

## MEETING OF DECEMBER 15, 2016

President Lee Bollinger, the chair, called the Senate to order shortly after 1:15 pm in the Davis Auditorium, in CEPSR, Schapiro Engineering Building. Fifty-three of 99 senators were present during the meeting.

**Minutes and agenda.** The agenda was adopted as proposed. The minutes of November 20 were adopted with a few corrections offered by parliamentarian Howard Jacobson.

**President's remarks.** The president characterized the semester now coming to an end as wonderful, but complicated. He mentioned again the historic occasion of the creation of a new campus. He repeated his sense of wonder that within five years there will be 5,000-6,000 Columbia people inhabiting this new campus, which he hoped to see integrated into the life of the University. This is a milestone in the history of the institution.

The president looked forward to the spring semester, when he hoped to announce some wonderful developments, which he could not now say any more about.

The president spoke about the recent presidential election and some of its implications for the University. He said no institution is more committed than Columbia to freedom of speech and freedom of thought. He said it was essential to ensure that full and rich discussions are going on across the campus. He worries sometimes that Columbia people who hold views that are not popular here at the moment—for example, supporters of President-elect Donald Trump—face obstacles in participating in discussions. He didn't mean that people shouldn't be emotional and vigorous in presenting their views, but that Columbia needs to make special efforts to ensure that everybody's viewpoint is included in the discussion.

The president said the University has to be sure it is prepared to fight for freedom of speech, not only here but elsewhere. He said changes to current applications of the principle of free speech could come in many forms. For example, there have been direct statements about changing the principle underlying the *New York Times v. Sullivan* decision to make it much easier to sue the press and others for defamation; there have been statements that people who burn the flag should lose their citizenship or go to jail for a year, which, as has been pointed out, constitutes a double violation of the First Amendment as the nation has come to know it; more people could be prosecuted for leaking information, or publishing classified documents. He said that based on statements already made, the society may be facing the most significant set of challenges to the jurisprudence for free speech and a free press since the 1950s.

The president asked Sen. Vincent Blasi (Ten., Law), a longtime colleague, for his opinion. Sen. Blasi said the current challenge to free-speech norms may be the greatest in his and the president's adult lifetimes.

The president said many policies under consideration now could have a serious impact on Columbia itself. He said immigration is immediately at risk. Provost Coatsworth had issued a statement of support for students at Columbia who may be challenged because of their immigration status. There are also questions in the air about university endowments and how they should be spent, and about climate change. He said Columbia's research program in this field may be unsurpassed. There are issues about diversity and affirmative action, and a vacancy on the Supreme Court. The president doubted that the situation for affirmative action would change much at this point, given the strong affirmation of the 2003 *Grutter* decision in *Fisher 2*. But two new appointments to the Supreme Court could shift that balance and bring major changes. With all of these uncertainties, Columbia was facing a different and challenging world.

The president reaffirmed his statement from the Hamilton Dinner in November that Columbia, as a university, does not take positions on political issues. All Columbia employees can take whatever positions they want in their private lives. Faculty are fully protected in their jobs and professional lives no matter what they say about public issues. Students are also completely free to take whatever positions they want. But the university does not take positions. This issue dates from the 1960s, when many called on universities to take a position against the Vietnam War. Columbia has no position as a university on such serious issues as the Syrian War, or trade policy, or tax laws. The university's job is to look objectively, not ideologically or in a partisan way, at major human and scientific issues and to try to advance knowledge; furthermore, the university doesn't want to invite retaliation for siding with one particular viewpoint, or to become embroiled in internal disputes about which positions it should be taking. All of that would detract from Columbia's basic mission.

At the same time, the president said, there are certain values and principles that the university should stand for, not only within the institution but as an American institution that has a stake in the society. Those values include diversity and affirmative action. He said affirmative action is critical to Columbia's educational mission. His own view was that affirmative action, despite the complexities of the *Bakke* decision and other arguments, is a responsibility of every major institution in the society, to help the United States overcome a history of slavery and discrimination. Another issue, in his view, is freedom of expression, which he considered fundamental not only to the mission of a university but to society as a whole. He said the centrality of this principle does not mean people can't disagree about hate speech or the boundaries of libel. For society as a whole, universities should oppose invidious attacks, discrimination against groups, and the deliberate dissemination of falsehoods. Columbia should, as an institution, take a position on the basic truth of climate change or the theory of evolution.

The president said there was a zone in which the university could operate, though the parameters were not entirely clear to him. The boundaries are clearer in the realm of affirmative action, he said, since universities can express institutional positions in the legal system through litigation or amicus briefs. But a new institute on freedom of speech and press, linked to Columbia in a 501(c)(3) relationship, will also engage in litigation and play a very active role for the institution.

The president repeated that Columbia does not take political positions, but it may nevertheless uphold a set of vital principles that society appears to be rejecting. The president said he offered this formulation not as the end of discussion, but as the beginning. He invited everyone to participate in this discussion, and to challenge his idea of a permissible special zone of institutional activity in society that is distinct from other political activity. He recognized the ambiguity of this distinction. But he said he dwelt in a world of ambiguity, which is his forte and his life.

Sen. Sean Ryan (Stu., CC), a co-chair of the Student Affairs Committee, said many students, alumni and other community members had objected to the University's decision earlier in the week to forbid the Columbia University Marching Band to enter Butler Library on December 15 to continue the 41-year-old tradition of Orgo Night, an hour-long event that takes place once a semester. While he understood the University's interest in maintaining the libraries as academic spaces, he argued that the Orgo Night tradition is more important than the short disruption of academic study that it causes.

Sen. Ryan said students were particularly concerned about the timing of the decision, which was made only a few days before the scheduled performance. He asked how students can be included in deliberations leading to such a consequential decision?

The president said he was open to giving as much time as needed to consider a decision of this kind. But he thought there had been sufficient time in this case. On the merits of the case, he said Ann Thornton, the new head of the Libraries, had received a number of complaints from students about the expected disruption of their study time. He said the complaints had nothing to do with the content of the speech in the Band's Orgo Night performance—quite the contrary. There was also a full effort to provide adequate alternative space in Lerner Hall. Columbia has rules against disruption, and the fact that the disruption had recurred over a period of time did not seem to him a good argument for continuing it. And if other people decided to commit some other disruption, the University would be hard put to justify having permitted one disruption but forbidden another. So it seemed reasonable to him to allow the band to express itself in some other space.

Provost John Coatsworth said the administration was basically asking the students to reinvent their tradition in such a way as to avoid disrupting the study of other students in the library. He expressed confidence that Columbia undergraduates had the imagination to find a way to make Orgo Night even greater than in the past, without interfering with the rights of other students.

Sen. Ian Lipkin (Ten., Public Health) said he appreciated the president's earlier remarks on the university's response to the current political climate, and hoped they would be written up.

Sen. Robert Pollack (Ten., A&S/Natural Sciences) agreed with Sen. Lipkin. He added that he had overturned a 182-year-old tradition when he had overseen the admission of women to Columbia College as dean in 1983, and argued that it is always reasonable to reconsider a tradition for the sake of the greater good.

Sen. Ronald Breslow (Ten., A&S/Natural Sciences) guessed that he was the only professor in the present group who actually taught organic chemistry. He said it isn't a good message to make a joke out of the serious business of learning chemistry. He said he would be happy to get rid of the Orgo Night tradition. He had never heard of it at any other institution, and didn't understand why Columbia alone considers it acceptable to make fun of people who are trying to learn what they need to know to get to medical school and other destinations. Sen. Breslow said the only argument for Orgo Night seemed to be that it had been done before. He said slavery was something else that had been done before.

Sen. Ryan objected to the comparison to slavery. The launch of Orgo Night was in 1975, when the marching band entered Butler Library to entertain students studying for their Orgo finals. The purpose was to decrease stress and bring a community together. The jokes at Orgo Night are not about the orgo students but about the community at large.

Sen. William Duggan (NT, Business) said the Columbia Marching Band is famous for its creativity. Now could be the time for creative thinking, and the start of a new tradition.

Sen. Andrew Boyd (Stu., Arts) said he was speaking for himself, and not the Student Affairs Committee. He asked where the university draws the line between acceptable free expression and hate speech. For example, recently the avowed white nationalist Richard Spencer was invited to speak at the University of New Mexico. A group of protesting students tried to keep him from speaking, because they believed his message was inherently dangerous and hateful. The protesters were dragged out of the room forcibly by security. In a political climate where white nationalists, white supremacists and Nazis are closer to power in the United States than ever before, will Columbia provide a platform for them?

The president said this is a complex subject, which he undertook to summarize. He said freedom of expression is one of those principles that the university should defend actively. But he was aware that within that principle, there is room for debate, for example, about whether hate speech should be protected. Some societies don't protect hate speech; the U.S. does, but it hasn't always. Another debatable issue is the boundary for libel.

The president said Sen. Boyd's example was also complex. But he said that if the Grand Wizard of the Ku Klux Klan were invited to speak on campus, Columbia should protect that arrangement. Student groups, schools, and faculty can invite speakers. That was the situation with the Iranian president, Ahmadinejad, who was invited by SIPA in 2007. The president believed that that arrangement had to be defended. He also felt there had to be a full discussion, a responsibility that fell upon him. People criticized this decision, which may have been a mistake. But he had no doubt about the role of the University in defending a school's choice of a speaker, no matter how bad the content of that person's speech.

The president added that Sen. Boyd had raised the troubling issue of how speech can legitimate private violence. This is a classic problem of propaganda in societies that turn authoritarian, in which leaders and others take positions that they know or have reason to know will be followed by private acts of severe threats and violence, and that becomes a way of intimidating, chilling, reducing the sense of security. The president had no doubt that such a process was occurring

now, and he worried that it would continue to grow. He said it was necessary to take steps to protect the Columbia community from that kind of incited private violence. At the same time, he said Columbia as an institution must ensure that the basic norms of open discourse are preserved.

Sen. James Applegate (Ten., A&S/Natural Sciences) thanked the president for his comments. As someone who had been on both sides of controversial issues at Columbia over the years, he said he could not count the number of exchanges in which someone says, in effect, “Of course I’m for freedom of expression, but we want to exclude hate speech.” He said the Supreme Court has already defined hate speech. But the next move in the Columbia debate is often a definition of hate speech particular to Columbia or to his interlocutor that is so restrictive as to exclude anything the person doesn’t like. And the result is an environment in which discussion of controversial issues, such as affirmative action, immigration reform, the last election, and a host of other issues, becomes difficult. Such definitions of free speech can amount to endorsements of free speech for the speaker, and the freedom to censor others.

The president said Sen. Applegate’s point reminded him of what he was trying to say earlier—that what we think of as freedom of expression is not our first instinct. That instinct is to say we support free speech, but in fact we prefer not to be confronted with ideas we don’t like. That’s why the principle of free speech is in the Constitution. If it were left to legislatures the resulting environment would be highly restricted. The First Amendment requires us to recognize again and again that people’s natural impulse is not to be open, even though they may say they are open. In opening talks at student convocations and in classes, the goal is to inculcate a spirit of greater openness than young people are inclined to practice—an effort that older people like himself have to keep working on as well. The president said it is also now claimed that the structure of discussions in the modern technological world of the internet and social media plays into that natural human impulse only to be around people and opinions that one is comfortable with. So not only is human nature inclined against free speech, but we design systems and technologies that make it even easier to fall prey to our own impulses. A constant effort is required to assure that we are more open than we are inclined to be.

At the same time, the president said, a lot of hurtful, harmful things happen because of free speech. He said First Amendment scholars like himself and Sen. Blasi spend their careers trying to understand this phenomenon, and the need for the creation of a kind of character capable of surviving in this harsh environment. Part of the challenge is for institutions and society to be prepared to help people who are the victims of this great principle. So routinely something horrible is said that is really hurtful to some group on campus. We think that’s bad, the president said, but we’re not going to censor the speech. We have to be there ready to answer it, to help the victims of it, but also to draw a line and not go too far in helping these people because then we may be chilling or discouraging the very temperament and character we want. On the other hand, we don’t want to be insensitive and dull to the human costs of this. These are complicated lines to draw, the president said, but that’s the framework in which we have to live.

Sen. Ramond Curtis (Stu./General Studies) raised the issue of the claim that there was external tampering with the democratic process in the recent presidential election. He asked if Columbia would address this issue publicly.

The president said this was another important question, but he did not expect Columbia to take a position on it. He could imagine it as part of a more comprehensive position the institution might take later on the state of freedom of expression in the society. On the other hand, Columbia's new Knight First Amendment Institute, led by Jameel Jaffer, might decide to take some action on this question. And other faculty are thinking about this issue, and deserve encouragement, the president said. This question is also important enough to stimulate new research, teaching, and action. The president mentioned a recent column in Time magazine by his close friend and former colleague Geoffrey Stone of the University of Chicago about the role of the electoral college in the face of the issue of foreign intervention in the American democratic process. The thesis of the column is that the electoral college was set up precisely to moderate the choices of the popular election, and to protect against foreign interference. Prof. Stone argues that the electoral college should take these issues into account, as well as a variety of actions by Donald Trump, including falsehoods, and make the courageous decision to vote against him. The president said the main point for him is that there is important work for scholars to pursue.

**Executive Committee chair's remarks.** Sen. Sharyn O'Halloran (Ten., SIPA) noted that the American government is not a pure democracy but a democratic republic, and therefore has indirect presidential elections.

Sen. O'Halloran thanked senators for their hard work in the term now coming to an end. She looked forward to a statement on freedom of expression that the Faculty Affairs and Student Affairs committees were working on.

The president noted that Michael Kimmelman, architecture critic for *The New York Times*, had listed two Columbia buildings in his top ten for the year: the Vagelos education building at CUMC and the new Jerome Greene science building in Manhattanville.

**New business.**

*Resolution to Establish the Wednesday Before Thanksgiving as an Academic Holiday, Starting in 2017* (Education, Student Affairs).

Education Committee co-chair James Applegate said the resolution had been presented and discussed at the previous plenary. He said the Barnard faculty had requested time to consider it, and were now comfortable with it. The Planning and Policy Committee of the Arts and Sciences faculty had discussed the idea, which had received no comment at the A&S faculty meeting on December 14.

Sen. Applegate summarized the rationale for the resolution that he had presented in detail at the November 20 plenary.

Sen. Grace Kelley (Stu., Nursing), a Student Affairs Committee co-chair, said the leadership of SAC the year before had worked hard on this initiative. She thanked Vice Provost Melissa Begg for her help in moving the measure forward, as well as the Registrar's Office and the Education Committee. She said this new policy will be especially important for international students, who have to travel the farthest on this holiday.

President Bollinger asked what percentage of classes are actually cancelled on the day before Thanksgiving. Sen. Applegate said he didn't think the fraction was large. He said he has held classes on that day over the years, but he confessed that this year he cancelled that class.

He repeated his earlier explanation that there would be a net loss of one class.

Howard Jacobson, the parliamentarian, said the University Statutes provide that the Senate "fixes" the academic calendar for the succeeding year. So there would be no classes on that day in 2017.

The president understood that this was a final decision.

Mr. Jacobson said the University Statutes discuss the academic calendar in two passages. One is in the section under Powers of the Senate, where it says the Senate "fixes" the academic calendar for the succeeding year, as well as the date of Commencement. In addition, Section 390 lists Faculties—mostly graduate and professional schools—that have successfully requested variances from the fixed academic calendar. He mentioned Law, Journalism, Business on Morningside and Medicine, Dental Medicine, and Public Health at CUMC.

The Senate then voted unanimously to adopt the resolution.

### **Reports.**

*Student Affairs on the Lion Credit Union Initiative.* Sen. Ryan introduced Alvaro Rossi, the CEO of the Lion Credit Union Initiative and a student in Columbia College. He said the LCU was founded by undergraduates in 2013 to help students manage money, build credit, and pursue financial security, and to enable students to educate themselves and one another about finances. Many students, before and even during their time at Columbia, have had no exposure to this kind of information.

Sen. Ryan said 23 of the other top 24 research institutions in the nation have affiliated credit unions. He said SAC had supported the current Columbia initiative for several years. He noted that the LCU is available to all University Senate constituents, as well as their significant others and dependents. The next step is to secure final institutional approval from Columbia, with space on campus and branding and marketing support.

Mr. Rossi then delivered his presentation, referring closely to a set of [slides](#).

Sen. Lipkin praised the presentation, and raised the issue of liability. What if people don't pay back loans? The result is an adversarial relationship between the credit union and the borrowers. Who's responsible, the University? The credit union?

Mr. Rossi said that at least in the early stages, the liability would be incurred by the credit union.

Sen. Eli Noam (Ten., Bus.) expressed enthusiasm about the idea. He said his first impression was that this would be a small student-run operation. But now the Senate was hearing that Columbia would be affiliated with a billion-dollar operation, with 90,000 members, and involved with

companies like IBM. So Columbia will really be a little fish in a large pond, with the educational advantages Mr. Rossi had described perhaps marginalized. He asked Mr. Rossi to talk about the three finalists in this competition, and why U.S. Alliance was chosen over the other two. For example, what about user satisfaction apart from the question of the lowest interest rate? What about the differences between the people who do get loans and those who don't? It's always possible to provide a low interest rate to someone who meets very strict eligibility criteria. What about comparative performance ratios among the finalists, a question that raises the issues of liability and responsibility?

Mr. Rossi replied, on the question of size, that the number of credit unions has declined by two thirds since 1970, but the quantity of members and the value of assets in credit unions have increased by a comparable amount. The trend is essentially consolidation because of the scale of the capital investment needed to provide a mobile platform, a website, and everything else that banking customers expect as standard services. One of the other finalists was about the size of U.S. Alliance, and the other one was the United Nations Federal Credit Union, which, at \$4 billion, was four times larger. The key reason for choosing U.S. Alliance was precisely the one Sen. Noam had identified—that Columbia's role in a company like the UNFCU would be so insignificant that the idea of new products designed for the Columbia community would be out of the question. Once it became clear that the rates were pretty comparable among the three finalists, the final choice relied on a decision matrix which had been previously shared with the Columbia administration, and which relied more heavily on user satisfaction as a criterion, as well as the quality of their apps, the size of their network, and the accessibility of their services.

Sen. Daniel Savin (Research Officers) said he represented 1,300 postdoctoral researchers who have almost no savings when they come to the University, which does not have enough housing to accommodate them all. So some of them must use the New York City housing market, which often requires a broker's fee, first and last month's rent, and a security deposit. Could the new credit union provide low-interest loans to incoming post-docs to help them rent an apartment while they're at Columbia?

Mr. Rossi understood Sen. Savin to be talking about personal loans, which were not commonly mentioned in responses to the survey that went to the Columbia community. But Mr. Rossi noted that rates for personal loans, as well as auto loans and consumer loans, are actually lower with U.S. Alliance than with Santander or other current banking partners. So the new credit union could offer such loans at lower than current rates.

The president thanked Mr. Rossi for the report, and adjourned the meeting shortly after 2:30 pm.

Respectfully submitted,

Tom Mathewson, Senate staff