

BOARD OF REGENTS
SPECIAL MEETING 4:00 p.m.
Sunday, October 10, 1948

The Board of Regents met in special session at 4:00 p.m. in the Office of the President of the University, on Sunday, October 10, 1948. The meeting was called at the request of Attorney General Mac Q. Williamson, following receipt of a telegram from Thurgood Marshall, Attorney for G. W. McLaurin, in New York City, under date of October 8, 1948; one from Associate Justice of the Supreme Court Wiley Rutledge, Washington, D.C., under date of October 9, 1948, in reply to a telegram from Mr. Williamson under date of October 9, 1948.

There were present at the meeting: Regent Deacon, President, presiding; Regents Emery, McBride, Shepler, White, and Benedum.

Absent: Regent Noble.

Attorney General Mac Q. Williamson was also present and read the interchange of telegrams.

Regent Emery moved that the telegram from Thurgood Marshall to the Attorney General, under date of October 8, 1948; the telegram to Mr. Justice Rutledge, under date of October 8, 1948, by Mr. Williamson; and the telegram from Mr. Justice Rutledge to Mr. Williamson, under date of October 9, 1948; be made a part of the minutes of the Regents; also the recommendation of the Financial Vice President to the Board of Regents in the memorandum under date of October 9, 1948, covering a recommendation as to a plan of segregation for Mr. McLaurin; and it was the consensus that this be done.

Copies of these communications follow:

WIRE FROM THURGOOD MARSHALL, ATTORNEY FOR G. W. MCLAURIN:

"New York, N.Y., October 8, 1948
10:51 A.M.

Hon. Mac Q. Williamson, Attorney General
State of Oklahoma

Please take notice as attorney for defendants and other state officials case McLaurin v. Oklahoma State Regents et al No. 4039 U.S. District Court Western District Oklahoma that at ten o'clock in forenoon of Saturday October ninth or as soon thereafter as possible I will present to Mr. Associate Justice Rutledge of U. S. Supreme Court a petition for temporary restraining order in aid of appellate Jurisdiction U. S. Supreme Court in said case requesting substantially same relief as requested in Lower Court. On same date expect file with U. S. Supreme Court petition for Leave to file petition for writ of mandamus in same matter.

Thurgood Marshall, Attorney for
G. W. McLaurin"

October 10, 1948

WIRE TO MR. JUSTICE RUTLEDGE, SUPREME COURT OF THE UNITED STATES:

"Mr. Justice Rutledge
Supreme Court of the United States
Washington, D. C.

Just received telegram from Mr. Thurgood Marshall, Attorney, of his intention to present application to you tomorrow (Saturday) morning for temporary restraining order in the McLaurin case, which case is now pending before a three-judge Federal District Court here on his motion filed today in said court for an order modifying its declaratory judgment of September 29, 1948, so as to direct McLaurin's immediate admission to the University of Oklahoma. Time prevents my being present to oppose said application. However, present procedure of Board of Regents of the University of Oklahoma, acting in harmony with said declaratory judgment and under my opinions to the Governor of October 2, 1948, and to President Cross of October 6, 1948, will, in my considered judgment, bring about McLaurin's admission to said University in harmony with said declaratory judgment, quoted in said opinions, under rules and regulations to be adopted by the Board at a scheduled meeting thereof to be held on Sunday, October 10, 1948, in ample time for him to be enrolled in the desired courses of instruction for the current or fall semester of the University. Am sending you copies of my said opinions by air mail for your further information, and desire to present assurances that in my judgement the proposed action sought before you will be rendered unnecessary.

Mac Q. Williamson
Attorney General of Oklahoma

WIRE FROM JUSTICE WILEY RUTLEDGE, October 9, 1948:

"Washington, D. C.
October 9 PM 12:10

DA 461 WM 52
Hon. Mac Q. Williamson, Attorney General
Oklahoma City, Oklahoma

Your telegram received. In view of its contents I have deferred until Monday any hearing or consideration of Mr. Marshall's application. Would appreciate your advising me Monday morning if possible concerning action taken tomorrow by Board of Regents.

Wiley Rutledge."

OFFICE MEMORANDUM

TO: THE BOARD OF REGENTS DATE: October 9, 1948
FROM: Roscoe Cate, Financial Vice Pres. SUBJECT: McLaurin Case

President Cross requested Friday that I prepare a suggestion as to how segregated instruction in graduate courses in the College of Education might be provided for G. W. McLaurin.

October 10, 1948

2895

After careful study of the situation, including conferences with Vice-President C. M. Franklin, Dean L. H. Snyder of the Graduate College, Dean J. E. Fellows, Dean of Admissions and Records, Professor H. E. Wrinkle, Chairman of the College of Education Interim Committee, and Professor John F. Bender, potential adviser to McLaurin, I am of the opinion that the Board may, if it so desires, plan for complete segregation of McLaurin by the second semester; but that if McLaurin is admitted for this present semester, only partial segregation will be possible.

I respectfully recommend that alternative Plan No. 1 given below be approved by the Board of Regents to meet the immediate situation during the present semester.

Plan 1. Permit McLaurin to attend classes now being offered in the College of Education, but segregate him in a specified portion of each classroom. Require McLaurin to use a separate toilet marked "colored," which can be provided in the Education Building if the Regents so desire.

Plan 2. Attempt to provide complete segregation by arranging separate classes and other separate facilities for McLaurin. Complete segregation presumably would require the following:

- a) The arranging of separate classes for McLaurin, to be taught either by the present faculty members in addition to their existing heavy teaching loads, or by additional staff as soon as additional staff could be secured.
- b) A separate classroom for use exclusively by McLaurin.
- c) Separate library facilities.
- d) Separate toilet facilities.

It is assumed that the University would not be under obligation to provide either food service or housing for McLaurin, since the University provides services of this kind for only a small portion of the student body.

IMMEDIATE PROBLEMS OF COMPLETE SEGREGATION UNDER PLAN 2

Although no serious difficulty would arise in connection with providing a small separate classroom for segregated classes for McLaurin, or in providing separate toilet facilities, the following problems incident to complete segregation at this time would be serious:

1. Attempting to provide segregated library facilities for a Negro graduate student would create almost insuperable problems for the reason that a graduate student ordinarily is given stack privileges in order to make personal selection of books for reading and research.
2. Asking the present Education faculty to add separate classes for McLaurin to their present heavy teaching loads would be inequitable. Including the position of Dean, there are now four vacancies on the Education faculty which we have been unable to fill with properly qualified persons. The staff shortage has already placed an extra burden on present faculty members in Education.

3. Attempting to find an additional faculty member of the rank of associate or full professor qualified to teach the doctoral degree courses in which McLaurin would be enrolling would be extremely difficult, if not impossible. Probably the earliest date an additional staff member could be secured would be the beginning of the second semester of the present school year.

4. The arranging of separate classes for McLaurin would prevent his participation in seminar discussions which are considered an essential and important part of course work at the graduate level. For this reason, complete segregation might result in additional litigation charging the University with failure to provide "equal educational opportunities."

With respect to the possible cost of completely segregated classes, President Cross estimates that at least \$6,000 per academic year would be needed to employ an additional faculty member qualified to teach graduate work at the doctoral level to McLaurin, and that another \$1,000 of additional expense would be incurred in connection with the administration of segregated classes and the maintenance of separate facilities for him. This cost is for McLaurin only. If other Negroes are enrolled in other departments, comparable professors at comparable salaries would have to be provided. Since expenses such as these were not anticipated when the State Regents for Higher Education made the 1948-49 budget allotment to the University of Oklahoma, approval of any such plan by the Board of Regents should include a request to Governor Turner for an allotment of money from the Governor's contingency fund."

Regent Emery: "I now offer the following motion and move its adoption: 'That the Board of Regents of the University of Oklahoma authorize and direct the President of the University, and the appropriate 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 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 stated as follows: "In support of this motion I should like to reaffirm, and to be made a part of the minutes of this meeting what I said in support of an identical motion made by me at the meeting of the Board of Regents on October 6, 1948, i.e., '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 to Governor Turner, October 2, 1948, and on Page Three (3) of his opinion, October 6, 1948 to President Cross advises the Regents that at this time they have only two alternatives in respect to Mr. McLaurin, namely:

October 10, 1948

"1. Plaintiff (McLaurin) will be entitled to enrol 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 ^{other} alternative than those stipulated in his opinion."

Mr. Emery stated further: "Additionally, the Attorney General, the legal adviser of the Board of Regents, has at this meeting reaffirmed his advice that the position of the three-judge court leaves open to the Board only the alternatives mentioned in the Attorney General's opinion. Furthermore, the Attorney General, in the proper exercise of his authority, has wired Mr. Justice Rutledge upon the occasion of the Attorney General's receipt of a wire from Thurgood Marshall, saying among other things: 'However, present procedure of Board of Regents of the University of Oklahoma, acting in harmony with said declaratory judgment and under my opinions to the Governor of October 2, 1948, and to President Cross of October 6, 1948, will, in my considered judgment, bring about McLaurin's admission to said University in harmony with said declaratory judgment, quoted in said opinions, under rules and regulations to be adopted by the Board at a scheduled meeting thereof to be held on Sunday, October 10, 1948, in ample time for him to be enrolled in the desired courses of instruction for the current or fall semester of the University.'

"Parenthetically, this reference to the Attorney General's opinion is not an effort to place any responsibility upon him for Board action so far as I am concerned, because in my judgment his opinions above referred to are sound and the only opinions that could be written under the ruling of the three-judge court in the McLaurin case, and the applicable opinions of the Supreme Court of the United States; I believe further that his wire above referred to to Mr. Justice Rutledge envisions action on the part of the Board calculated to solve this problem in the best interest of the State of Oklahoma."

Regent Emery: "For thirty minutes, ever since the President announced he had to go, I have made every effort to get a vote, and I now respectfully ask for a vote. I address that to the chair."

A roll call vote was had on the Emery motion, with the following result:

- Emery, AYE
- McBride, PASS
- Shepler, AYE
- White, AYE
- Benedum, AYE

Deacon: "I concur with the majority of the Board in their vote due to the ruling by the Federal Court and the Supreme Court of the United States."

2998
October 10, 1948

Regent Noble being absent at this meeting, voted for the identical motion at the previous meeting.

The Chair declared the motion carried.

It was the concensus that the chair appoint a committee to meet with Mr. Williamson in the morning (October 11) at 10:00 o'clock. Appointed on the committee were: Regents McBride, White, Benedum.

Regent Deacon asked that Vice President Emery take the chair, whereupon he left the meeting.

Regent White Stated: "I voted "AYE" in keeping with the recent decree of the Federal court, in effect forcing the admission of Mr. McLaurin."

Regent Emery appointed Regent Benedum, as a committee of one, to confer with Roscoe with reference to publicity.

Regent Emery: "A motion should be made authorizing the President of the University, or any other officials, to get the money necessary to administer the educational program of Mr. McLaurin by making proper representations to the State Regents and the Governor."

The motion was not put to a vote, but approval was indicated.

Regent Shepler moved: "Following up the original motion, I move that the President, or the Executive Head of the University, be instructed to communicate with the applicant, Mr. McLaurin, requesting him to appear for enrolment on Wednesday, October 13, 1948."

The motion carried unanimously.

Regent McBride: "I request permission to change my vote on the motion from "Pass" to "No."

Regent Emery: "Are there any objections? No objections being heard, the Chair granted the request; also that Regent McBride be permitted to submit a statement to be included in the minutes."

The meeting was adjourned at 7:20 p.m.



Secretary