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Weather: brightly colored



Supreme Court Associate Justice Don Hughston reads the decision Wednesday afternoon which upheld the executive order dismissing Mike O'Neal.

Decision: O'Neal out

Student Supreme Court renders decision requiring O'Neal to obey dismissal order

by Art Eisenstadt
Staff Writer

The Student Supreme Court has unanimously decided to uphold Student Body President Bill Bates' Sept. 30 firing of former Student Body Treasurer Mike O'Neal.

In a 13-page decision released Wednesday by Associate Justice Don Hughston, the court ordered O'Neal to obey Bates' order of dismissal.

Bates had fired O'Neal Sept. 30 for allegedly overstepping his authority as treasurer by lobbying against Bates' administration policy to executive staff and Campus Governing Council members.

O'Neal had said the treasurer could be removed only through CGC impeachment, but Bates maintained that his power to appoint implies the power to fire.

Although the court upheld the firing, it did not do so for Bates' reason.

"The Court has not attempted to base its interpretation on the popular phrase that the 'power to hire is the power to fire,' the decision, written by Hughston, said. 'This simply is not the case, although pragmatically considered the result is the same. Instead this power is enjoin by the (Student Government) Constitution to the Executive branch and thereby the President of the student body'."

All four justices who heard the case endorsed the opinion. The court decided that the treasurer is an executive officer subordinate to the president, impeachment was not an issue in the case, a separation of powers exists in Student Government and the treasurer's power derives from the president.

In a news conference following the decision, Bates said the court "judged and agreed with us that a student body president does have the power to remove an appointed official of the executive branch." He added, "We are pleased that the court has resolved this issue so that we can now continue to function to serve the students."

After the court hearing, O'Neal said, "The treasurer's office is now irrevocably established as a political patronage job. I had hoped that this could have been solved earlier through negotiation or compromise, but the principle of fighting for an independent treasurer's office was the most important thing only for me, but for all of Student Government."

The three CGC committee chairpersons—Ben Steelman, Bill Strickland and Dave Rittenhouse—were co-plaintiffs in the suit.

Steelman said, "We resigned ourselves to the decision, and we don't expect any immediate reprisals. If we wanted to, we could make the rest of Bill Bates' career hell, but that would destroy Student Government, and we consider ourselves to be bigger people than the opposition."

Steelman predicted that CGC would soon consider legislation defining the treasurer's position.

Bates' former executive assistant, Billy Richardson, who at one time filed suit against O'Neal to force him to leave office, said of the decision, "Naturally, I'm pleased. I just hope Student Government will get onto the more pressing matters at hand."

O'Neal had claimed he could not be fired because he was a constitutional officer. The court indicated that the treasurer's post is important enough to be listed in the constitution, but that it is part of the executive branch.

Citing Article III, Section 1 of the constitution, which says, the student body president "shall have the assistance of a...Treasurer of the Student Body," the court emphasized the word "assistance" saying the treasurer should be an aide to the president.

"Complete authority is not given to the assistant. It is the function of the Treasurer to HELP the President, not rule him or in any way govern him, in the context of the Executive branch," the court said.

Another of O'Neal's contentions was that

only CGC could remove the treasurer, by impeachment. O'Neal maintained that both the president's nomination and two-thirds approval of CGC are necessary to confirm a treasurer, and impeachment was the only explicit mention of dismissal in the constitution.

The court said O'Neal had apparently not committed an impeachable offense "He has satisfied all that was required of him—and possibly a little more. But what happens when the Treasurer, though doing no Constitutional wrong, is no longer wanted to fill the position that he was appointed and confirmed for?"

Another argument made by O'Neal's counsels was that there was no clear differentiation between the Student Government executive and legislative branches since the president is a voting member of CGC.

The court rejected this contention because the president serves on CGC only by nature of his office, not vice versa.

Finally, the court said that although at any given moment the treasurer is upholding CGC law, he has that power because he is an executive branch member.

"The position of the Treasurer is clearly defined as an 'assistant' position, and although its power reaches beyond the confines of the Executive branch, its own power is chronologically and Constitutionally derived from the Office of the President," the court said.



Student Body President Bill Bates reads a statement prepared in response to the Supreme Court ruling on the Mike O'Neal case at a press conference Wednesday.

Pope resigns as Media head

by Chris Fuller
Staff Writer

Dick Pope resigned Wednesday as Media Board chairperson, saying he could not serve in an administration characterized by political maneuvering. The Media Board then selected John Hanford III to replace him.

The Media Board also amended its bylaws in an effort to avoid a Student Supreme Court law suit filed against it last Thursday for underrepresenting graduate students.

In a resignation letter dated Oct. 10, Pope criticized Student Body President Bill Bates for abandoning friends, such as himself and O'Neal, to save his political future. Pope said he could not serve in an administration in which people "change with the wind" and "play politics to further their own position."

Pope also said, "I wish my successor... the best of luck, and hope that he can serve with good conscience and outside the political sphere."

Hanford, a senior economics major, was selected over Michael York, a first-year law student, after Bill Moss, a business administration major and Media Board member, withdrew from consideration.

In a resume submitted to the board, Hanford listed his experience as a member of the Publications Board (predecessor to the Media Board), Union Activities Board, Student Legislature, and as Union Recreation Committee chairperson.

Hanford told the board he has no political ties and has free time to devote to the Media Board.

Following his selection as chairperson, Hanford said, "I am very enthusiastic about the chance to use my time and the experience I've gained from other activities on campus to help lead the Media Board through the current pressing problems and to get us back on an even keel in dealing with our regular responsibilities."

The Media Board agreed to recommend the other candidate for the chair, Michael York, as a Graduate and Professional Student Federation (GPSF) representative

to the Media Board. Board members termed his resume impressive.

In other action, the Media Board amended its bylaws to avoid a law suit brought against them by Deborah Bloom, a graduate history student, charging the board's bylaws with unconstitutionality because they allegedly underrepresented graduate students.

The bylaws provide that the student body president make two appointments to the Media Board. The amendment stipulates that one of the appointments be a graduate student and one an undergraduate.

In addition, if the proportion of graduate students on the board is less than the proportion of graduate students in the student body, the GPSF president will appoint, with GPSF senate approval, as many graduate students as necessary to fill the requirement.

The amendment was approved in an effort to conform the bylaws with Article IV, Section 6 of the student constitution which says the Media Board "shall contain a number of graduate and professional students in proportion to the number of graduate and professional students in the student body."

Although the amendment is similar to an agreement reached earlier between Bloom's and the Media Board's attorneys, the original agreement did not provide for one presidential appointment to be an undergraduate, nor for GPSF senate approval of the GPSF appointment.

In her suit, Bloom had requested the court to declare the board's bylaws unconstitutional and void. She asked that new bylaws be written and the present board be prevented from conducting business.

She also requested the court to order the present Media Board chairperson and treasurer to handle the financial affairs until a new board could be formed.

Prosecuting attorney Ben Steelman said Tuesday if an agreement that satisfied all involved parties could be reached, he would probably withdraw the suit.

Wallace gets CCH endorsement

Five board candidates speak to coalition

by Bob King
Staff Writer

As expected, Citizens for Chapel Hill (CCH) endorsed North Carolina State University professor James C. "Jimmy" Wallace for mayor Tuesday night, as recommended by its Executive Committee.

The motion was passed by the approximately 50 members attending the meeting, with one dissenting vote.

In addition, the conservatively oriented political coalition heard three-minute presentations from five of the six candidates it has endorsed for Board of Aldermen seats and indicated it may endorse others in the 14-candidate race before the Nov. 4 municipal elections.

In his endorsement statement, CCH Chairperson George Coxhead, a local insurance agent, said "Jimmy Wallace was born and raised in Chapel Hill and has lived here for 30 years. He believes in free enterprise and the profit motive; he has long been a champion of student and minority rights."

Most of the meeting was devoted to the endorsed candidates' speeches. William Bayliss, a 52-year-old attorney and former city commissioner in Kalamazoo, Mich., said he sees Chapel Hill as a "different town with a different group of people," but that the town's problems are still the same as those of Kalamazoo.

Bayliss cited relations between Kalamazoo and Western Michigan University and busing management as two major areas of concern during his tenure on the Kalamazoo commission.

Charles Beemer, a 1974 UNC law graduate and practicing attorney, attacked "the 99 per cent increase in local taxes since 1970" and questioned whether the town has received a similar rise in town services and community benefits.

N.C. State business law instructor and UNC doctoral economics student Doug Holmes said, "The federal government, in its almost bankrupt state, can't afford (to fund) Chapel Hill and other communities like it, who leech off it."

Incumbent Alderman R.D. Smith said the

student election, Elections Board Chairperson Brooke Bynum said.

Other candidates received a total of 26 votes.

Should Besse or Locher choose not to run in the runoff, he has 24 hours to notify the Elections Board. But both Besse and Locher said Wednesday night they are anxious to continue campaigning.

Locher, who announced his candidacy Monday night in an Aycock dormitory meeting and began an active campaign using posters and fliers, said he was happy with the results. "I thought it was an interesting race, and I'm ready to get back into it," Locher said. He added he has no definite plans for

campaigning.

Besse, who collected 254 votes, said he had expected a tight race. He added that he was pleased with the heavy turnout.

Candidate Bill Long said he was pleased with the turnout. Long announced Monday that he would advise his supporters to back Locher. Janet Morgan of Cobb, an early opponent who dropped out of the race Tuesday, also advised her backers to vote for Locher.

In other election action, with six of 19 polling places reporting, students overwhelmingly approved a proposed classroom smoking ban 548 to 158.

Dormitory residents, with five of 15 polling places reporting, approved a \$1 per semester increase in dorm social fees, 513-208. Results from Granville Towers, which last spring played a major role in defeating a similar social fee increase, had not been reported at press time.

Three referenda to amend the Student Government Constitution, with five of 19 polling places reporting, were approved by wide margins. The amendment stating that all bylaws, charters and constitutions of CGC supported groups were subject to CGC approval each year was approved, 590 to 89.

The amendment to alter CGC's approval power of the student body secretary and treasurer received a 572 to 87 approval, while an amendment prohibiting co-office holding in Student Government's executive and legislative branches also gained easy approval, 578 to 99.

However, the wrong section of the Constitution was amended because of an error on the ballot.

CGC Rules and Judiciary Committee Chairperson Ben Steelman said Wednesday, "I'm going to advise (CGC Election Board Chairperson) Brooke Bynum to proceed on the assumption that the amendment passed. If someone wishes to challenge, let them. If challenged, the possibility of voiding the referendum would exist."

Full election results will be printed in Friday's DTH.

Regulations limit access to criminal information

by Jim Roberts
News Editor

Second of a two-part series

As North Carolina moves to establish its proposed computerized Criminal Justice Information System (CJIS), federal regulations aimed at restricting access to criminal information are being studied, implemented and criticized here and across the nation.

The regulations, filed May 20 and to be fully effective by December 1977, apply not only to computer storage of criminal information but also to information manually collected and stored by federally funded law enforcement agencies.

Much of the information to be restricted is now public record in North Carolina, including individual arrest records, criminal charges and sentencing and correctional records.

The crime computer system will include this information since it combines the computer systems now maintained by the police, motor vehicles division and corrections system with one being studied for use in the courts system.

The federal regulations do not restrict public access to chronologically maintained police blotters and court records, published court records, wanted persons notices, traffic records and executive clemency notices.

The Justice Department was required to issue the regulations by the 1973 Crime Control Act. The regulations were intended to ensure the security and privacy of all criminal history information while preserving "legitimate law enforcement need for access to such records," the regulations state.

But criticism has been raised recently in North Carolina over the restrictions on public access to information. Sam H. Long,

the governor's legal aide who has studied the regulations, has said the state, rather than the federal government, should be able to determine the accessibility of criminal information.

Elmer Oettinger, a professor at the UNC Institute of Government, said last week the regulations violate the traditional balance in North Carolina between privacy and access to information.

Oettinger is secretary of the News Media-Administration of Justice Council of North Carolina, an ad hoc committee which acts as a liaison between courts, bar associations, news media and law enforcement agencies. The council is currently preparing a policy statement on the criminal computer system.

"We've had better relations than most states between the courts and the media," he said. "There is less reason to feel we have to be so restricted."

Access to criminal history information will be limited to criminal justice agencies,

government units needing such records to implement criminal conduct statutes and government agencies investigating individual employment.

News reporters needing information contained in law enforcement records will not be allowed access to complete records. Instead they can only make specific inquiries "as to whether a named individual was arrested, detained (or) indicted..."

Reporters' inquiries must also be "reasonably contemporaneous with the event to which the information relates."

"This means to the press that the reporter must know the answer to his question before he goes in there," Long said.

Reporters and other persons could also obtain information through a court order. The regulations would severely restrain reporters needing local criminal information, Oettinger said. Locally, reporters have had a history of good relationships with law enforcement agencies

and have been able to get information from these units.

But under the federal regulations local police departments and corrections units would be just as restricted from releasing such information as the CJIS computer bank.

To get the information they need, reporters may have to violate the regulations, Oettinger said. "I don't want to see people in the position of having to violate the law to do their jobs."

The federal rules allow each state to determine whether or not information obtained in investigations should be restricted. The CJIS master plan excludes such information from restrictions.

According to the federal regulations, individuals whose criminal history is included in police records will be allowed to review information about themselves provided that the review does not burden the

police agency.

To comply with the federal guidelines, each state must submit a plan for approval to LEAA by Dec. 16, which outlines the state's plan to limit criminal record access. All procedures outlined in the state's approved plan must be implemented and operational by Dec. 31, 1977.

Failure to comply could bring a \$10,000 fine and a cut-off of federal Law Enforcement Assistance Administration funds going to the state's criminal justice system.

But even though the guidelines seem to indicate only one option available to North Carolina, Long said the governor's office will attempt to have the regulations modified through executive and legislative action.

If the governor chooses to challenge the federal guidelines, North Carolina would stand to lose approximately \$14 million annually in federal law enforcement funds.