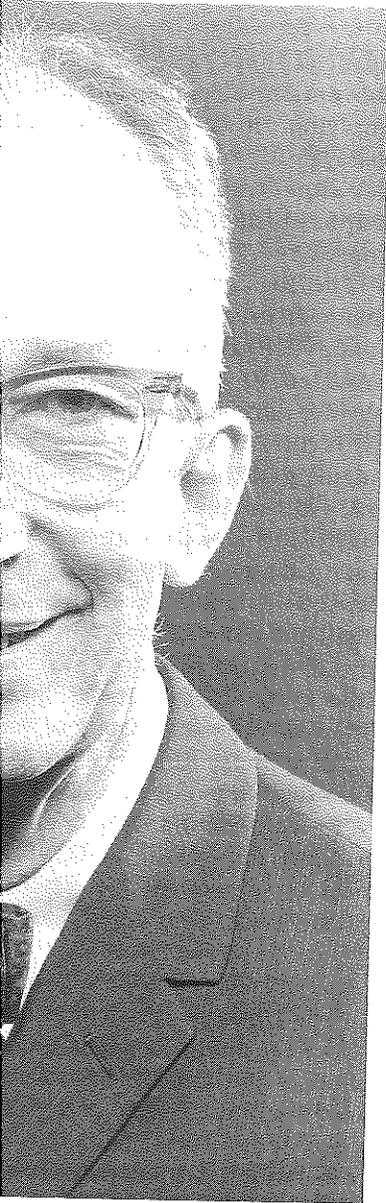
UT History department head LeRoy P. Graf, whose lecture at the controversial Highlander Center brought bad publicity for the University in 1965. *Courtesy UTK Special Collections.*

Knoxville area, and the easily forgotten. Years later charge "was the equivalent of someone connected to

By 1970 the repression on university campuses became stigmatized as Communist. Even received monetary aid and 1960s left their schools became the "silent generation" less outspoken on political issues reflected the national mood. "American Inquisition" was as on other campuses. The University was more tolerant of dissent. There were fewer targets there.

In the aftermath of the 1950s, the University was left with the U.S. Second Circuit Court of Appeals that "where each man is free to follow his own conscience where non-conformity is not disaffection, [and] . . . the University community "is already a legacy of the McCarthy era."

68 *Knoxville Journal*, 2  
69 Gerald Gunther, *Learned in Liberty*, 588.



whose lecture at the controversial  
the University in 1965. *Courtesy*

Knoxville area, and the world of historical scholarship—it was not easily forgotten. Years later Graf reflected that in 1965 the *Journal's* charge “was the equivalent of tagging someone, if not a communist, someone connected to nefarious activities. It was bad publicity.”<sup>68</sup>

By 1970 the repressive atmosphere of the previous two decades on university campuses began to wane. Faculty members who had been stigmatized as Communist sympathizers were rehabilitated, and some even received monetary retribution. But the controversies of the 1950s and 1960s left their scars, even when not visible. College students became the “silent generation”; their instructors played it safe and were less outspoken on political matters. The University of Tennessee reflected the national mood. If what some historians have called the “American Inquisition” did not occur at UT with the same vehemence as on other campuses, it was not because the Knoxville community was more tolerant of unorthodox viewpoints; it was simply that there were fewer targets there for the attacks of fervent anti-Communists.

In the aftermath of the era, the UT campus, along with other universities, was left with the sober warning of a distinguished judge of the U.S. Second Circuit Court, Learned Hand, who in 1952 had written that “where each man begins to eye his neighbor as a possible enemy, where non-conformity with the accepted creed . . . is a mark of disaffection, [and] . . . where orthodoxy chokes freedom of dissent,” a community “is already in process of dissolution.” It was a forbidding legacy of the McCarthy years.<sup>69</sup>

<sup>68</sup> Knoxville *Journal*, 3 June 1985.

<sup>69</sup> Gerald Gunther, *Learned Hand: The Man and the Judge* (New York, 1994), 588.