

IV. Matters recommended by the President ... (cont'd)

Z. General Administration -- (cont'd)

5. Appointment of Mr. Angel Mercado ... (cont'd)

Mr. Mercado will revert to his regular item upon completion of the above-stated Project. (Chargeable to Construction Project funds, Forestry Technology Building Annex, College of Forestry, Los Baños.) (Temporary.)

Board action: Approval.

6. Acceptance with appreciation of a donation in the amount of P10,000 by ESSO Standard Eastern, Inc. for University campus development.

Board action: Acceptance.

7. Letter of Commissioner of the Civil Service Abelardo Subido dated April 4, 1967, regarding the Board of Regents' resolution of January 20, 1967 (754th Meeting) adopting a new definition of academic staff to include several non-teaching personnel:

"April 4, 1967

"The President
"University of the Philippines
"Quezon City

"Sir:

"It has been brought to the attention of this Office that in a resolution of the Board of Regents at its 754th Meeting on January 20, 1967 a new definition of academic staff has been adopted so as to include the non-teaching staff as follows:

"1. Research personnel - researchers, research aides, research assistants and research associates

"2. Professional extension workers.

"3. Professional librarians.

"4. Guidance counselors.

"5. Technical specialists - training specialists, information specialists, labor education officers, training officers.

IV. Matters recommended by the President ... (cont'd)

Z. General Administration -- (cont'd)

7. Letter of Commissioner of the Civil Service ... (cont'd)

"The question therefore arises whether the non-teaching staff specified above would be exempt from civil service examination requirements since it is now included in the term 'academic staff.'

"In this connection a thorough study of the pertinent provisions of the Civil Service Law (RA 2260) and those of the Revised Code of the University of the Philippines was made.

"Section 3 of RA No. 2260 provides as follows:

'Sect. 3. Positions Embraced in the Civil Service. - The Philippine Civil Service shall embrace all branches, subdivisions and instrumentalities of the government including government-owned or controlled corporations, and appointments therein except as to those which are policy determining, primarily confidential or highly technical in nature shall be made only according to merit and fitness, to be determined as far as practicable by competitive examination. Positions included in the civil service fall into three categories: namely, competitive or classified service, non-competitive or unclassified and exempt service. The exempt service does not fall within the scope of this law.'

"Section 5 of the same law enumerates positions embraced in the non-competitive service, and Section 6, the positions included in the exempt service. Section 5(e) specifically provides that members of the various faculties and other teaching force of the U.P. and other government colleges offering courses in the collegiate level, including the business directors and registrars of said institutions, belong to the unclassified service. Those not expressly enumerated as falling under the unclassified or exempt service belong to the classified service.

"Article 209 of the 'Revised Code of the University of the Philippines' provides as follows:

'The Civil Service Law, as well as the rules and regulations issued by competent authority pursuant thereto, such as the prohibition against nepotism shall be taken in addition to whatever measures the Boards of Regents may adopt in connection with the appointments to the administrative staff.'

IV. Matters recommended by the President ... (cont'd)

Z. General Administration -- (cont'd)

7. Letter of Commissioner of the Civil Service ... (cont'd)

"Article 210 enumerates the persons who belong to the administrative staff which includes administrative officers, clerks, and other employees, while Article 153, those of the academic staff which are as follows:

"The regular members of the faculty includes:

- "1. Professors
- "2. Associate Professors
- "3. Assistant Professor (Including Research Associates)
- "4. Instructors (Including Research Fellows)
- "5. Assistant Instructor

"The non-regular members of the faculty are:

- "1. Assistant Lecturer
- "2. Associate Lecturer
- "3. Professorial Lecturer
- "4. Visiting Professor
- "5. Exchange Professor

"Article 158 provides that members of the faculty shall be exempt as such from any civil service examination as a requisite to appointment. It will be noted from the enumeration as to who are considered members of the faculty, that they are indeed engaged in teaching or lecturing. The inclusion by the Board of Regents in its meeting on January 20, 1967, of non-teaching personnel in academic staff does not ipso facto remove them from the competitive service for the following reasons:

- "1. Section 5(e) of RA 2260 specifies only members of the various faculties, x x x including business directors and registrars, as embraced in the unclassified service.
- "2. Section 11 of R.A. No. 1870, as amended by R. A. 101, (An Act for the Purpose of Founding a University of the Philippines, etc.) provides that professors and other regular instructors in the university shall be exempt as such from any civil service examination or regulation as a requisite to appointment.
- "3. The above provision is reiterated in Section 158 of the Revised Code of the University of the Philippines.

IV. Matters recommended by the President ... (cont'd)

Z. General Administration -- (cont'd)

7. Letter of Commissioner of the Civil Service ... (cont'd)

"After a study of the matter this Office has come to the conclusion that the non-teaching staff is still embraced in the classified service, hence, appointment thereto shall be in accordance with the Civil Service Law and Rules

"Your continued support in the effort of this Office to enforce the merit system is greatly appreciated.

"Very truly yours,

"(Sgd.) Abelardo Subido

"ABELARDO SUBIDO

"Commissioner of Civil Service"

Note: In this connection, Commissioner Subido furnished the University Auditor copy of the letter with the instruction that all appointments of research personnel not duly acted upon by the Civil Service Unit shall be deemed illegal and payment of salary to the employee concerned shall not be allowed.

Representations were made with the Commissioner requesting that the salary of the personnel concerned be authorized pending consideration and final decision on the matter.

On May 18 Commissioner Subido sent the following note to the Auditor:

"Atty. Cobacha:

"Pending consideration of the request for re-consideration on our ruling on the Resolution of the Board of Regents re academic staff, you may authorize the payment of salaries of those affected until further notice from this Office.

"(Sgd.) A. Subido

"C S C"

7-a. Memorandum reply to Commissioner Subido:

MEMORANDUM

This is with reference to the letter of the Commissioner of Civil Service, dated April 4, 1967, advising the President

IV. Matters recommended by the President ... (cont'd)

Z. General Administration -- (cont'd)

7-a. Memorandum reply ... (cont'd)

of the University that the Resolution of the Board of Regents issued in its 754th meeting, adopting a new definition of academic staff does not perforce exempt the nonteaching staff from civil service examinations.

The purpose of this memorandum is to support the proposition that the Board of Regents is authorized by law to define the composition of the academic staff. The members of the academic staff are embraced in the phrase "various faculties and other teaching force of the University of the Philippines", provided in section 5(e) of the Civil Service Law. In the division of the academic staff into teaching and nonteaching personnel, the latter category refers to those who are not conducting classroom instruction for instance, research personnel and training specialists. However, it is submitted that all of those classified in this group are engaged in teaching activities, in the broad sense of the term. This being the case, they are exempt from civil service examinations.

Among the various instrumentalities created by law to accomplish the ends of government, no institution is perhaps more singularly endowed and pre-eminently qualified in the shaping of values in our society and in extending the frontiers of our knowledge, than the University of the Philippines. Being a community of scholars dedicated to the pursuit of knowledge, the University's main pre-occupation is the transmittal of the cultural heritage of mankind. It performs this function mainly through the medium of instruction conducted by its corps of professors and instructors. This is its traditional function. But a state university, as presently conceived, is not merely a purveyor of a mass of accumulated knowledge, but an active seeker of truth. It has therefore become generally accepted that if the University is to be effective in the discharge of its main function, research should be made an indispensable arm to instruction. But apart from instruction and research, the Charter of the University (Act No. 1870), as amended, sec. 2) imposes upon it the duty to give professional and technical training. And this the University has undertaken to do. Time and again, the Government has drawn from the resources of the University and the latter, in the faithful execution of its duties has contributed the expertise and technical assistance so essential for a successful prosecution of legitimate government objectives.

IV. Matters recommended by the President ... (cont'd)

Z. General Administration -- (cont'd)

7-a. Memorandum reply ... (cont'd)

The point of all these is to underscore the vital and widening responsibilities entrusted by law to the University of the Philippines and the imperative need for this institution to be free from the rigidity resulting from a literal interpretation of the civil service law. It is therefore suggested that in the application of the civil service law to the University, a liberal interpretation should be adopted so as not to hamper the University in the free exercise of academic freedom which is guaranteed to state universities by the Constitution (sec. 5, Art. XIV) and its efforts towards nation-building. The effect of the civil service law on other government institutions is unquestionably salutary; its stringent application to the University may result in the withering of academic life and the gradual eclipse of its participation in national affairs.

Obviously, the mission of the University stated above (instruction, research, professional and technical training) cannot be effectively carried out if its governing body, which is the Board of Regents, is not given the corresponding authority to determine for itself, the competence and skill of those whom it will engage to accomplish the avowed objectives of the University.

Under the University Charter, the government of the University is vested in the Board of Regents (sec. 4). In addition to a general power of administration, the Board, according to section 6(e), has the power to appoint, on recommendation of the President of the University, professors, instructors, lecturers and other employees. It is also authorized by section 6(h) to enact for the government of the University such general ordinances and regulations, not contrary to law, as are consistent with the purposes of the University as defined in section 2 of the Charter. Section 2 stipulates that the purpose of the University is to "provide advanced instruction in literature, philosophy, the sciences, and arts, and to give professional and technical training."

In the exercise of its ordinance-making power, the Board of Regents in Articles 153 to 155, of the Revised Code of the University under the heading "academic staff" classified members of the faculty into regular and nonregular and enumerated the positions comprised in these two grand divisions. But with the expansion of the University's activities, it became increasingly evident that the defini-

IV. Matters recommended by the President ... (cont'd)

Z. General Administration -- (cont'd)

7-a. Memorandum reply ... (cont'd)

tion and classification obtaining in these articles were too narrow to suit University needs and purposes. The Board was therefore constrained to broaden the classification so as to include those participating in the accomplishment of the other functions of the University, which are not limited to classroom instruction of regular students, namely, research and professional and technical training. The resolution adopted by the Board in its 754th meeting on January 20, 1967, is, in brief, a modification of its former determination of the composition of its academic staff. Where, heretofore, the composition of the academic staff was limited to the instructional arm of the University, the Board has seen fit to include within its ranks those who are engaged in closely related activities. In doing so, it was merely responding to the present needs of the University.

Section 5(e) of Republic Act No. 2260 enumerates those in the University who are embraced in the noncompetitive service. The section states: "Members of the various faculties and other teaching force of the University of the Philippines and other government colleges offering courses on the collegiate level, including the business directors and registrars of said institutions." The modern concept of a university, universally accepted in the academic world, does not confine the activities of a university to classroom instruction, which is its traditional function, but extends these to other forms of teaching, encompassing among others, the dispensing of professional and technical training. It allows the interpretation, therefore, that the academic staff of a university may be defined by its governing body as comprising those who are engaged in regular classroom teaching activities and those who are not.

Provided of course, that the definition and classification so adopted are reasonable and necessary, it is submitted that the judgment of the Board, in whose hands the management of the University is lodged by law, should not be disturbed. Considering further that the ultimate responsibility for the attainment of the purposes for which the University is created is vested by law on the Board of Regents, it should have the authority to determine who should carry out its work.

These considerations call for a liberal interpretation of the civil service law. The liberal interpretation urged is that the phrase "various faculties and other teaching force"

759th Meeting
B/R, 6-15-67

IV. Matters recommended by the President ... (cont'd)

Z. General Administration -- (cont'd)

7-a. Memorandum reply ... (cont'd)

should be given the broad meaning consistent with modern trends obtaining in universities all over the world: The academic corps of a university may comprise teaching and nonteaching staffs in the ordinary sense. The teaching staff, in this case, are those who give regular classroom instruction to students enrolled in subjects prescribed in the University curricula. To this class belong the professors, instructors and lecturers. The nonteaching staff, on the other hand, include those who are indispensable to the regular teaching force, such as research personnel; and those who, although not involved in regular classroom instruction, provide technical and professional training, such as training specialists, extension workers, professional librarians and guidance counselors. It is submitted that it is within the peculiar competence of the Board of Regents to make this classification.

Even previous to the Board resolution under consideration, Article 154 of the University Code already provided, and this has never been questioned, that the regular members of the faculty include research associates and research fellows. The Board, by adopting this provision was following the world-wide practice among universities that researchers form part of the faculty, because they constitute an indispensable and inseparable arm to instruction. Without them, instruction would be sterile. Those who provide professional and technical training - training specialists, professional librarians, guidance counselors, etc. - are in a broad sense, also performing teaching activities. They are engaged in teaching, when, by conducting seminars or demonstrations or by giving professional advice, they give training to those who wish to acquire skills in their particular fields of specialization. It can thus be seen from the foregoing, that the Board of Regents, in passing the resolution during its 754th meeting did not exceed the bounds of its authority.

The fear which perhaps may militate against this liberal interpretation is that the merit system may be disregarded. Nothing could be farther from the truth. There are provisions in the University Code which guarantee the strict observance of the merit system. These provisions are as follows:

"Sec. 157. All appointments to the faculty shall be made strictly on the basis of merit. No religious test shall be applied, nor shall the

IV. Matters recommended by the President ... (cont'd) --

Z. General Administration (cont'd) --

7-a. Memorandum reply ... (cont'd) --

religious opinions or affiliations of the instructors of the University be a matter of examination or inquiry."

"Sec. 159. Every recommendation to the Board of Regents for appointment or promotion shall be accompanied by a complete statement of the qualifications, training, service record, publications or researches of the candidate and such other matters which may be called for by the rules of the University."

If it is realized that these provisions are being administered and implemented by men of the highest integrity and vision, who are interested solely in maintaining the University's tradition of excellence, it is not likely that the merit system may be by-passed.

Board action: Approval of the memorandum reply.

Aa. Miscellaneous -

1. Renewal of the Memorandum of Agreement between the University of the Philippines and the National Defense College of the Philippines for a period of two years, effective upon execution of the renewal of agreement (May 12, 1967) and under the same terms and conditions as set forth in the original agreement. (Appendix "P", pages 110 to 113.)

Note: Under the Agreement, the University will assist the National Defense College of the Philippines, at least during its initial years of operation, through extension of the services of some members of the academic staff as well as of library privileges and facilities as may be necessary, under certain terms and conditions.

Board action: Approval.