

MINUTES OF THE BOARD OF TRUSTEES

OF UNIVERSITY OF KENTUCKY

August 15, 1917

The Board of Trustees of the University of Kentucky met on the above named date in the Trustees' room at the University, subject to the call of its Chairman, Governor A. O. Stanley, with the following members present: Governor Stanley, Messrs. C. B. Nichols, Claude B. Terrell, Frank McKee, V. O. Gilbert, Matt S. Cohen, V. G. Harris, T. L. Hornsby, J. L. Letterle, H. M. Froman, J. M. Elliston, Tibbois Carpenter, D. P. Smith, R. C. Stoll, J. A. Amon, J. K. Patterson, R. G. Gordon, G. G. Brock, J. E. Brown, P. P. Johnson, J. R. Rash and Doctor S. B. Marks.

Chairman Stanley announced that the purpose of the meeting, which was an adjourned meeting from the meeting held June 8, 1917, was to consider the report of the committee representing the University, delegated to make a recommendation of a president for the University, to succeed President Henry S. Barker.

R. C. Stoll, Chairman of the Committee on Recommendations, read the following report:

TO THE BOARD OF TRUSTEES,  
UNIVERSITY OF KENTUCKY:

The undersigned committee was appointed under a resolution of this Board adopted in June of this year to recommend to the Board of Trustees a man suitable for president of the University. This Board directed the committee to make its recommendations, if possible, prior to September 15, 1917.

The committee organized immediately after its appointment, and has been steadily at work ever since. It has consulted some of the leading educators of the country, the two great educational foundations, has conferred with many men, and has visited other cities.

After consultations, personal interviews and upon the recommendation of the leading educators of the country, your committee desires to recommend to you for President of the University, Doctor Frank L. McVey, now President of the University of North Dakota.

Dr. McVey was born in Wilmington, Ohio, November 10, 1869. He is a son of A. H. McVey, who during his life time was Judge of the District Court in

Iowa, and Anna Holmes McVey.

Doctor McVey attended the public schools of Toledo, Ohio, and Des Moines, Iowa, and was graduated at the Ohio Wesleyan University in the class of 1893, with the degree of Bachelor of Arts. He attended the graduate school in Yale University, specializing in Economics, and received the degree of Doctor of Philosophy at Yale in 1895. In 1899 he further pursued his studies in England. In 1910 he received the honorary degree of Doctor of Laws from Ohio Wesleyan University.

Doctor McVey married Mabel Moore Sawyer, a graduate of the University of Minnesota, in 1898, and has three children.

Doctor McVey's educational experience has been various and constantly upward. He was principal of a high school in Iowa in 1891-92; instructor in history in the Teachers' College, Columbia University, 1895-96; he went from Columbia University to the University of Minnesota, where he was an instructor in Economics, 1896-98. He was assistant professor of Economics in 1898, and was made full professor in 1900. He resigned in 1907 to become the first chairman of the Minnesota Tax Commission, and in 1909 Doctor McVey was elected President of the University of North Dakota, which position he still holds.

The University of North Dakota has grown both in influence and in numbers since Doctor McVey was elected President. This progress is based upon his understanding of the problems of the University, and his constant and broad minded attention to its affairs. While he has been President, the University of North Dakota has grown in the number of students and faculty, the income has nearly doubled, the books in the library have increased from 23,000 to nearly 60,000 volumes, and more than that, the relations of the State to the University have steadily developed in loyalty and good feeling during this time.

While at the University of Minnesota, Doctor McVey was a member of important committees of the faculty, including debate, curriculum, athletics, student work, rules and regulations and catalog, and was a member of the University Council, and Secretary of the council of the University of Minnesota from 1905 to 1907. He is Chairman of the Permanent Committee on Economy of Time in Education of the National Association of State Universities, and is at the present time Secretary of this Association. He is a member of the American Economic Association; the American Statistical Association; National Educational Association; the National Conference of

Charities and Correction; the National Conference of Marketing and Farm Credits; the North Dakota Educational Association; the Honorary Society of P.B.K., and was a speaker and delegate at the Second Pan-American Scientific Congress in January, 1916.

In 1900, Doctor McVey was a special agent of the United States Census. He was President of the Minneapolis Associated Charities from 1898 to 1909. He was Director of the Twin City Exhibit, World's Fair, in 1904, and a member of the International Jury of Awards at the World's Fair. He was a member of the National Conference of Charities and Corrections, 1905-09; a member and Chairman of the Minnesota Tax Commission 1907-09, and Chairman of the National Conference on Marketing and Farm Credits, 1915-1916 and 1917.

In 1895, Doctor McVey was an editorial writer in the City of New York, and in 1908-09 editor of the proceedings of the Minnesota Academy of Social Sciences. In 1907 he was associate Editor of the Bulletin of the American Economics Association, and from 1914 has been editor of the National Social Science Series, A.C. McClurg Company, Chicago.

Doctor McVey has served the State of North Dakota in many ways. He is now a member of the State Council of Defense; a member of the State Board of Education; High School Examiner, and Chairman of the local War Commission at Grand Forks, where he lives. In 1911, he was Chairman of the temporary Educational Commission, whose report was the foundation for the report of the State Educational Commission appointed by the Board of Regents in 1915. He has served on many commissions and is closely associated with many of the more important national movements. In the last three years he has acted as the President of one of the most important bodies in the United States, the National Conference of Marketing and Farm Credits, and he is now a member of one of the advisory committee of the National Council of Defense.

While a member of the Minnesota Tax Commission, Doctor McVey formulated the present system of taxing iron ore properties, which has stood the test of ten years and many contests in the courts.

Doctor McVey is both an economist and educator. He has written many books and numerous articles. His

articles have appeared in the Independent, the Yale Review, Popular Science Monthly, School and Society, Scandinavian Review, Journal of Political Economy, American Journal of Sociology and others. The best known of his books are the History and Government of Minnesota, Modern Industrialism, the Making of a Town, Railroad Transportation and Business Economics, which is just off the press. He has lectured in many states, and in 1913 delivered lectures before the University of Christiana, in Norway. In commenting upon these the American Minister said in a letter to Judge N. C. Young, the President of the Board of Trustees of the University of North Dakota:

"The Rector and prominent members of the faculty spoke to me highly of the lectures, and the press comments were all complimentary. Doctor McVey's fine personality captivated the academic circles and all others with whom he came in contact. The visit was a most gratifying introduction of the University of North Dakota to the University of Christiana, and inspired respect for American scholarship. It was creditable and satisfactory in every way."

This is a brief outline of the work which has been accomplished by Doctor McVey. Your committee unanimously recommends him to be President of the University of Kentucky, and it believes that if Doctor McVey is elected and accepts the place, he will make of the University what we all hope it to be.

Respectfully submitted,

Richard C. Stoll, Chairman  
Paul P. Boyd  
George Roberts  
W. E. Freeman  
F. M. McKee  
J. I. Lyle,  
Robert G. Gordon.

The Committee further recommended that Doctor McVey be paid a salary of \$8750 a year as President of the University, and that the University rent to him the Mulligan house and premises for \$250.00 per year.

The Committee further recommended that the Mulligan house be put in proper condition and in proper repair for the occupancy of Doctor McVey, and that it be kept in proper repair by the University during the occupancy of Doctor McVey; and Mr. Stoll, as Chairman of the Committee, moved for the Committee that the report in its entirety be adopted, and that Doctor McVey be elected President of the University upon the

terms and conditions reported by the Committee, and that the recommendations of the committee relative to the Mulligan house be adopted by this Board. This motion was seconded by Mr. Johnston.

Chairman Stanley then called for remarks upon the motion and a general discussion ensued, the various members of the Board taking part, concerning the recommendations of the Committee.

The motion was adopted unanimously by a rising vote, and the Secretary was instructed formally to notify Doctor McVey of his election to the Presidency of the University, which was done in the following communication:

August 16, 1917

Frank L. McVey, Esq.,  
University of North Dakota,  
Grand Forks, North Dakota.

My dear Sir:-

As I wired you last night, the University of Kentucky on yesterday unanimously elected you President of the University, and I have been directed by the Board of Trustees thus to formally notify you of your election.

The resolution of the Board provides that you are to receive a salary of \$8500 net per year, and the use of the house recently bought by the University, from the estate of James H. Mulligan, as a residence.

The resolution further provides that this house be put in proper condition and repaired so that it will be a suitable and convenient place for you to live.

I would appreciate it if you will advise me of your acceptance of this position at your earliest convenience.

Very truly yours,

Enoch Grehan,  
Secy. Board Trustees.

Mr. Stoll stated that Doctor McVey had agreed to write a Monograph on War and Financing of Great Britain and while he hoped that Doctor McVey could come down to the University if he should accept the Presidency, yet he would of necessity have to be absent while preparing the Monograph. The Board agreed that this should be done.

Before the foregoing vote was taken, the Board resolved itself

into a committee of general discussion of Doctor McVey's qualifications for the Presidency of the University; heard talks from Mr. Stoll, Mr. Gilbert, Doctor Patterson, Mr. Smith, Doctor Boyd, Mr. Brown, and Mr. Cohen, with reference to the future work of the University and Doctor McVey's connection with it.

In this connection, Doctor Patterson said in substance:

I suppose I am the only member of the Board of Trustees, outside the Committee, that discussed the Presidency with Doctor McVey, who enjoys more or less intimate knowledge of Doctor McVey and his work as a member of the National Association of State Universities, of which Doctor McVey is also a prominent member. I have had the pleasure to meet him and to hear him speak. He is the character of man I would like to know better. He has a pleasing personality, and is admirably educated.

He is one of the younger members of that notable association and is one of the most prominent figures among the younger men of that organization, comprising, as you know, in its membership, men of the most outstanding prominence in the educational world in this country.

It is my personal recollection that Doctor McVey, on occasions of the meetings of this body, never failed to express himself other than intelligently and eminently to the point.

I am gratified that this Committee has acted so promptly and has done its work so efficiently. I do not know at this moment of a better man who is available among the younger membership of the organization of State Universities, who could have been chosen for the position with which you are now about to honor him. I believe, if I remember correctly, that Doctor McVey was one of the first men I suggested to this Board as an eligible man for this position. I presented several names, however, by way of suggestion, I understand the Committee saw him and is pleased with him.

My only regret is that he could not find it convenient in the press of matters in which he is engaged, to visit the University personally and meet the members of this Board of Trustees.

Mr. Stoll, following Doctor Patterson, said that an invitation had been extended to Doctor McVey to visit Lexington and go over the problems affecting the University, but that he regretted that Doctor McVey could not come at this time. Mr. Stoll also said in this connection that Doctor McVey was one of the few men whom the Committee considered who had not been a candidate for the position.

Governor Stanley, in his remarks concerning what he knew of President McVey, said in substance, that he was not acquainted with him personally, but knew much of his work; that President McVey had written the Minnesota Tax Law, a law that had placed Minnesota in advance of every other state in the Union, in the field of scientific taxation; that the new tax law of Kentucky had been based, in large measure, upon the Minnesota law, and that this law was the envy and the admiration of every lawyer and student of economics who had given similar problems consideration.

Concerning the assignment by the Government of Doctor McVey to the task of preparing a monograph on the European War, Governor Stanley said further in substance:

I recently reviewed young officers at Camp Benjamin Harrison. While there I had occasion to meet a young man who is the son of a Prussian Officer, and who had knowledge of the conditions that now obtain in Europe. He said the point where the break would come first in that great conflict would be in the country whose system of financial resources crumbled first.

This monograph that Doctor McVey has been engaged to prepare treats so vitally of this very subject that the tribunal that selected him to prepare it, selected a man to perform a service on which hangs the destinies of nations, because this monograph will be used by our leaders in the future work of financing the war activities of the Allies. This tribunal must have known of the magnitude of the work before the man it sought to perform it, and hence, to my mind, the selection of Doctor McVey to write that monograph is in itself an outstanding and signal recommendation.

In the election, therefore, of Doctor McVey as the President of the University of Kentucky, the University will enjoy the honor and the distinction of having, in the Head of this Institution, the author of this remarkable paper. I believe, therefore, we are peculiarly fortunate, and certainly will enjoy outstanding prominence in this particular. I congratulate you and the State upon the selection of this Committee.

Other remarks upon the selection of Doctor McVey, by members of the Committee and Members of the Board were of like tenor.

President Patterson moved that a vote of thanks be given by the Board of Trustees to the Committee who made the foregoing report which resulted in the election of President McVey. Said he:

I do not believe there has been a report made to the Board of Trustees of this Institution in the forty

years with which I have been interested in and connected with its activities, that has represented more fully the best interests of this Institution. I believe that each member of that Committee has done his whole duty to the State, realizing that this Institution is the biggest asset in the Commonwealth of Kentucky. I believe we are now on the eve of an opportunity that will make the State famous in educational activities throughout the South, the North and the West. I believe that we have eminent reason to congratulate ourselves on this day's work.

Doctor Patterson's motion, duly seconded, was unanimously adopted by a rising vote. In this connection, Governor Stanley said:

"No greater responsibility was ever imposed on any committee of this Institution than that which was imposed upon the Committee delegated to make recommendation of a President of this University, and none has ever undertaken the task with a more profound regard to the seriousness of its duty. Each man, to my knowledge, has forgotten himself in this undertaking, and has risen to the demands of that sacred responsibility with a lofty sense of the import of this recommendation. The committee seems to have been impressed with the belief that the destiny of this Institution was in its hands. They practically abandoned their own business when they took up this work, and I believe this selection will be a monument to their good judgement and loyalty."

Mr. Gordon then moved the election of President Henry S. Barker as Vice President of the University of Kentucky for a term ending September 1, 1918, at the same salary he now received. Duly seconded, this motion was unanimously adopted by viva voce vote.

Mr. Stoll moved that a slip, containing the announcement of the election of President McVey and a sketch of him, be printed by the Secretary of this Board and enclosed as a folder in the report of the Board of Inquiry, now in process of publication by the State Printer, and that the same be mailed in such copies of the said inquiry report as are to be sent to the Alumni of this Institution. Duly seconded, this motion was adopted unanimously.

Addressing the Board, Mr. Brock stated that it had been reported that a member of the faculty of the University had made an address to students of the high school at Ghent, Kentucky, which was highly atheistic in its utterances, and named Professor E. F. Farquhar as the Professor who made the address. He said that he had heard considerable comment of an unfriendly nature upon the utterances of Professor Farquhar, and that certain church publications and private citizens had been out-



spoken in their condemnation of the University for permitting a member of its faculty to make a public address of this nature. Mr. Brock then moved that Professor Farquhar's resignation from the faculty be requested. Senator Froman seconded the motion.

In remarking upon this motion, Mr. Gordon, who had served as Chairman of the Board of Inquiry, arose and said in substance:

That the charge against Professor Farquhar had been presented to the Board of Inquiry and duly considered in the light of the evidence that the Board could not obtain at that time, and that it had decided that there was not sufficient evidence to convict Professor Farquhar of the charge against him, and had so reported to this Board in its meeting June 8, 1917.

He explained that it was impossible at that time to get any one from Ghent, Kentucky, to go into sufficient details of the Farquhar address referred to, to give the Board of Inquiry ground for adverse action against Professor Farquhar.

Senator Froman then arose and read from the Western Recorder a statement affecting the Farquhar address at Ghent, Kentucky, purporting to give an account of Farquhar's address before the high school at that place. He also read a letter from the Honorable George C. Sehorn, criticising the Farquhar address from the viewpoint of its attitude toward religion.

In response to Senator Froman, Mr. Gordon went into the matter further and said that Professor Farquhar was member in good standing of a protestant church; that he had been teaching in the Sunday School of a church in this city, whose minister had appeared before the Board of Inquiry and had given testimony with reference to the Ghent address; that it had been disclosed at that time that the minister himself had insisted that Professor Farquhar continue teaching in the Sunday School of his church and had even offered to remunerate him for the service; that he was a teacher of a Bible class in that church, and that Farquhar himself had stated to the Inquiry Board that in his talk to that class he had reflected similar views to those he presented in his address at Ghent. "I accord to every man the right to have his own views concerning religion, I have mine. I doubt the authority or the propriety of this Board to stop any man from expressing his religious views."

Mr. Gilbert--"In my judgment, Professor Farquhar had no right to use a high school occasion to air religious views. The University is teaching children from families who hold various views on religion, and in my opinion, no professor has a right to teach his specific or particular views on religion,

because the University is not a sectarian or denominational school.'

Governor Stanley--"I do not believe, Gentlemen, that it is wise to act in this case upon the interpretation of the paper referred to here, or the author of the letter read by Senator Froman, because you well know that the interpretations of all of us, on matters affecting religion, vary with viewpoints of the interpreters, and the only action, in my opinion, that would be wise, would be action based upon specific facts concerning the address made by Professor Farquhar."

After remarks by Doctor Amon, Doctor Patterson, Messrs. Brown, McKee, Brock, the motion originally made by Mr. Brock was put to a vote and lost.

Chairman Stanley then submitted the following resolution:

As the University is a State and not a denominational institution, this Board is opposed to its instructors teaching any particular creed or religious belief, and it is the sense of this Board that such instructor should not digress from the curriculum prescribed, by attempting to impart any particular religious belief or give expression to opinions that are irreligious and certainly improper to make at any time any sacrilegious or scoffing remarks about religion. Seconded by Mr. Mc Kee, this resolution was adopted unanimously by viva voce vote.

Mr. Stoll submitted the following opinion from the Attorney General of the State concerning the election of a President of the University to succeed President H. S. Barker, which is self explanatory and which was ordered spread upon the minutes as a matter of record:

July 9, 1917.

Mr. Richard C. Stoll,  
Lexington, Ky.

Dear Sir:-

We have your letter of June 26th in which you state that you, as chairman of a committee appointed by the Governor to recommend to the Board of Trustees a man for the President at the University of Kentucky, have been asked to procure an opinion from this department as to whether the President of the University is a public officer within the meaning of the Constitution. You state that it is the intention of the committee to recommend the strongest and best man that can be obtained for the position.

I have had some difficulty in arriving at a conclusion on this subject. So far as my investigation discloses this question has never been passed upon by any court in this state and I am sure it has never

been before the Court of Appeals.

The statute which authorized the employment of a president for the University is not at all conclusive in its terms. Sub-section 16 of Section 4836c is in part as follows:

"They (the Board of Trustees) shall have also power to appoint presidents, professors, assistants, tutors, and other officers, and to determine the salary, duties and official relations of each; and shall provide for a definite salary in money attached to all positions created and filled by the Board of Trustees; and there shall be no additions thereto in the form of fees, perquisites, or emoluments or any kind whatever. They shall have full power to suspend, remove, at will, any of the officers, teachers, professors or agents whom they are authorized by law to appoint, and to do all other acts which may be needful for the welfare of the institution."

It will be observed the statute does not prescribe any qualifications either as to age or as to professional experience or attainments. It does not provide that the president shall be a resident of Kentucky or that he shall be under oath or execute bond and it specifically provides that he may be removed at the will of the Board of Trustees. The statute does not provide, in detail, the duties of the president but makes him subject to the supervision and control of the Board of Trustees and requires him to report to the Board of Trustees. It is therefore evident that a number of the requirements exacted of a public officer are lacking.

The Court of Appeals in the case of City of Louisville vs. Wilson 99 Ky. page 604 uses the following language:

"There are various tests by which to determine who are officers in the meaning of the law, in cases of uncertainty the intentions of the law makers control. To constitute an officer it does not seem to be material whether his term be for a period fixed by law or endure at the will of the creating power; but if an individual be invested with some portion of the function of the government to be exercised for the benefit of the public he is a public officer."

And again in the case of Perkins vs. the Auditor 79 Ky. 310 the following language was used:

"The term "public officer" does not apply to any officer except those who are paid out of the public

treasury. It has no reference to cases where the compensation of the officer is derived from the fees of his office, nor to any salary not paid out of the public treasury."

From these opinions it is apparent that the language of the statute above quoted does not make it conclusive that the president of the University is an officer or that he is not an officer. There is no question but what the State University is a public institution and is performing public service. The statute above quoted from uses the word "officer" in connection with the president, professors, etc., but I am inclined to the opinion that the word as used there means officer of the institution rather than officer within the meaning of the constitution.

Section 234 of the Constitution provides that all civil officers for the state at large shall reside within the state. If the president of the University should be held to be a public officer within the meaning of the constitution, the Board of Trustees will be confined to the State of Kentucky in the appointment to that important position. I do not believe that it was the intention of the General Assembly to so limit the Board of Trustees in the employment of one to fill such an important position. I am inclined to think that the General Assembly intended that the Board should appoint the president of the University regardless of where he might reside and for that reason that it was not the intention to make the position a public office.

7 Cyc. at page 296 uses the following language:

"To constitute one an instructor it is not necessary that he be formally employed. While it is sometimes provided, either by the statutes or by rule of the institution that the appointee assume his position subject to removal at the discretion of the governing board, his relation is ordinarily a purely contractual one, subject to the rule of law governing such a relation."

In the case of *Butler vs. State University* 32 Wis. 124 the court specifically held that a professor of the state university was not a public officer within the meaning of the Constitution of Wisconsin.

In view of these authorities and of the evident necessity of the Board being given greater latitude in the employment of a president, teachers, etc., of the University and of the failure of the General Assembly to exact certain things of them that are exacted

of public officers, we have reached the conclusion that the president of the university is not a public officer within the meaning of the constitution that requires a public officer to be a resident of the State of Kentucky or limits the salary of the offices to \$5000 per year.

Board adjourned subject to call of the Chairman.

Respectfully,

(signed) Enoch Grehan  
Secretary