

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office

March 28, 2000

LB 1405

powers and duties of the Regents a legislative act must not be so detailed and specific in nature as to eliminate all discretion and authority on the part of the Regents as to how a duty shall be performed." Now that is precisely what this bill does. It absolutely destroys the discretion of the Board of Regents in the matter of what issues shall be researched and what issues shall not be researched. This bill is conclusively unconstitutional. It never should have been introduced, it never should have been advanced by the committee, and it never should have been voted on, and I did not vote on it, because I am so appalled that an unconstitutional bill like this could be brought before this Legislature. I want to read another paragraph, which is historically significant, from the Supreme Court's opinion. It's the one that I have highlighted in the bill, it is the fourth paragraph on page 4. And I quote, "It is of some significance that the Board of Regents established by the act of 1869 consisted of 12 members, 9 of whom were appointed by the Legislature. At the Constitutional Convention in 1871, while the proposal which is now Section 10 of Article VII under our Constitution, some of the delegates stated that the general government of the University should be placed with 'persons who will be charged specifically with that business' and who were 'separate and beyond all political influences'. The Board of Regents as now constituted consists of members chosen directly by the people. We think it is clear that the purpose of the constitutional provision was to remove the University from the plenary control of the Legislature and establish the Board of Regents as an independent body charged with the power and responsibility to manage and operate the University as free from political influence and control as possible." Those are the words of our Supreme Court, which have been unchallenged for a quarter of a century. Under our constitution, the Board of Regents, as we all know, a separately elected body, it is charged with the oversight and operation and control of the university. And it is unconstitutional for this body to try and pass a bill that directs what they do. This bill is in the wrong forum. If this matter is to be discussed, it should be before the Board of Regents. I agree with Senator Bourne. I took an oath, when I became a senator, to uphold the Constitution of this state. I think that requires...

SPEAKER KRISTENSEN: One minute.