

Presentation to the Faculty Senate, Tuesday, January 8, 2013

The subject of my presentation today is one that I have already mentioned in public, at a town hall meeting early last year and in a letter to the Chief Justice of the Supreme Court of South Carolina more than a year ago. It merits continued attention, in my opinion ... and that is why I am here.

I am talking about the structure of the Board of Trustees of Clemson University and my concerns about the example being set by its seven "life" members (there are 13 in all). I think that they are cheating, yes, cheating. Or at the very least, they are demonstrating that they are content to weasel out of what, on the surface, looks like a direct violation of the oath that they sign before being seated ... much like a student who tries to weasel out of the fact that he or she has written a paper copying practically word for word some article off the Internet but with one or two words changed. I don't think that this comes close to meeting the standard of a "high seminary of learning." And I suggest that this example, set at the very top of our administrative pyramid, can have a devastating effect on morale at every level.

Let me start with the oath. I am reading now from a document entitled "Life Trustee Oath." It has the seal of Clemson University at the top of the page and David Wilkins' name at the bottom. It reads as follows: "I do solemnly swear (or affirm) that I voluntarily accept the duties of a Life Trustee of Clemson University, to which office I have been elected, and I will, to the best of my ability, discharge the duties and responsibilities thereof in accordance with the laws of this State and the policies of the Life Trustees, as they may be changed from time to time by the Life Trustees, and that I will preserve, protect and defend the constitution of this State and the United States."

Pretty clear and straightforward.

Before I go any further, let me say in passing that the term "Life Trustee" is not only used in this oath. It is used on the Board of Trustee's WEB site and by the entire Clemson community when referring to them.

Now, let me turn to the laws of this State and its constitution. In Chapter 1, General Provisions, of Section 8-1-10, Public Officers, we read: "The term "public officers" shall be construed to mean all officers of the State that have heretofore been commissioned and *trustees of the various colleges of the State*, members of various State boards and other persons whose duties are defined by law." There can be no doubt about the fact that Clemson's "life" trustees are therefore officers of the State, all the more because this fact has been claimed by Clemson's own legal counsel in two different law suits over the past few years and ruled as such by both judges.

In the Constitution under Article XVII, Miscellaneous Matters, Section 1B, we read: "No person shall be elected or appointed in this State for life or during good behavior, but the terms of all officers shall be for some specific period of time, except Notaries Public and officers of the Militia."

And lastly, in Section 11 of the same article, we read: "All officers, State, executive, legislative, judicial, circuit, district, County, township and municipal, who may be in office at the adoption of this Constitution, or who may be elected before the election of their successors as herein provided, shall hold their respective offices until their terms of office have expired and until their successors are elected and *qualified as provided in this Constitution*, unless sooner removed as may be provided by law."

The will of Thomas Green Clemson was accepted by the Legislature under the Constitution of 1865 and the current Constitution was adopted in 1895. I interpret this to mean that the “life trustees” originally appointed to serve when the Clemson Agricultural College was created could serve out their terms, either until they died or resigned, but that their successors were bound by law to conform to the current Constitution. To my knowledge, the last of these original trustees died in 1920.

Just on the merits of these observations, it appears that the “life” trustees of Clemson University are in violation of their oath and have been for almost a hundred years.

Now, when the majority members of the governing body of our university apparently are able to get away with violating their solemn oath, when they in essence cheat, I ask you as representatives of the faculty of this educational institution to ponder the impact of their conduct. If it is acceptable for them to do this, what example are they setting? If they can cheat, why should the administrators, faculty, staff and students be held to any other standard?

To my way of thinking, this is a concern that should be at the heart of everyone in this room.

Now, I am fully aware of the potential consequences of any action concerning this matter. Some will argue that any violation of the terms of Thomas Green Clemson’s will would nullify the State’s acceptance and force it to return the property to Mr. Clemson’s heirs. I personally doubt that those heirs would insist upon that, given the size and importance of the University today. But one never knows. Others will argue that the status quo has existed for so long and has been accepted for so long that precedent should prevail. Or others could bring up the fact that the Supreme Court has already ruled on this matter in favor of Clemson. But in that case, a century ago, Clemson cleverly argued that it was a municipality and not a state institution. Still others will try to say that, in fact, the “life members” have imposed upon themselves an age limit for retirement and that they therefore comply with the Constitution. But the “life trustees” have already changed that limit once to accommodate a fellow trustee and could make it any age they want by a simple internal vote.

In conclusion, and probably for the last time that I will come before you with controversial matters, I humbly suggest that you give some thought to this, that you share this information with your constituents, and that you discuss it among yourselves. The ethical conduct of any educational institution, taken as a whole, is, after all, at the core of the institution’s values. If Clemson aspires to the status of a “higher seminary of learning,” this matter should be resolved ... for the good of Clemson University.

Thankyou.



## **LIFE TRUSTEE OATH**

*I do solemnly swear (or affirm) that I voluntarily accept the duties of a Life Trustee of Clemson University, to which office I have been elected, and that I will, to the best of my ability, discharge the duties and responsibilities thereof in accordance with the laws of this State and the policies of the Life Trustees, as may be changed from time to time by the Life Trustees, and that I will preserve, protect and defend the constitution of this State and of the United States.*

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David H. Wilkins