

MEMORANDUM ON THE HOMER P. RAINEY ACADEMIC FREEDOM CASE

Prepared November-December 1944 by the
National Federation for Constitutional Liberties
Room 1613, 205 East 42 Street, New York 17, N.Y.

On November 1, 1944, Dr. Homer P. Rainey was dismissed as President of the University of Texas. The Board of Regents voted 6-2 in closed session to dismiss him, offering no explanation but that "the interest of the University requires it".

This action brought a storm of protest from every part of the country, and especially from the Texas citizenry and press. The faculty unanimously urged the reinstatement of Dr. Rainey; the student body called a three-day strike in protest and has continued to circulate material, hold meetings, and sponsor radio programs on the situation; the Texas Ex-Students Association (alumnae) strongly objected. They were joined in their protests by the American Association of University Professors; by Texas civic, church, union and professional organizations and leading citizens; as well as by influential organizations in the South and in the nation.

This dismissal is the culmination of a long series of arbitrary actions and curbs on academic freedom by the Board of Regents of the University. It is not unconnected with the anti-labor drive carried on in recent years in Texas, from which the United Automobile Workers now have a test case pending before the United States Supreme Court (the R.J. Thomas Case in re: restrictive measures to hamper trade union organizers and organizations). Neither is the Rainey Case entirely divorced from the recent attempts in the elections to split the Electoral College vote away from President Roosevelt even though the popular vote should be for him. The people of Texas, before the elections, decisively repudiated these machinations, but the ring leaders in these two types of activity are part of the same interests now dominating the Board of Regents.

Dr. Rainey (and the policies of academic freedom and democratic principle he represents) has not yet been reinstated. However, an increasing number of people throughout the country, both educators and others, recognize that his dismissal is not simply "a Texas problem", or "a Southern problem" - but rather a fundamental issue for the entire country. If the very powerful forces which have engineered this, and which are manifestly imbued with concepts inimical to American democracy and the most elementary principles of academic freedom, go unchallenged in one of the nation's greatest universities in the largest state in the Union, the danger to education and educators in the entire nation is obvious. In a period in history when education must be counted upon to strengthen democracy and to help guarantee mankind against a third and unthinkable devastating world war, this case assumes even greater importance.

The Academic Council of the NFCL is asking you, and any organization to which you belong, to take immediate action in support of Dr. Rainey. Here is the story:

Background:

Dr. Rainey, a native of Texas, accepted the position of President of the University of Texas on June 1, 1939. He left his post as Director of the American Youth Commission of the American Council of Education. He had served previously as President of Bucknell University in Pennsylvania, and Franklin College in Louisiana. The Board of Regents which employed Dr. Rainey has since been almost entirely replaced by members appointed by former Governor W. Lee (Pappy) O'Daniels, and

his friend, the present Governor, Coke Stevenson.

Dismissal preceded by series of infringements on academic freedom:

Dr. Rainey's dismissal is the climax of a series of efforts by the Board of Regents to curtail academic freedom at the University. On November 3, 1944 the American Association of University Professors stated: "during the past four years there have been dismissals and threats of dismissals of members of the faculty of the University of Texas by the Board of Regents of the University contrary to the recommendations and over the protests of the responsible administrative officers of the University, Dr. Homer P. Rainey, President, Dr. John A. Burdine, Vice-President, and the Chairmen of the several departments concerned. The circumstances of these dismissals and threatened dismissals indicate a complete disregard of the principles of good academic practice with reference to intellectual freedom in colleges and universities generally recognized and observed by the administrations of accredited institutions.

"On Oct. 12 Dr. Homer P. Rainey, President of the University of Texas, reported to the faculty of the University steps that had been taken by the Board of Regents of the University to suppress freedom of thought, of inquiry, and of expression at the University. Dr. Rainey's recital and description of these alleged measures of repression taken by the Board presents a prima facie case of serious departures from good academic practice on the part of the Board of Regents.

"Since July 16, 1943, the national officers of the American Association of University Professors have been in communication with the Board of Regents of the University of Texas in an effort to clarify the facts and the issues involved in the dismissals and threatened dismissals of members of the faculty of the University..."

The Rainey report of Oct. 12 to the faculty was made public because Dr. Rainey stated: "I believe that you, the students, and the people of Texas have every right to these facts and that the publication of them now is the only way through which these issues can perhaps be resolved...The matter is of such great consequence to the welfare of the University that I am impelled to make this report. I regard it as my duty and obligation.." This report detailed some sixteen specific points, among which were the following examples:

- in 1942 the Board of Regents summarily fired three economics instructors without charges or hearing because they had attended a meeting sponsored by the National Association of Manufacturers in Dallas, Texas, and attempted to contradict as untrue and offer an accurate statement of fact on the Fair Labor Standards Act;
- the Board banned John Dos Passos' USA from the English reading list, and attempted to determine the individual responsible for placing it on the list, with the stated purpose of firing him, an act prevented only when the English Department insisted the entire Department was responsible;
- the Board attempted to abolish the University rule of faculty tenure, and when Dr. Rainey's support of faculty tenure was upheld by the State Attorney General's Office, the Board revised the rule to weaken it;
- the Board turned down appropriation after appropriation for research in social science by faculty members, recommended by the University Research Council, even though funds were available (and even though they approved practically all projects for research in the field of natural sciences), because the Board "disapproved" of the subjects of the research projects. (complete text of this report is printed in the Austin, Texas, American, Oct. 13)

Board of Regents reflect only "one group of interests":

Since the Board is responsible for Dr. Rainey's dismissal, and for the policies mentioned above leading up to it, examination of its composition is important.

It is a nine-person Board. Three of its present members were appointed by former Governor O'Daniels, and three by his successor and reputed protege, Governor Stevenson. The majority of the members are very closely tied up with the largest corporate interests in the southwest. For example,

Regent John Bickett is counsel for Southwestern Bell Telephone Company:

Regent D.F. Strickland is Lobbyist for interstate Theatres and owns a tremendous estate in the Rio Grande Valley; he was recognized in the state and national press as a "leader" of the anti-Roosevelt movement in Texas, and actively tied in with the "Pappy" O'Daniels'-supported "Texas Regulars";

Regent Scott Schreiner is a rancher, bank director, and a member of the family which owns the town of Kerrville, Texas, and is connected with large banking interests in San Antonio;

Regent Orville Bullington, former Republican candidate for Governor, is a multi-millionaire oil operator, real estate owner, corporation lawyer, and manager and principal heir to the Kemp and Kell estates and interests which include partial or whole ownership of local railroads, hotels, flour mills, real estate projects, irrigation projects, etc.:

Regent Lutchter Stark is a wealthy executive of numerous lumber interests and is also connected with banking and oil interests.

Similar examples could be given for almost every member of the Board - with the exception of Mrs. I. D. Fairchild who was the one member of the Board to support Dr. Rainey vigorously and forthrightly; and Dr. K. N. Aynsworth, physician, and friend of Dr. Rainey's, who has just recently died.

Dr. Rainey has characterized the Board as "controlled by a group of persons who represent almost entirely one attitude of mind and one group of interests in the state; they have tried in numerous ways to impose their point of view upon the University and to restrict the freedom of those who have other points of view; but because I have felt that not only their point of view but all points of view should be protected in the University I have had to oppose many of their actions in the interests of maintaining the integrity of thought and expression in the University. Since in so acting I have often been placed in the position of opposing them they have turned their opposition upon me and have resorted to numerous violations of the principles of good administration as a means of achieving their ends..." Dr. Rainey has also charged that there is an interlocking of directorates on the Boards of Texas Tech, Texas A. & I., Texas A. & M., and the University of Texas, and the Board of Education that is "positively frightening".

Dr. J. Frank Dobie, celebrated Texas folklorist, member of the University faculty, and just returned from a year of teaching in Cambridge University, England, has emphasized the danger of having men "all of the same kidney" on the boards of the

various state colleges. He remarked (at the State Senate inquiry in mid-November, see below for details) that if men of one certain persuasion are deliberately chosen as regents, conservative men who all think alike, they do not have to have "conferences" with each other, they will follow the same policies because of their identical narrow and bigoted points of view. He said that other state colleges, such as A. & M., and Texas Tech, have already lost their freedom and that the University of Texas is the last citadel of liberals and thinking men; that freedom must be regained in the educational system in Texas.

The American Association of University Professors has commented in regard to the Board (Nov. 3): "A university is not a proprietary institution. The trustees of a university are trustees for the public, the whole of the public. University trustees cannot be permitted to assume proprietary attitudes and privileges. They have no moral right to bind the reason or the conscience of the members of the faculty. All claim to such right is waived by the appeal to the public for contributions or by support from taxation. Any university which lays restrictions upon the intellectual freedom of its faculty proclaims to the public that it is a proprietary institution, and the public should be advised that while so administered the institution has no claim whatever to general support. This distinction between a proprietary institution and an educational institution is recognized and generally observed by most boards of trustees of colleges and universities. There are, however, still a few boards of trustees, particularly in our state universities, who regard their relationship to the faculty to be that of a private employer to his employees in which trustees are not regarded as debarred by any moral restrictions beyond their own individual sense of expediency from imposing their personal opinions upon the teaching of the institution or even from employing the power of dismissal to gratify their private antipathies and resentments. The facts of the present situation at the University of Texas indicate that such is the attitude of a majority of the members of the Board of Regents of the University of Texas."

Governor Stevenson asked to act - Upholds Regents:

On Nov. 2, the day after Dr. Rainey was fired, 6000 students in the University (almost the entire student body) gathered at the Governor's office at the Capitol Building, and demanded that he recall the Board of Regents and make them review their decision on Dr. Rainey in an open meeting so the public could see whether or not they were justified. The Governor refused. Public sentiment was so aroused over Dr. Rainey's ouster that Governor Stevenson who is noted for his position of "no comment" on public issues, stated on November 4, that, in his opinion, the present Board of Regents is "The strongest and most responsible" the University has ever had.

Since Dr. Rainey's dismissal, three members of the Board have resigned (only one in protest against the Board's action, Mrs. Fairchild), and three other terms are up in January 1945. Governor Stevenson, although pressed by Texas' most outstanding leaders and organizations to name to the Board more representative and responsible members, has filled the three recent vacancies with members of the "same stripe" as the old Board. These three recent appointments, as well as any new ones must be approved by the State Senate (which opens its session in January). Undoubtedly a very strong expression of public sentiment about the importance of having men and women of genuine democratic mind on the Board of Regents, made to each member of the Texas Senate (see last page of this memo for their names and addresses), as well as to Governor Stevenson himself, will have a decided effect on the final appointments made.

Texas Senate holds hearings on Rainey Case:

On November 16 the Texas Senate Committee on Education, headed by Senator Penrose Metcalf began an investigation of the Rainey Case. The Committee was scheduled to begin the day before, but was held up because its authority to carry on the investigation was questioned by Lt. Governor John Lee Smith. Smith is generally considered one of the most reactionary Texas politicians, and is reputed to be very friendly with many members of the Board of Regents. It is noteworthy that the faculty, students, alumnae and others supporting Dr. Rainey in his fight for reinstatement, had worked hard for the investigation and were eager that it start as soon as possible.

Dr. Rainey testified first, and in addition to presenting many facts concerning violations of academic freedom, and charging that there is an interlocking directorate of boards in many Texas educational institutions, he refuted several of the charges being made about him in whispering campaigns. He denied the rumor that he is a communist, or that there is communism at the University; he stated that he had never advocated education of Negroes and whites at the same school in the South, but that he is "proud to be known as a friend of the Negro" (Regent Strickland objected in and out of the hearings to out-of-state trips Dr. Rainey had made, along with many others, for speaking engagements to interracial organizations.).

Regents Bullington, Schreiner, Stark and Strickland all testified, vigorously denouncing Dr. Rainey as uncooperative and derelict in his duties, and attempting to usurp the powers and authority of the Board. Regent Bullington added that the University is a "nest of homosexuality" and that Dr. Rainey had done nothing about the situation. This charge was completely refuted subsequently by Homer Garrison, Jr., Director of Public Safety, who testified that Dr. Rainey "had cooperated fully in attempting to trace alleged homosexuality at the school"....that he believed Dr. Rainey "had exercised full diligence and that he considered secrecy essential to the success of this difficult type of investigation"....

Mrs. Fairchild was the one member of the five testifying Regents who supported Dr. Rainey. She stated that he had worked selflessly for the building of a greater University, that he had tried to cooperate with the Board, but that they (the Regents) were a group of strong-willed men who usually carried out what they started to do; that she knew at least two and a half years ago that the Board was laying the groundwork for Dr. Rainey's dismissal. She condemned the Board for their harassing Dr. Rainey with many petty things over a long period of time, and warmly commended his sixteen point statement to the faculty (Oct. 12th Report).

The information secured through this investigation, and the recommendations of the investigating committee will be given to the State Senate and be used in the future action of the Senate on appointments of Regents and on other decisions relating to the University. It will therefore be particularly important for Senator Metcalf, chairman of the committee, to know the feelings of interested individuals and organizations, both in and out of Texas, on this case.

Some Comments and Supporting Action on This Case:

Ralph E. Himstead, General Secretary, American Association of University Professors (on behalf of the Association): "On the basis of the facts, as we understand them at this juncture, the dismissal of Dr. Rainey bodes ill for the future of the University of Texas....". (to Governor Stevenson): "We are also informed of recent resignations of three members of the Board

of Regents. In filling these vacancies and the vacancies on the Board to be created in the near future by the expiration of the terms of members, we hope you will appoint men and women of judicious temperament disposed to consider de novo the facts, issues, and principles involved in the University situation."

Frank P. Graham, President of the University of North Carolina; as Honorary Chairman of the Southern Conference for Human Welfare: "...I am sure you have felt as I that every effort must be made to secure Dr. Rainey's reinstatement....It is one of the clearest and most flagrant attacks on academic freedom ever aimed at a Southern college....I believe it is possible to force his reinstatement since the entire faculty and student body of the University is supporting him so strongly."

National Lawyers Guild in Texas: "... (we have) watched with growing alarm the encroachments being made by political appointees upon the academic freedom of the University...A committee from our organization has been appointed to do whatever seems best and proper for our organization to do to assist in this situation..."

Chicago Sun (Nov. 23): From a study of the case, it seems that big economic interests in Texas, for which Senator W. Lee O'Daniel is the spokesman nationally, have moved furtively in on the University...An anti-labor bias is clearly disclosed in the chain of events beginning about four years ago. The Texas case is important nationally because it may indicate a line of attack, insidiously carried out in the field of education, that may be taken in the postwar period ahead..."

Texas Agricultural Mobilization Committee: "We organized (June 19, 1943) to mobilize agriculture to defend the farm programs against the attack of the Farm Bloc...We know that part of the whole bitter, nationwide fight (against reactionary forces) is an effort to capture control of public education and dictate the information to be given out by our Government Agencies, universities and colleges...Dr. Rainey has pulled the attack on the University out in the open...This is our fight, too..."

Mrs. Minnie Fisher Cunningham, Walker Co., Tex., farmer; ex-student of University of Texas; for many years with U.S. Dept. of Agriculture: "It does not say in my copy of the Constitution that every one except university professors shall be guaranteed freedom of speech and freedom of religion. Nor does it say in any Texas law that the Regents of the University shall check speaking schedules or manuscripts of faculty members...The Regents seem determined to suppress academic freedom in Texas...but Texans, both ex-students and most of the others, too, will rise at any time and cause the removal of Regents who impair the University's usefulness. It happened in 1917...If you had called the roll in 1920, of people who had been in office in Texas when that University row began you would have checked a practically complete house cleaning...The (present) matter should not be hushed up. It should be aired out..."

ACTION WHICH YOU SHOULD TAKE:

1) Sign the special statement which the Academic Council of the NFCL is circulating, and return it without delay to Room 1613, 205 East 42 Street, N.Y.17,N.Y.

2) See that a resolution is passed in any organization to which you belong, including these main points:

- the threat to democratic principles and to academic freedom throughout the nation if this case is permitted to go unchallenged;
- the demand that Dr. Rainey be reinstated;
- the demand that a new Board of Regents be appointed consisting of men and women more representative of all sections of opinion in Texas.

3) Write a letter to Governor Coke Stevenson along these same lines.

Address: Capitol Building, Austin, Texas.

4) Write a similar letter to (State) Senator Penrose B. Metcalfe, San Angelo, Texas, including points listed in #2 above. Mr. Metcalfe is Chairman of the Texas Senate Committee on Education, and has headed the Senate investigation of the Rainey ouster.

Please forward to the Academic Council of NFCL copies of any letters you send on this Case so future plans in the campaign can take into account the action already taken.

The Council will be glad to answer any more detailed questions you may have about this Case, and also to send copies of this Memorandum to any person or organization you suggest.

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Members of Texas State Senate

to whom a letter should be sent; towns given are in Texas

Howard Carney, Atlanta; Wardlow W. Lane, Logansport Street, Center; Ben Ramsey, San Augustine; Roger A. Knight, Madisonville; T.C. Chadick, 2205 Sixteenth Street, Orange; A.M. Aikin Jr., 306 North 5th, Paris; Chas. R. Jones, 321 West 6th, Bonham; G. C. Morris, Greenville; W. C. Graves, Republic Bank Bldg., Dallas; A.B. Crawford, Granbury; Kyle Vick, Waco; J. Alton York, Dixie Theatre Bldg., Bryan; L.J. Sulak, LaGrange; Weaver Moore, 1305 Commerce Bldg., Houston; William E. Stone, U.S. National Bank Bldg., Galveston; Fred Mauritz, Genado; R.A. Weinert, 207 1/2 N. Austin, Seguin; Jas. A. Stanford, Norwood Building, Austin; Buster Brown, 1110 North 9th, Temple; R.C. Lanning, Jacksboro; George Moffett, Chillicothe; Pat Bullock, 520 Vine Street, Colorado City; Penrose B. Metcalfe, San Angelo; Lt. Rogers Kelley, Edinburg; Jesse L. Martin, W.T. Waggoner Bldg., Ft. Worth; H.L. Winfield, Ft. Stockton; Sterling J. Parrish, Lubbock; Grady Hazlewood, Oliver-Eakle Bldg., Amarillo.

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