REGENTS OF THE UNIVERSITY OF OKLAHOMA
Adjourned Meeting, Wednesday, October 6, 1948, 3:30 p.m.

The adjourned meeting of the Regents of the University of Oklahoma was held in the office of the President of the University, Norman, at 3:30 p.m., October 6, 1948.

There were present: Erl Deacon, President, presiding; Regents Emery, White, Shepler, Benedum, McBride, Noble. Absent: None.

His excellency, Roy J. Turner, Governor of Oklahoma; the honorably Mac Q. Williamson, Attorney General of Oklahoma; and Leon Shipp, Attorney, were also present at the meeting.

The meeting was called to discuss further the case of G. W. McLaurin v. Oklahoma State Regents for Higher Education, et al, No. 4039 Civil, U. S. District Court, Western District of Oklahoma.

Mr. Williamson read his letter and opinion to Governor Turner, under date of October 2, 1948, and also his letter and opinion to President Cross, under date of October 6, 1948. The ruling of the Court in the above named case was also read by Mr. Williamson.

Mr. Williamson reported at length on his letters and opinions and the matter was fully discussed.

Governor Turner reported with reference to a number of conferences he had held with the attorney for the plaintiff, and others interested.

Following the discussion, the Regents met in executive session, Governor Turner, Mr. Williamson, and Mr. Shipp retiring from the meeting.

Regent Emery made the following motion: "I move that the ruling of the court in case No. 4039, G. W. McLaurin v. Oklahoma State Regents for Higher Education, et al Civil, U. S. District Court, Western District of Oklahoma, be made a part of the minutes of this meeting; that the Attorney General's opinion under date of October 2, 1948, to His Excellency, Roy J. Turner, the Governor of the State of Oklahoma, be made a part of the minutes of this meeting; and that the opinion of the Attorney General, under date of October 6, to President G. L. Cross, be made a part of the minutes of this meeting."

Regent Emery inquired of President Cross as follows: "Is there an application for admission to be presented?"

President Cross: "Yes, that of Mr. McLaurin."

Regent Emery: "The application of G. W. McLaurin, plaintiff in the above mentioned case, is properly on file with the proper office of the University, which is the Admissions Office."

On the vote on the Emery motion all members voted AYE and the motion was declared carried. (See PP 2882 to 2898 of these minutes).

Regent Benedum offered the following motion: "I move that further consideration of the application of G. W. McLaurin for admission to the Graduate School of the University be deferred until

the next regular meeting of the Board of Regents, and that President Cross be directed to continue the study of a manner in which instruction on the graduate level can be afforded to the applicant on a basis of complete segregation; that President Cross report to the Board, at its next regular meeting, in detail, as to the hours that class rooms can be made available and personnel of Professors whose schedules can be rearranged so as to enable them to instruct applicant, all to the end that he will be provided with equal educational opportunities in the desired courses in the Graduate School as those afforded any other student in said school. That President Cross further be instructed to contact the Board of Regents of Higher Education or other appropriate officers of the State of Oklahoma to procure additional funds necessary to provide instruction to G. W. McLaurin on a basis of complete segregation and report at the next meeting of the Board."

Regent Emery: "Under the rules and regulations of the University the last day for accepting applicants for admission is October 13 and the classes in the Graduate College that Mr. McLaurin would attend started on September 20."

Regent Emery: "I offer the following substitute motion to Regent Benedum's motion:

"That the Board of Regents of the University of Oklahoma authorize and direct the President of the University, and the proper officials of the University, to grant the application for admission to the Graduate College of Mr. G. W. McLaurin in time for Mr. McLaurin to enrol at the beginning of the term, under such rules and regulations as to segregation as the President of the University shall consider to afford to Mr. G. W. McLaurin substantially equal educational opportunities as are afforded to other persons seeking the same education in the Graduate College, and that the President of the University promulgate such regulations."

Regent Emery: "I offer this motion because I believe, in taking my oath of office as a Regent, no other alternative is presented to this Board in view of the ruling of the court in the G. W. McLaurin v. Oklahoma State Regents for Higher Education et al, No. 4039 Civil, U. S. District Court, Western District of Oklahoma, case; and in view of the advice of the Attorney General of Oklahoma. It is the ruling of the court that Mr. McLaurin be admitted now. The Court clearly says it is not granting a mandatory injunction, that it presumes that the State, in conformity to this opinion, will not deny Mr. McLaurin his constitutional rights. Additionally, the Attorney General of the State of Oklahoma on Page Three (3) of his opinion, October 6, 1948, to President Cross, and on Page Three (3) of his opinion to Governor Turner, October 2, 1948, advises the Regents that at this time they have only two alternatives in respect to Mr. McLaurin, namely:

> "1. Plaintiff (McLaurin) will be entitled to enroll in said classes in said graduate courses of instruction, in which courses he will be entitled to remain on the same scholastic basis as other students until similar classes in substantially equal courses of instruction are established and ready to function at Langston University; or

"2. The University of Oklahoma will not be entitled to enroll any applicant of any group in said classes until substantially equal courses of instruction are established and ready to function at Langston University."

"Finally, under the opinion of the Court, and under the opinion of the Attorney General, it is a denial of Mr. McLaurin's constitutional rights to now fail to grant his application for admission. It has been suggested during the course of my statement that that is only my opinion of what the Attorney General said, and the answer to that is that the Attorney General's opinion leaves no room for doubt because he expressly says we have no other alternative than those stipulated in his opinion."

The question was called for on the Emery substitute motion. Voting Aye: Emery, Noble; Voting No: McBride, Shepler, Benedum, White. The chair declared the motion failed.

Regent Benedum: "I would like for the record to show my reason for voting "no" to the substitute motion offered by Regent Emery.

"I have concluded, as a result of my study of the opinion in the case of McLaurin vs. Oklahoma State Regents for Higher Education, No. 4039 in the United States District Court for the Western District of the State of Oklahoma, and the opinion of Honorable Mac Q. Williamson, rendered this Board under date of October 6, 1948, that it was not the intent of the Court to require the immediate admission of the applicant to the University of Oklahoma.

"I have further concluded that the Court intended that the Board of Regents take necessary time to work out the details to admit McLaurin to the University on a basis of complete segregation. Although considerable study and planning has been given the problem, there are many details to be considered and policies to be made with reference to the instruction of McLaurin in the Graduate School of the University of Oklahoma on a basis of complete segregation.

"It appears to me that the Court has not broken down our Statutes on segregation, and, therefore, considerable additional thought must be given in an effort to arrive at a workable solution of the problem.

"For these reasons, I favor the original motion, believing that, by the next meeting of the Board of Regents, President Cross will have, for submission, a plan with reference to class rooms which can be made available and Professors whose schedules can be rearranged so as to permit their use in affording substantially equal educational facilities to the applicant, G. W. McLaurin, in the Graduate School of the University of Oklahoma on a basis of complete segregation. The passing of the original motion will slightly delay, but will not preclude, the applicant in pursuing his studies in the Graduate School of the University of Oklahoma."

A vote was had on the Benedum motion. Voting Aye: McBride, Shepler, White, Benedum. Regents Emery and Noble voted "NO", whereupon Regent Emery states the reasons for his "no" vote.

Regent Emery: "First, I want to restate verbatim my reasons for the substitute motion. Finally, both the ruling of the Court and the opinion of the Attorney General make it clear the time is past to further deny Mr. McLaurin his constitutional rights by now consuming time to promulgate rules

and regulations for his admission on a segregated basis. To me the Court's opinion means that you may promulgate rules and regulations for his admission on a segregated basis afterwards, but you must admit him now in order to grant him his constitutional rights."

It was the concensus that the entire proceedings above be given to the press.

President Cross asked that the Regents consider two items which require action prior to the November meeting.

He reported there will be a cash balance in the Wilson Center and Sooner City Dormitory System Sinking Fund of approximately $112,000 as of December 1, 1948, after meeting the interest and principal payments due on that date. It has been found that we can buy 1957 maturities of this cond issue at 99 7/8 and accrued interest if bought within the next few days. The discount and saving in interest would be nearly $300 if we buy $80,000 of the bonds now.

President Cross recommended that the Regents authorize and direct the State Treasurer to purchase $80,000 of the 1957 maturities immediately at 99 7/8 and accrued interest.

The matter was discussed and President Cross was asked to make further investigation to see if the bonds must be taken up in 1948, and to report further to the Regents.

The other item was with reference to a scholarship in the School of Art. He recommended approval of a scholarship, which would provide for the waiving of non-resident fees and one-half of general fees to the recipient of the 1948 art award from the Scholastic Magazines. He stated Miss Patricia Heydrick, of Oklahoma City, had received the award for 1948.

It was unanimously voted to approve the recommendation.

OPINION OF THE ATTORNEY GENERAL TO GOVERNOR TURNER, OCTOBER 2, 1948:

Mac Q. Williamson
Attorney General

STATE OF OKLAHOMA
Office of the Attorney General
Oklahoma City

October 2, 1948

Honorable Roy J. Turner
Governor of Oklahoma
B U I L D I N G

IN RE: G. W. McLaurin v. Oklahoma State Regents for Higher Education, et al, No. 4039 Civil, U. S. Dist. Court, Western District of Okla.

October 6, 1948

Dear Sir:

The Attorney General acknowledges receipt of your letter dated October 1, 1948, wherein you ask:

1. "Please furnish me with your analysis of the Federal Court's ruling in the McLaurin case.

2. "I would like to be further advised as to the authority of the Board of Regents of the University of Oklahoma to enact rules and regulations that would offer instruction to McLaurin in accordance with the Federal Court's ruling, but would preserve insofar as we may do so, segregated instruction at the University."

In reply to your first question, you are advised that the material part of the three-judge federal district court ruling in the above case is as follows:

"the Court holds that the plaintiff in this case is * * * entitled to secure postgraduate education in this State by a state institution. The Court further holds that to this time he has been denied that right, although application has been duly made therefor during the same period these particular educational facilities have been afforded by the State to other groups.

"The Court further holds that the State is under the Constitutional duty to provide this plaintiff with the education he seeks as soon as it does for applicants of any other groups* * *

"the Court further holds that in so far as the statutes of the State of Oklahoma drawn in issue here deny or deprive this plaintiff of admission to the University of Oklahoma for the purpose of pursuing the course he seeks to pursue there, (said statutes) are unconstitutional and void. Now that does not mean, of course, that these laws cannot be made to stand, with the power of the State to provide equal segregated facilities, provided that those facilities are equal and that they are afforded as soon as they are afforded to any other group.* * *

"* * * We sit as a court of equity with power to fashion our decree in accordance with right and justice under the law. Accordingly, we refrain at this time from issuing or granting injunctive relief on the assumption that the State will follow the law in the constitutional mandate.

"We retrain jurisdiction of this case, however, with full power to issue such further orders and decrees as may be deemed necessary and proper to secure this plaintiff the equal protection of the laws, which translated into terms of this lawsuit, means * * * equal educational facilities. We therefore recess this case at this time, with the understanding that either party may apply for further relief consistently with the pleadings in the case.* * *

"We will prepare a formal judgment and decree in accordance with this forthwith, and within the next few days, but that is the judgment of this Court, and judgment entered as of this date."

In our opinion the three-judge federal district court intended to and did hold in its above-quoted ruling (construed in conjunction with the decisions of the United States Supreme Court in the Gaines Case, 305 U. S. 337, 83 L. ed. 208, the Sipuel case, 332, U. S. 651, 92 L. ed. 256, and the Fisher case, 333 U. S. 147, 92 L. ed. 420) that if plaintiff hereafter applies for admission to the University of Oklahoma for the purpose of attending designated classes of instruction in "such courses offered at said University of Oklahoma as would entitle him to a doctorate degree in School Administration" (such as is referred to in his January 28, 1948 application mentioned in Paragraph 7 of the complaint in the above case), and if at that time said courses are not being given at Langston University:

> (1) Plaintiff will be entitled to enroll in said classes in said graduate courses of instruction, in which courses he will be entitled to remain on the same scholastic basis as other students until similar classes in substantially equal courses of instruction are established and ready to function at Langston University, or
>
> (2) The University of Oklahoma will not be entitled to enroll any applicant of any group in said classes until substantially equal courses of instruction are established and ready to function at Langston University.

Said three-judge federal district court clearly indicated in its above-quoted ruling that if neither of the above alternatives were followed, the writ of injunction prayed for by plaintiff would, upon due application therefor, be issued. Of course, the Board of Regents of the University of Oklahoma, as the governing board which determines the administrative policy of the University, would, if said application is filed, necessarily have to determine which of the two alternatives above set forth will be followed.

In reply to your second question, you are advised that Section 8, Article 13, of our State Constitution, adopted July 11, 1944, provides that the "government of the University of Oklahoma shall be vested " in the Board of Regents of the University of Oklahoma. Chapter 32, Title 70, page 546, Oklahoma Session Laws 1947, vitalizes or amplifies said constitutional amendment. Section 3 of said act provides that said board

> "shall constitute a body corporate, by the name of 'Regents of the University of Oklahoma', and shall possess all the powers necessary or convenient to accomplish the objectives and perform the duties prescribed by law,"

and Section 5 of said act provides that the board "shall enact rules for the Government of the University and all its branches."

The Attorney General has been unable to locate any decision expressly holding that the governing board of an education institution, such as the Board of Regents of the University of Oklahoma, has authority to enact a rule or regulation such as is referred to by you, or whether same would or would not violate the equal protection clause of the Fourteenth Amendment of the Constitution of the United States. However, during the oral argument before the Supreme Court of the

October 6, 1948

United States in the Sipuel case, supra, Justice Frankfurter suggested from the bench three ways in which Oklahoma could comply in said case with said clause. In this connection we quote from a news story relating to the Sipuel case in the Daily Oklahoman of January 14, 1948, wherein, under the headline "STATE EXPECTS EARLY REVIEW OF NEGRO CASE," it is in part stated:

> "While the case was being argued before the high bench last week, Justice Felix Frankfurter suggested three ways in which Oklahoma could handle the matter:
>
> "Let Mrs. Fisher attend law school classes with white students.
>
> "Let her into the law school on a segregation basis, giving her a private teacher.
>
> "Admit her according to Plan No. 1 or No. 2, but only until a Negro state law school is established.

Inasmuch as no other member of said court expressed a different view, we assume that the suggestions made by Justice Frankfurter represented not only his personal views but those of the court.

The Attorney General is, therefore, of the opinion that the Board of Regents of the University of Oklahoma is authorized to enact rules and regulations such as are referred to by you, and that same would not violate said equal protection clause nor the ruling of the federal district court herein.

Respectfully yours,
FOR THE ATTORNEY GENERAL
/s/ Fred Hansen
First Assistant Attorney General

FH:LW
APPROVED BY ATTORNEY GENERAL 10-6-48 MNR

OPINION OF ATTORNEY GENERAL TO PRESIDENT CROSS, OCTOBER 6, 1948:

Mac Q. Williamson
Attorney General
STATE OF OKLAHOMA
Office of the Attorney General
Oklahoma City

October 6, 1948

Honorable G. L. Cross, President
University of Oklahoma
Norman, Oklahoma

Dear Sir:

Your telegram of Saturday afternoon, October 2, (delivered Monday morning) reads as follows:

"Is it the legal obligation of the Board of Regents to admit McLaurin in event he presents himself for admission to graduate college of University of Oklahoma next week. Urgency of the matter necessitates immediate action and your opinion by Wednesday, October 6 at 3 P.M. when Board of Regents/convenes will be appreciated.

G. L. Cross, President."

On September 29, 1948, and after a prior hearing thereon, the three-judge federal court of the Western District of Oklahoma as convened in the McLaurin case (speaking through Circuit Judge Murrah), rendered an oral declaratory judgment upon the law and facts in the McLaurin case, the pertinent part thereof reading as follows:

"the Court holds that the plaintiff in this case is * * * entitled to secure postgraduate education in this State by a state institution. The Court further holds that to this time he has been denied that right, although application has been duly made therefor during the same period these particular educational facilities have been afforded by the State to other groups.

"the Court further holds that the state is under the constitutional duty to provide this plaintiff with the education he seeks as soon as it does for applicants of any other group.....

"The Court further holds that insofar as the statutes of the State of Oklahoma drawn in issue here deny or deprive this plaintiff of admission to the University of Oklahoma for the purpose of pursuing the course he seeks to pursue there, (said statutes) are unconstitutional and void. Now that does not mean, of course, that these laws cannot be made to stand, with the power of the State to provide equal segregated facilities, provided that those facilities are equal and that they are afforded as soon as they are afforded to any other group.* * *

"* * *we sit as a court of equity with power to fashion our decree in accordance with right and justice under the law. Accordingly, we refrain at this time from issuing or granting injunctive relief on the assumption that the State will follow the law in the constitutional mandate.

"We retain jurisdiction of this case, however, with full power to issue such further orders and decrees as may be deemed necessary and proper to secure this plaintiff the equal protection of the laws, which, translated into terms of this lawsuit, means* * *equal educational facilities. We therefore recess this case at this time, with the understanding that either party may apply for further relief consistently with the pleadings in the case.* * *

"We will prepare a formal judgment and decree in accordance with this forthwith, and within the next few days, but that is the judgment of this Court, and judgment entered as of this date."

October 6, 1948

Referring to your inquiry as to ". . .the legal obligation of the Board of Regents to admit McLaurin in event he presents himself for admission to graduate college of University of Oklahoma next week," your attention is directed to an opinion of this office dated October 2, 1948, based on the McLaurin case ruling by the three-judge court, and directed to Governor Roy J. Turner, wherein (among other things) it was held as follows (referring to McLaurin's application for admission to the University of Oklahoma for scholastic work leading to a doctorate degree - admittedly not offered as a course of Langston University):

> "(1) Plaintiff (McLaurin) will be entitled to enroll in said classes in said graduate courses of instruction, in which courses he will be entitled to remain on the same scholastic basis as other students until similar classes in substantially equal courses of instruction are established and ready to function at Langston University; or
>
> "(2) The University of Oklahoma will not be entitled to enroll any applicant of any group in said classes until substantially equal courses of instruction are established and ready to function at Langston University."

We arrive at the conclusions above expressed as a result of the ruling of said three-judge court hereinabove set forth and more particularly, upon consideration of the following paragraph of said ruling:

> "The Court further holds that insofar as the statutes of the State of Oklahoma drawn in issue here deny or deprive this plaintiff of admission to the University of Oklahoma for the purpose of pursuing the course he seeks to pursue there, are unconstitutional and void. Now that does not mean, of course, that these laws cannot be made to stand, with the power of the State to provide equal segregated facilities, provided that those facilities are equal and that they are afforded as soon as they are afforded to any other group."

While this language follows the logic and purport of the United States Supreme Court decision in the Sipuel Case, yet it stands as the first time that any court has directly declared the penal statutes (70 O.S. 1941 § § 455, 456 and 457) prohibiting scholastic intermixture in higher education to be unconstitutional and void. Also, it is the first instance where a court has passed upon the precise question of a negro plaintiff's admission to a state supported college, using the University of Oklahoma by name. Thus, we have by judicial decree, a voiding - a striking down- of the state's traditional policy of scholastic segregation in higher education, directly applied to entrance of plaintiff, McLaurin, to the University of Oklahoma.

While the injunctive relief was (for the time being) withheld, yet the decision notes the assumption of the court "that the State will follow the law..."

So that now, the duty and policy of the Regents of the University of Oklahoma is for the first time laid down by order of court, directed to the regents, and premised upon the assumption that they, as agents of the state, will follow the law. This is, of course, an entirely different situation from any that the Board of Regents has faced in the various recurring

angles of the segregation litigation with which the state has been beset, in and during the past year, or more. And the fact should not be here lost sight of, that colored applicants generally are not privileged as a class to enter any and all graduate schools for higher instruction (not provided at Langston); but only those who have heretofore made application at Oklahoma University for courses similar to the McLaurin application.

Now, directing your attention for the moment to the concluding paragraph of the judgment of the three-judge court, as follows:

> "We will prepare a formal judgment and decree in accordance with this forthwith, and within the next few days, but that is the judgment of this Court, and judgment entered as of this date."

It is the considered judgment of the Attorney General that the Regents of the University of Oklahoma would be justified in withholding (should they so desire) final judgment on such course as they may determine to pursue until they have had opportunity to receive, study and compare the formal judgment and decree of the court herein. Of course, it is understood that this will be forthcoming in a matter of a very few days.

In the opinion of the Attorney General, the above paragraphs numbered 1 and 2, together with the above-stated observation upon temporary delay pending receipt of a formal decree, constitute the bounds and limits within which the Regents of Oklahoma University are required to chart a course of action in the McLaurin case; this, by virtue of the clear and concise language in the court's judgment, as above quoted. And upon this point we may here observe that in our opinion, if the Regents of Oklahoma University should not see fit to follow one of the alternatives above set forth, then in that event and upon application therefor by McLaurin, the writ of injunction, as prayed for, would by said court be issued.

Consequently, the Attorney General holds that the Regents of Oklahoma University will have to determine, in the exercise of their sound discretion, which of the two alternatives above set forth they will follow, or whether they will by inaction put themselves in the position of inviting compulsion of the writ, against them.

In this connection you may be interested in knowing that one of the questions in Governor Turner's recent (October 1, 1948) inquiry to this office was as follows:

> 2. "I would like to be further advised as to the authority of the Board of Regents of the University of Oklahoma to enact rules and regulations that would offer instruction to McLaurin in accordance with the Federal Court's ruling, but would preserve, insofar as we may do so, segregated instruction at the University."

Upon this point, we advised the Governor (in our October 2 opinion as follows:

October 6, 1948

"In reply to your second question, you are advised that Section 8, Article 13 of our State Constitution, adopted July 11, 1944, provides that the 'government of the University of Oklahoma shall be vested' in the Board of Regents of the University of Oklahoma.

Chapter 32, Title 70, page 546, Oklahoma Session Laws 1947, vitalizes or amplifies said constitutional amendment. Section 3 of said act provides that said board

> 'shall constitute a body corporate, by the name of "Regents of the University of Oklahoma", and shall possess all the powers necessary or convenient to accomplish the objectives and perform the duties prescribed by law,'

and Section 5 of said act provides that the board 'shall enact rules for the Government of the University and all its branches.'

"The Attorney General has been unable to locate any decision expressly holding that the governing board of an educational institution, such as the Board of Regents of the University of Oklahoma, has authority to enact a rule or regulation such as is referred to by you, or whether same would or would not violate the equal protection clause of the Fourteenth Amendment of the Constitution of the United States. However, during the oral argument before the Supreme Court of the United States in the Sipuel case, supra, Justice Frankfurter suggested from the bench three ways in which Oklahoma could comply in said case with said clause. In this connection we quote from a news story relating to the Sipuel case in the Daily Oklahoman of January 14, 1948, wherein, under the headline 'STATE EXPECTS EARLY REVIEW OF NEGRO CASE,' it is in part stated:

> 'While the case was being argued before the high bench last week, Justice Felix Frankfurter suggested three ways in which Oklahoma could handle the matter:
>
> 'Let Mrs. Fisher attend law school classes with white students.
>
> 'Let her into the law school on a segregation basis, giving her a private teacher.
>
> 'Admit her according to Plan No. 1 or No. 2, but only until a Negro state law school is established.'

"Inasmuch as no other member of said court expressed a different view, we assume that the suggestions made by Justice Frankfurter represented not only his personal views but those of the court.

"The Attorney General is, therefore, of the opinion that the Board of Regents of the University of Oklahoma is authorized to enact rules and regulations such as are referred to by you, and that same would not violate said equal protection clause nor the ruling of the federal district court herein."

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October 6, 1948

A copy of said opinion to Governor Turner is herewith enclosed.

Most Respectfully
/s/ Mac Q. Williamson
Attorney General

MQW:LW
Enc.

Approved by Attorney General 10-6-48 lw

RULING OF THE COURT:

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

G. W. McLAURIN, PLAINTIFF
vs
OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION, et al
Defendants.

No. 4039 (Civil)

* * * * * * * * * * ** * * * * * * *

RULING OF THE COURT

JUDGE MURRAH: The Court adopts the stipulation in this case as the facts, and so finds.

Based upon those facts, the Court holds that the plaintiff in this case is entitled to secure legal education.

MR. WILLIAMSON: I don't believe it is legal education.

JUDGE MURRAH: Doctors education--I beg pardon--entitled to secure postgraduate education in this state by a state institution. The Court further holds that to this time he has been denied that right, although application has been duly made therefor during the same period these particular educational facilities have been afforded by the by the State to other groups.

The Court further holds that the State is under the constitutional duty to provide this plaintiff with the education he seeks as soon as it does for applicants of any other group. That is the settled law, made applicable and apposite to this case.

The Court further holds that insofar as the statutes of the State of Oklahoma drawn in issue here deny or deprive this plaintiff of admission to the University of Oklahoma for the purpose of pursuing the course he seeks to pursue there, are unconstitutional and void. Now that does not mean, of course, that these laws cannot be made to stand, with the power of the State to provide equal segregated facilities, provided that those facilities are equal and that they are afforded as soon as they are afforded to any other group.

October 6, 1948

Now our attention has been called, and we have seen a statement of the Governor of this State, in which he commits the State to a certain course of action designed to afford, to comply, with the constitutional mandate. In that connection, we think it appropriate for the Court to state that it is not our function to say what the State shall do in order to comply with its acknowledged responsibility to its citizens. Rather, it is our function to say whether what has been done or is being done meets the constitutional mandate.

In the performance of this important function, we sit as a court of equity with power to fashion our decree in accordance with right and justice under the law. Accordingly, we refrain at this time from issuing or granting injunctive relief on the assumption that the State will follow the law in the constitutional mandate.

We retain jurisdiction of this case, however, with full power to issue such further orders and decrees as may be deemed necessary and proper to secure this plaintiff the equal protection of the laws, which, translated into terms of this lawsuit, means equal facilities--excuse me--equal educational facilities.

We therefore recess this case at this time, with the understanding that either party may apply for further relief consistently with the pleadings in the case.

The meeting was adjourned at 7:40 p.m.

Secretary

e