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Minutes of the organization meeting of the Board of Regents of the University of Wisconsin System: October 19, 1971. 1971

Madison, Wisconsin: Board of Regents of the University of
Wisconsin System, 1971

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ORGANIZATION MEETING
of
BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

Madison, Wisconsin

Held in the Alumni Lounge of the
Alumni House, 650 North Lake Street
Tuesday, October 19, 1971, 10:00 A.M.

Regent William Kahl presiding.

Regent Kahl made the following statement: "It is my privilege to call to order the initial organizational meeting of the newly established Board of Regents of the University of Wisconsin System created under Chapter 100 of the Laws of 1971. I am exercising this prerogative upon the request of President Ziegler, former President of the University of Wisconsin Board of Regents, and President Kopp, of the former Board of Regents of the State University System. In order that we can have the record duly established, I am appointing as Acting Secretary, Mr. Joseph Holt, until such time as the Board is organized and formally will elect the necessary officers to operate the new Board. In order to establish the record, I shall request at this time from the Acting Secretary whether the necessary oaths of office have been appropriately filed with the Secretary of State." The Acting Secretary reported that the oaths of office for all Regents present are on file with the Secretary of State.

The roll was called by the Acting Secretary, with the following Regents present: Carley, Christianson, Dahlstrom, Dixon, Fish, Gelatt, Kahl, Kopp, Lavine, Murphy, Nellen, Neshek, Pelisek, Renk, Sandin, Solberg, Williams, Zancanaro, and Ziegler.

Absent: Regents McNamara and Riley.

Regent Kahl stated that Regent McNamara is out of the country and Regent Riley is ill, and stated that he was sure they would look forward to their association with this Board at future meetings.

Upon motion by Regent Ziegler, seconded by Regent Renk, it was VOTED, That Regent Kahl serve as temporary chairman of the meeting.

Regent Kahl called for nominations for the election of the President of the Board of Regents of the University of Wisconsin System.

Regent Gelatt offered the name of Regent Kopp to serve as President of the Board of Regents of the University of Wisconsin System, stating that Mr. Kopp has served long and diligently and with honor, and that he was sure that Mr. Kopp will guide deliberations of this Board with fairness.

Regent Ziegler moved that the nominations be closed and the Secretary be instructed to cast a unanimous ballot for Roy Kopp as President of the new Board of Regents, the motion was seconded by Regents Sandin and Renk, and voted unanimously.

President Kopp assumed the Chair.

President Kopp called for nominations for the election of a Vice President of the Board of Regents of the University of Wisconsin System.

Regent Neshek nominated Bernard Ziegler as Vice President of the Board.

Regent Fish moved that the nominations be closed and that the Secretary be instructed to cast a unanimous ballot for Bernard Ziegler as Vice President of the Board, the motion was seconded by Regent Dixon, and voted unanimously.

Regent Gelatt stated that the statutes specifically call for a President of the Board, but that we have not approved By-Laws and suggested that it would probably be in order to authorize the position of Vice President of the Board in order to make the record clear and complete.

President Kopp requested Attorney General Warren for advice on the subject. Mr. Warren suggested that the Regents adopt as a By-Law of this Board of the combined systems provision for a Vice President of the Board. Regent Fish stated that in the same resolution should be included the authorization for the election of a Secretary of the Board, an Associate Secretary, and two Assistant Secretaries.

It was moved by Regent Neshek, seconded by Regent Pelisek, that a By-Law of the Board of Regents of the University of Wisconsin System be adopted

providing for the positions of Vice President, Secretary, Associate Secretary, and two Assistant Secretaries. The resolution was adopted by unanimous roll call vote.

President Kopp made the following statement: "I feel that this is, as I am sure all of you do, a very historic occasion. Many of us here differed for many months about the wisdom of merger. Now, however, a merged Board has been completed and the Legislature has asked us to govern all of the institutions of higher learning under what you might term a mammoth umbrella. As far as I am concerned, the time for discussion is past and the time for implementation has now arrived for all of us. As many of you have said, we apparently now have under our jurisdiction the third largest system of higher education in the nation, and I feel that all of us should now get down to the task of attempting to make it the best. A number of us on this Board, previously serving on other Boards, have been friends, some very close friends, for many, many years. I think we, therefore, start out with a tremendous advantage. If this group cannot efficiently operate our institutions of higher education with the assistance of the very capable administrators whom we will of course employ, then I dare say that there is no group in the state that could operate successfully this great system which we now take over.

"I also want to add that it is with great humility that I accept the responsibility which this Board has just asked me to assume. Through my service on the Board of Regents of State Universities for some year, I have become gradually familiar with the procedures which we have followed in that system and with some of the problems at least involved in that system. I do not pretend to know anything about the mechanical processes under which the University of Wisconsin has operated, although I do have a deep appreciation for this great institution and hold several degrees from the University of Wisconsin, so it is my alma mater. The task which lies ahead of us is to me almost frightening in its immensity, and I am very frank to say that were it not for the fact that my partner to the left, Bernie C. Ziegler, has been elected as Vice President, I would be reluctant to assume the position of President. I know that with his assistance and guidance we will work together as a team and that his help will be invaluable to me.

"And so, I say very simply that I feel highly honored to be elected to this position and that I certainly will endeavor to the best of my ability to perform the duties and responsibilities entrusted to me, and thank you for listening to these few remarks."

Regent Pelisek nominated Clarke Smith as the Secretary of this Board, Eugene R. McPhee as Associate Secretary, Joseph Holt as Assistant Secretary, and Robert Winter as Assistant Secretary, and it was seconded by Regent Sandin.

Regent Renk moved that the nominations be closed and that the Acting Secretary be instructed to cast a unanimous ballot for the above nominees. The motion was seconded by Regent Dahlstrom, and it was voted unanimously.

Regent Kahl moved the nomination of Regents Mary Williams and David Carley to the Governor, as representatives of the Board of Regents of the University of Wisconsin System, to serve on the Higher Educational Aids Board.

Regent Dahlstrom moved that the nominations be closed and that the Acting Secretary cast a unanimous ballot for the above nominees, the motion was seconded by Regent Lavine, and it was voted unanimously.

The Acting Secretary was instructed to communicate these nominations to the Governor.

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Regent Fish made the following statement: "Although not making it a motion for action by this Board, I would like to make a brief statement to be included in the minutes of this meeting. Operating under Chapter 100, there are reservations about the legality of some of our actions, and with the almost certainty of citizen suits as well as the statutory constitutional questions posed by the bill itself, I believe it is imperative that we proceed to the degree and at the pace that will be dictated by the bill, by the Legislature, and by legal advice that we must seek. It is, I believe, incumbent upon us to act in both the spirit and letter of the merger legislation. Although many of us differ on our interpretation of how our best educational needs could be served, all of us will continue to work diligently to fulfill the demands upon us.

"To say that we are in a legal thicket is a grave understatement. The Legislature itself recognized this by incorporating into the law a court test of the constitutionality of merger. We have seen three opinions by three different attorneys general of this state in the past relative to the unconstitutionality of merger. The present bill contains many significant differences from prior opinions, but also certain disturbing similarities. We are also instructed to operate the two systems independently under present Chapters 36 and 37, and obviously there is concern whether or not we are corporately and individually liable, and if indeed our responsibilities under those Chapters have terminated. It is necessary that we exert extreme care that we not be obstructionists, and at the same time be responsive to the stated concerns and objectives of the bill itself.

"The bill specifically provides for a court test of constitutionality. We must see to it that this is expeditiously accomplished. It also provides for a study and implementation committee to report to the 1973 Legislature on the feasibility, wisdom, and methods of full merger. We ought not to usurp to ourselves the acts of legislative creation. Obviously, the legislators have specific and stated goals as well as specific and stated hesitations. It has not been mandated with power beyond the intent of the Legislature. For those reasons I strongly urge upon my colleagues three points: first, utilize all haste to arrive at a court determination of constitutionality as we were instructed to do; second, carefully retain the operational structure under Chapters 36 and 37 as we were instructed to do; and, third, to proceed with care in the implementation of alterations, so that acts not be taken that are irrevocable either in fact or in practice, and that we obtain legal counsel reflected in the minutes for those steps that are taken. As your President

indicated before, our responsibilities are genuinely awesome and I think all of our personal efforts have to be developed to the common good."

President Kopp stated that he and Regent Ziegler had invited the Attorney General, the Honorable Robert Warren, to meet with the Board today because of the fact that the statute under which we are created does provide for a declaratory judgment action to test the constitutionality of the act, and that he felt it might be helpful to all if Mr. Warren himself could advise us as to the problems at hand and how he is planning to handle the matter.

Attorney General Robert Warren made the following statement: "A few of the comments that I would make here very briefly are undoubtedly repetitious of those made by Regent Fish. As he has indicated, with the passage of Chapter 100 of the Laws of 1971, which were effective on October 12, some kind of merger of the University of Wisconsin and Wisconsin State Universities occurred. How much of that merger has already in fact been accomplished by the passage of the statute, how much remains to be implemented by the operation of this joint Board, even whether merger itself is constitutional, are all questions that obviously concern all of us. Three of my predecessors have opined that probably the kind of thing that has been attempted here was not constitutional. Apparently, many of the Legislators who voted on this bill also had some concerns about that very point, because as has been indicated, Section 25 of the Law provides, and I quote, 'upon enactment of this section, the Attorney General shall promptly commence an action seeking a declaratory judgment as to whether the constitution permits the merger of the University of Wisconsin and the State Universities as provided in this statute. The Attorney General shall petition for leave to commence the action as an original action in the Wisconsin Supreme Court. If the petition is denied, he shall commence the action in the Circuit Court for Dane County.' I believe that as Attorney General I have a sworn obligation to uphold the valid enactments of the Legislature. This means to me that I shall go into court upholding the constitutionality of Chapter 100.

"As we are mandated in the Law, we are to set up a justiciable controversy as rapidly as possible. In the process of doing that, it is obviously necessary that counsel be selected to represent the point of view that the act is invalid. Under Section 14.11, the authority to appoint such special counsel lies in the Governor. The day after this action became law, on October 13, I formally requested Governor Lucey to make such appointments as soon as practicable so that we can move very quickly in response to the legislative mandate to test the constitutionality. Obviously, this litigation will take some time; anywhere from a couple of months to a considerably longer period, depending upon whether or not the Supreme Court does decide to accept original jurisdiction.

"I think, as has been properly expressed, there is concern about where this leaves you. What about the status of the Board? It appears to us to be the intent of the merger law to abolish the former Boards and to place all of the corporate functions and duties in the former Boards with this new Board. We have so advised Mr. Smith in an opinion that we are delivering to you today. In this regard, I think it is important to remember that the merger law requires this test of constitutionality, and without doubt this does create something of a cloud over the act which may well give you pause, but as has also been indicated, I think you have a duty to proceed expeditiously and judiciously, and we

think that the only possible course of action open to you as a joint Board is to proceed, with the qualified presumption that this act is actually constitutional and to act accordingly, but, as has been suggested, to undertake your implementation with as much caution and judgment as you can exercise, and in such ways where possible as would permit you to readjust, in the event that the court should throw merger out. We in the Department of Justice are standing by and are ready and eager to offer any assistance we can to you in this endeavor. We certainly will expeditiously pursue and prosecute the court test because we recognize the difficulty that this holds for you in working out the details of this historic step. If there is anything else that we can provide by way of service to the Board, we certainly want to do so.

"I have with me this morning Mr. Charles Bleck, Assistant Attorney General, who has been serving the State Universities System and he will continue to serve this Board, and additional personnel will be assigned to the task as necessary by our office."

Regent Renk moved, and it was seconded by Regent Dixon, That the President be directed to appoint an organization committee to consist of the members of the Executive Committees of the former University of Wisconsin and Wisconsin State Universities Boards, with such committee to be charged with the duty to submit proposed By-Laws; to meet with representatives of the University of Wisconsin and Wisconsin State Universities systems to formulate a proposed organizational and functional structure of the Central Administration; to propose Central Administrative system officers and staff; and to deal with such other organizational problems as may be suggested and to submit its recommendations to this Board for its consideration at the earliest convenient date.

Regent Gelatt stated that this Board is a merged Board, and assumes that it will have a merged tradition, and that one of the traditions of the now extinct University of Wisconsin Board, perhaps more than a tradition, was that meetings of committees, notice of such meetings were given to all members of the Board, and all members of the Board were invited to attend and to join in the discussion. He stated that he hoped that that tradition would come forward here so that any member of this Board, if he wished, would have input into decisions of this committee.

President Kopp stated that he would certainly favor such a tradition, and that unless there is objection, all Regents would be welcome. He stated that Regent Gelatt's comment illustrates the necessity which Regent Ziegler and he felt for an ad hoc committee to submit By-Laws, to prepare rules, to prepare procedures, etc., because, as Regent Gelatt mentioned, we have been operating under somewhat different regulations and By-Laws, although essentially the same. Before we can even determine how someone is to be recognized from the outside to address the Board, we have to have some By-Laws and rules, and therefore, it seemed to Regent Ziegler and himself that a committee of this type be appointed, and it was our suggestion that probably the people most familiar with the present operations of the old Boards would be the Executive Committees.

The resolution was voted unanimously.

President Kopp announced the members of the committee, as follows: from the former Executive Committee of the Regents of the University of Wisconsin, Regents Ziegler, Renk, Pelisek, Fish, and Dahlstrom; and Regents Neshek, Dixon, Christianson, Solberg, Riley, and Kopp, from the Wisconsin State Universities Executive Committee. He stated that unless there is objection he would name himself as Chairman of the Committee and Regent Ziegler as Vice Chairman.

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President Kopp stated that under the statute creating this Board, among other things, the Governor has directed us to appoint what is referred to as an Implementation Study Committee, and that the bill directs that the President of the former Board of the University of Wisconsin serve on that committee or designate someone to serve in his stead, and name two additional members, and that the same procedure be followed as to the President of the State Universities Board. He stated that Regent Ziegler and he had this morning submitted to the Governor their nominations and asked that they not be announced by the Governor until after this meeting had adjourned.

Vice President Ziegler stated that he preferred not to go into any of the rationale he used in selecting the nominees, but that it was a difficult choice, and that he had a specific reason for each, but would not reveal the reason at this time. He stated that he had discussed the matter with each member nominated and they have all agreed to serve, and stated that they are: Regents Pelisek, Fish, and as his own designee, as he chooses not to serve, he had selected former Vice President Regent Renk.

President Kopp stated that his selection had been difficult to make, as there are many members of the Board, formerly known as the Wisconsin State Universities Board of Regents, who could very ably assume these responsibilities. He stated that because he wished to involve as many members of the Board as possible, he too declined to serve personally and was naming the former Vice President of his former Board, Regent Neshek, as his designee, and as the additional members, Regents Christianson and Solberg.

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President Kopp read the following letter from William L. Carter, President of the University at Whitewater: "Please find enclosed petitions presented to me by students and faculty at the University of Wisconsin Whitewater. I was asked to transmit these petitions to you for consideration by the Board. They have also asked me to inform you that a delegation of three students will attend the Board meeting on Tuesday, October 19, and request the privilege of speaking in support of the petitions." President Kopp stated that the petitions would be accepted and placed on file, and that those wishing to be heard will be given an opportunity to do so at a later meeting, as soon as possible.

President Kopp stated that he would like to have the ad hoc organizational committee, and Assistant Attorney General Bleck meet following adjournment to consider matters relating to the By-Laws.

The meeting adjourned at 10:40 A.M.