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Meeting in Governor Browning's Office, June 5, 1950

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Date: June 15, 1950

Purpose of Meeting: To discuss Recent Supreme Court Decisions on Segregation and the impact on educational policies in Tennessee and particularly the University of Tennessee.

In attendance: Dr. C. E. Brehm  
Dr. Fred C. Smith  
Dean R. F. Thompson  
Dean Ralph E. Dunford  
Dean E. A. Waters  
Mr. John C. Baugh  
Mr. J. P. Hess  
Mr. John L. Heely, Jr.  
Mr. James L. Anderson

Notes: Louise Gill

Dr. Brehm: I have been talking with Mr. Hess this morning about the Supreme Court Decision, about negroes, and I called you together to get a more or less uniform policy about the way we want to approach it.

Dr. Waters: A student by the name of Jean Gray, a graduate from Knoxville College, came to my office last Friday — stated he wanted to enter the Graduate School. I asked him a number of questions. I knew what he was doing. I told him he probably knew the State Law and the Constitution and present interpretations quite as well as I did; that the matter was largely out of our hands and suggested the matter be taken up with the Attorney General, as he would be charged with the interpretation of the Law.

He said he wanted to appeal by rule to the President and Vice President; it was his prerogative. You (Dr. Brehm) were out of town. I said they would be glad to talk with him. He did see the Vice President. I think the Vice President told him approximately what I did. I have heard nothing further from the case. I don’t know to what extent he will press the case.

Dr. Brehm: Just what procedure do you follow for admission to the Graduate School?

Dr. Waters: They must file a written application and written status, which among other things gives race and name of institution from which they received their bachelor’s degree. They must state their race. From that information...

Dr. Brehm: It is all supposed to be filed and reviewed, but you don’t do it all in one day. The papers have to be referred to the faculty and the department. There is an element of possibility his pre-graduate training would not have been in order.

Dr. Waters: He had no transcript.

Dr. Brehm: You could have let him file his application.
Dr. Waters: He stated he did not want to fill his application at that time. I told him it depends ..., sometimes it takes two weeks to complete action on an application for admission for graduate study. That these papers must be referred to the faculty in the department in which he wished to major.

Dr. Brehm: You told him very definitely and specifically about the State Statute and your present interpretation ... I think it is where you slipped up.

Mr. Hess: In a case before Dr. Thomason — they asked what effect does this decision have on the University's policy of admission.

Dr. Thomason: I said we were still operating under the State Law and we have no authority to act otherwise.

Dr. Brehm: The point I am making, you did not have to bring up the race question. You could stall for a time and in the meantime be submitting the matter to the Attorney General. It could be, as has been the case in the past, he did not have the required pre-graduate training.

Dr. Waters: He asked me whether or not the Texas Supreme Court Decision changed our admissions' ruling. He also stated he did not want to fill out a formal application at that time. There was no formal application filled out by the boy. I was just an oral conversation. I had expected it.

Mr. Hess: The point you are making is one that still can be used. When he actually fills out the application — if he does not meet the requirements.

Dr. Brehm: You told him we were taking into consideration this whole race question and that in itself would precipitate the case. It is what has disturbed me. These other cases — we have had — the papers or transcripts were not in order. We have not denied anybody admission on the race question except ten or twelve years ago.

Dr. Thomason: It was a boy still in Knoxville College. He made the inquiry as to whether or not we were going to admit negroes in view of the action of the Supreme Court. He stated he knew what the situation had been and did not know whether it changed it here. At that time, I simply told him I did not know; that he had received no instructions and we knew nothing of what the interpretation was at all. He talked on a few minutes and seemed happy over the situation.

Dr. Brehm: My concern is, we not raise the race question until we actually have to.

Mr. Baugh: Some months ago, we kept them out on a technical question. I think what Dr. Waters did was proper under the circumstances. He did not demand to be admitted. He asked specific questions. He made no formal application.

Dr. Brehm: Suppose a student wants to file an application. Let him do it and in the regular way. Then you have a chance to review it. From there on out, it is the Attorney General and Turner's problem.
Mr. Hess: It takes us out of it. You want to avoid any admission of his right to enter. I think if Dr. Waters had given an answer other than he did, he would admit we were operating under this decision. He said, what effect does the decision have. We are operating just as we did before. Either he had to say we respect the decision or we don't.

Dr. Brehm: It is the question I have been turning over in my mind. We have not changed anything. We have had applications sent before. They have been denied for various reasons.

Dr. Waters: I think we can anticipate this happening. The person applying for admission will be hand-picked and his sponsor will have already determined that the courses he has taken and the grades he has made meet our technical requirements. They are too smart to send in routine applications.

Dr. Brehm: The Civil Union and Society for Advancement .... are backing them up.

Dr. Smith: Gray asked me specifically about the admission of colored students. I said it will have to be decided by the Attorney General. He said: "Can I call him ?" I said: "Certainly, it is your privilege."

Dr. Brehm: I think all of us who commit ourselves ought to say identically the same thing.

Dean Dunford: I had a call about the University Auditorium. (?) from the TVA called. Just asked the question: "What is your policy?" I asked him: "Are you applying?" He said "No, I just want a statement of policy." He was not applying for it.

Dr. Brehm: I talked to General Tipton about this last week. Of course the papers were full of this. I kept quiet myself and did not have anything to say, other than I had not had a chance to study the implications and did not know just what effect it would have on the University. Newspaper people were trying to get statements about it. I had no comments to make. I did not want to be put in position of talking and having to take something back and particularly let the thing be played up.

General Tipton made this statement — he did not think we should take it sitting down and that we ought to resist it. Even if we go through the Courts, I am convinced we will have the same decision that has been made in these other states. It is simply a matter of time until they will be here. You can get yourself in this position — you will make them more insistent to get in by any resistance we might have.

I prefer our attitude would be just one of complying with what the Attorney General tells us to do. The question that has been in my mind — whether we would say "Just file an application". It is no admission of whether we are going to take them. It will have to go through the Graduate Committee and the State Attorney General's office.

We have never turned one down on the race question. Of course twelve years ago we went through the Supreme Court, but these recent ones — admissions have been decided simply because the transcript papers were not in order or they had not complied with the requirements for admission. We did not tell them they were negroes and could not be admitted.
A law student applicant did not get in because he did not have the dean of his college recommend him on his character.

If the University wants to avoid active resistance, it would then be sound to accept their applications in the usual fashion, just as we do for all white students. As soon, however as all papers are accumulated, send to Mr. Baugh's office for handling, since a legal problem is involved rather than an academic one.

I thought, following this discussion, we should talk with General Beeler and let him tell us what to do.

I don't think we should accept applications except on his approval. It might commit us.

There is a difference between accepting their application and filing one. Any person has a right to file. We retain the right to accept. We would rather pass this back to the Attorney General. It is his right to file.

There were no negative statements. It is the very thing they would like to get you to do. Mr. Baugh said avoid any statement that would give them a personal right of suit against the dean or admitting officer.

It seems to me if I denied accepting their application, or the whole University would be subject to suit.

You would have brought it on right away.

It would be all they would ask for.

The student asked for our catalog. I gave him one.

It was the correct thing to do.

I figured if I told him "no" — he is a citizen of Tennessee — it would be peculiar for the State University to deny anybody a copy of our catalog. He did not want to file a formal application at that time. At least he did not ask to, but the next one, I am sure, will.

I am thinking in connection with this — if one should come to me — I want to get our reasoning in agreement, so that we will all say the same thing. He asks for a catalog — give him one, without any question. He asks about the privilege of filing an application — certainly, any person in the State can do that. Your admission will depend on pre-graduate work and meeting certain conditions of transfer. You understand too, that we are an arm of the State and subject to certain state constitutional provisions. I would tell him that frankly and candidly. It is a decision we cannot make about your admission.

I would tell him — your transcript must be reviewed for two or three weeks, before we are in position to tell you that. I would remind him of the other. But, in the meantime, I would notify the Attorney General and Turner and have Turner look him up and find out everything about it. I would put it off as long as I could — telling him, because he is a Negro, he cannot get in.
As important as the matter of discipline is the attitude of the people of the State. I think we should do everything we can to postpone it as long as we can — saying officials of the University just folded up and admitted them.

They are going to be here. It is not the Negroes themselves. You have the Civil Liberties' Union — the Association for the Advancement of Colored People in the South — it is a "red" outfit. George Mitchell is connected up with this (formerly with Farm Security Administration). They should be admitted only by the opinion of the Attorney General. I want the Attorney General to decide and make the decision, rather than us. Let him decide it rather than you and me.

The point I am making is this — I know George Mitchell. He has a Ph.D. from Harvard and an Oxford Scholarship ... I know what we are up against.

The SDA (Students for Democratic Action) are working for the same thing.

We don't want to do anything to prejudice the Attorney General.

We want them to tell us what to do and we will be guided by that they tell us.

If we could get from General Beeler, at the request of the Board of Trustees, a formal ruling — what they want us to do if an applicant does come in. I think his idea now is for us just to call him on the phone.

We did exactly what Dr. Brehm suggests. I question the wisdom of a formal ruling; wait until a case comes up.

For the matter of record — rather than these oral conversations — the logical procedure — the attorney of the University raise this question, in the light of these decisions, with the Attorney General. The Attorney General then notify us what action we should take. And yet, here is the thing about it. I know the Attorney General too. You have to sit down and talk with them.

General Barry has handled most of this.

You have one point involved that goes through my mind ... it is a technicality. You have the right — they do have the right to file the application. From there on out, it is the Attorney General's problem. I would like to have his opinion on what our actions should be along that line.

Several members of the Board of Trustees are very jealous of their prerogatives as members of the Board. I think the best thing — meet with some members of the Board — maybe the Governor and Attorney General — and I think the Governor should be in on it — after all, it is a political matter.

To keep the records straight — it is a matter for executive committee action. Then the Executive Committee logically instruct you as attorney of the University to determine and ascertain what our policy should be, from the Attorney General's standpoint.
Then, if the Executive Committee wishes to sit down and discuss this with members of the Attorney General's office, I think it is the logical thing to do.

But the logical procedure is for the Executive Committee to take action; recognize these decisions and ask the attorney of the University to negotiate with the Attorney General's office — what our position should be. It is particularly true if we get into lawsuits and we are going to get into them.

Mr. Hess: In Oklahoma, the Governor and Attorney General accused the University of- bailing it up.

Mr. Baugh: It is what happened out there and a lot of heads were chopped off too.

Dr. Waters: It would be consistent for me, as the usual procedure, for me to accept the application; assemble the papers in the usual fashion. The first scrutiny that will be given will reveal that an administrative policy is involved. Then, since it is an administrative and not an academic policy involved, to refer to the Vice President; he to the President; he to the Board of Trustees; from there, to the legal department and from there, to the Attorney General.

It will be important later on we will be able to say — to show — there applications were handled in a normal fashion. We did not decide. We followed the usual channels of operation.

Dr. Smith: I have dealt with these situations. First — you sent to the Attorney General, didn't you? Then, they ask — is it customary to send all applications to the Attorney General? No. We are discriminating against the colored people.

Mr. Baugh: You can probably do that by checking operations and find they are not in order. If they are, it is all you can do.

Dr. Smith: This man is majoring in chemistry in Knoxville College. So far as chemistry is concerned, it is O.K. His character is O.K. You send it to the Attorney General... if it happened to be a white boy and he came from Maryville, you would not send his application to the Attorney General. The law is superseded by the decision of the Supreme Court.

Mr. Hess: How do you know? You must go to the Attorney General for interpretation of the law.

Dr. Waters: In the Graduate School, there are to general steps — first, file application papers with a transcript. It must be official and from an accredited institution. If that is determined and race is determined, then he is eligible for admission to the Graduate School.

Second procedure: send to the faculty of the Department in which he is asking to major and minor. They rule only on academic qualifications for admission to the graduate school.

1. Race. 2. Academic. First, would reveal he is a Negro. That would tell me an administrative policy is involved. It is the same scrutiny that must be given to whites. Administrative procedure -- vice president; president; Board of Trustees; legal.
Mr. Baugh: Could you get from a general scrutiny whether or not he had general qualifications for admission?

Dr. Waters: Bachelor's Degree from an accredited college; he would be eligible for general admission if he is white. All applications are given two scrutinies.

Dr. Smith: Take two identical applications — one white; one black ...

Dr. Brehm: You have a statutory provision of the State involved. It is a matter beyond our control; and yet, we are very definitely an arm of the State. The Attorney General is the "mouth piece" for the State — for this institution — on legal questions. It is not us.

To keep the records straight — and probably, Mr. Hess, at the next meeting of the Executive Committee, before we have talked, or given any opinion one way or another. The Executive Committee must tell us what to do. After all, in the final analysis, they must carry the ball if we get into litigation. I don't want to say anything to confuse them ( Attorney General) or complicate things.

Part of their strategy is to get people in the University to talk — it is what they capitalise on.

Dr. Smith: As an arm of the State, we are supposed to abide by the Attorney General's interpretation of the law.

Mr. Baugh: These questions ( decisions) were decided on questions of fact. ( reads decisions ). Another Act, put the burden of training Negro students on the State Board of Education. If these applications come up before hand — it might be available at A & I, or could be set up.

That would create a question of fact — whether or not they are equal to what they could get here. It is this question of fact — on the first four years of regular college and on graduate courses.

To follow this on through in a business like way — then the Executive Committee — based on what action they might take — through the University Attorney — take this matter up as to what position we shall take — with the Attorney General — asking for instructions.

Dr. Brehm: Then the Executive Committee — authorize you and me and Mr. Baugh and through Mr. Baugh, go to the State Attorney's office. It might be advisable too, that certain members of the Executive Committee would want to sit down and discuss it. If you do it that way, you have the records straight. It is all the things that can come out in a court trial or litigation.

I don't want to be in the position of putting words in the Attorney General's mouth, or the Executive Committee's mouth.

I think, following this case we had twelve years ago, the State Board of Education has jurisdiction over these cases rather than we do.

Dr. Smith: It is because of that law we helped establish these courses at A & I.
Dr. Brehm: It might be it should be referred to the State Board of Education for a referral back to us. That law relieves the University but it does not say we cannot take them. There is another law— which prohibits the intermingling of races . . . . .

It might be — the approach should be — refer to the State Board of Education. It is a matter beyond our jurisdiction and it is within the realm of possibility, after they review the whole question . . . .

Mr. Hess: Under these Acts, does Dean Waters have authority to accept an application? I am going back to the advisability of accepting an application, without the opinion of the Attorney General.

Dr. Brehm: There is very decidedly a difference between filing an application and accepting it — it is an entirely different thing. Before we can accept it, probably it would have to be reviewed by the State Attorney General and probably by the State Board of Education.

Mr. Hess: No institution in this country can deny me the privilege of writing them and asking that I be admitted.

Dr. Brehm: There is very decidedly a difference between filing an application and accepting it — it is an entirely different thing. Before we can accept it, probably it would have to be reviewed by the State Attorney General and probably by the State Board of Education.

Mr. Hess: But suppose I accept the application personally — there might be some admission . . . .

Mr. Baugh: Let him lay it on the desk . . .

Dr. Brehm: I have a right to ask admission to any church or any school in the country.

Mr. Hess: He should be careful what he says when he accepts the application.

Mr. Neely: Another thing to bring up — it is a very narrow opinion . . . . they simply passed on the question of fact in each case. They have not gone beyond that. When you deal with the Attorney General, the way you ask a question — depends on the answer you get.

Dr. Thomason: A high school student writes in. He wants to enter. He wants a catalog. Shall we send him an application and a catalog?

Mr. Baugh: I should think so.

Dr. Thomason: Suppose when he comes back — the question of receiving it?

Mr. Baugh: Let them lay on your desk until you get the decision we are talking about.

Dr. Thomason: After it is reviewed, you send a letter saying he is accepted. There is a question on there where you ask his race. We always watch for the name of the school, but we could slip up.

Mr. Baugh: Let me suggest you insist on "race" being filled in.

Mr. Hess: Don't accept somebody unless you see them.

Dr. Thomason: Suppose he says: "I am a Negro. Please send me catalog and application."
Dr. Brehm: Send it.

Dr. Thomason: Would you remind him of the law?

Mr. Baugh: Not then. If they say they are a Negro in the letter, don't send the application.

Dr. Thomason: Suppose it comes from a school you know is a Negro school?

Mr. Baugh: Don't send the application.

Question: Do you sometimes — for example — in out-of-state/applications — just not send applications?

Dean Dunford: It will only be from the State that we will be concerned.

Dr. Brehm: About what I would do if I were in your case — of course it is a technicality — you get an application from some one who is a Negro — I would "play dumb" myself. I would remind him probably he is not aware we have a very fine institution in this State — A & I — and that provision has been made for courses which are similar and he may not be aware there is a state college to serve members of his own race.

I would stall for time. I would see what he came back with. It is the intent and purpose of A. & I.

Dr. Thomason: Several years ago, we would remind them of the laws and refer them to Mr. Turner to help work out their problem.

Dr. Brehm: I would certainly convey the impression he evidently intended the application to be made to A. & I, rather than the University.

Mr. Hess: What about sending it to Mr. Turner and making no reply at all? If you know he is a Negro and he filed the application by mail?

Dr. Brehm: You could do this — if he asked for an application or wrote you a letter — refer to Davis (A & I President). Say, it was evidently intended for you rather than us. Let the case unfold and find out what his motives are.

Dr. Smith: We have sent several to Turner and let him work it out.

Dr. Thomason: What has worked out in the past is not going to work out so easily in the future.

Dr. Brehm: Personally, I don't want to make any commitment, without authorization from the Executive Committee.

Mr. Hess: Should we call a meeting of the Executive Committee?

Dr. Brehm: Yes. Soon.
Dr. Brehm: We have this matter of Mr. Granberry getting the Agricultural Committee together, to see what recommendation they will make about the property at Columbia. As soon as he gets the Committee together, then we must have a meeting of the Finance Committee and this is practically the Executive Committee.

I say it again — this thing should be carried on in a business like way, and have our files complete. They can call on you for files when you get in a case of this kind.

Mr. Baugh: If anybody sends an application through the mail or comes in, applying for an application, and you know he is a Negro — you might call me on the phone before you take the application.

Dr. Brehm: Mr. Baugh must work it out with the Attorney General. I don't want to confuse them.

Mr. Hess: The narrowness of the opinions — then they go on an specify what constitutes equal opportunities. There is no way in the world for any institution (new) to comply with the rules that were set up. One of the grounds they set up (Texas decision) the institution is a 100 years old — great prestige — great alumni — there is no way in the world to meet that kind of qualification. Those opinions were very sweeping, rather than narrow. The thing they insist on in their decision is something you cannot buy with money.

Dr. Brehm: As I said before, we get the Executive Committee together — just stall them off — let them lay on the desk — if we do have to give an opinion, it might be a matter for the State Board of Education to determine, inasmuch as they have jurisdiction.

Dr. Waters: If they insist on filing an application, I cannot do anything but take it.

Dr. Brehm: In respect to the question — has there been any change in the policy of the University — we have not had a chance to study what has taken place. Thus far, we are governed by the Attorney General's Office — what we can do, and thus far, there has been no notice from the Attorney General's Office that there has been any change.

But if they insist on filing an application and want a catalog, I would give them a catalog and tell them they can go on and file the application.

Dr. Waters: After the application is filed, it be processed in the usual fashion. We immediately find the race is contrary to our usual policy. We refer to administrative ....

Dr. Brehm: It is not the usual procedure to try to find some technicality. I say accept his filing the application or tell him he cannot file.

Mr. Baugh: You do then check his school and grades?

Dr. Waters: First — whether or not he holds his bachelor's degree. There would be no case if he has not qualified. 1. Check whether or not he is a graduate of an accredited school; 2. Determine whether he is a Negro.
If you turn him down on a technicality — he can say — "show me your files. Let me see if you have taken anybody with a record no better than mine." It is what they have done in these other schools.

Dr. Brehm: When these things come up — call your attorney.

Dr. Waters: We get lots of letters every day — "I am interested in your Graduate School. Please send application form." We cannot tell whether they are Negroes. Is that accepting the filing of applications.

Mr. Hess: If he applies — you say he is a Negro — if he just writes in and asks for an application, you are taking no position in regard to his race.

Dean Dunford: You don't ask other students whether they are colored — Indians—Egyptians — if you know he is a Negro and take his application, you are making some admission he is a Negro. There are certain quantitative reasons why we refuse admission ....

Dr. Waters: Knoxville College people — 20 percent will pass; 80 percent of white people will pass.

Dr. Thomason: We don't require that here.

Question: Is Knoxville College accredited?

Answer: Yes, by Southern Associations.

Dr. Waters: When a Negro comes to my office and requests applications forms, do I give them to him or not?

Mr. Baugh: You can say — there are some on my desk. You can have one. If he comes in and wants to file it, let him lay it on the desk.

Mr. Nealy: Do you get into discrimination on that?

Dr. Brehm: That was the duty of the Registrar.

Mr. Hess: It was the legal demand by their attorney they be admitted. We called their attention to the Act. They wanted me to say "No" and they rush down and get a mandamus to be admitted. They did not ask for an application blank. I still think it the best policy, whether they ask for an application blank or not. If they want an application blank, I would give it to them.

Mr. Baugh: I don't think it would be much difference, whether he asked for an application form or just picked it up. There might of course be some difference.
Dr. Brehm: The simple statement — you are familiar with certain acts about the races in this State; the University operates under and conforms to the state statute. If, in the light of this, you wish to file an application you can do it. It is no admission that you are going to accept it.

Mr. Baugh: Regardless of how you handle it, you cannot still get your facts on his record. Then, the test comes when you actually refuse and on what grounds. It is the real test.

Dr. Waters: What would be wrong with accepting applications with the statement you will refer through legal channels.

Dr. Smith: I would accept without saying anything, if he wants to file it.

Dr. Brehm: Legal (regular) channels are a lot of things — administration, State Board of Education; graduate committee; attorney general. I think we can leave it this way — sometime within the next ten days or two weeks, have a meeting of the Executive Committee and submit it to them.

Dr. Waters: It is my suggestion — make a complete record of each incident we have; let it be made a matter of record, with all the facts in connection with it.

Adjournment: