

REPORT OF THE PROCEEDINGS

OF THE

# Board of Curators

KENTUCKY UNIVERSITY.

AT A CALLED MEETING

HELD IN MORRISON COLLEGE,

IN THE CITY OF LEXINGTON,

September 16th, 17th and 18th, 1873.

REPORTED BY RICHARD J. O'MAHONY.

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1873.



REPORT OF THE PROCEEDINGS

OF THE

# Board of Curators TO THE PUBLIC.

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The following Report of the Proceedings of the Board of Curators of Kentucky University, held in this city on the 16th of September and two following days, is, with a few necessary and verbal corrections, the same as that published in the *Lexington Press*. The original Call for the Meeting, the Ayes and Noes on the question of Prof. MCGARVEY'S Removal, and a Certificate of the County Clerk read by Prof. MCGARVEY in the course of his argument before the Board and omitted in the *Press*, have been added in their proper places to make the Report more complete.

RICH'D J. O'MAHONY,

LEXINGTON, KY., Sept. 21, 1873.

*Reporter for the Press.*

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## REPORT OF PROCEEDINGS.

The meeting was called to order by Hon. Z. F. Smith, presiding. The roll was called, showing the following members to be present: Messrs. J. B. Bowman, John G. Allen, Benjamin Gratz, Andrew Steele, Joseph Wasson, D. S. Goodloe, G. W. Elly, A. H. Bowman, G. T. Worthington, Joseph Smith, W. S. Williams, A. G. Herndon, R. J. White, R. C. Ricketts, B. B. Groom, John Shackelford, Z. F. Smith, J. P. Torbitt, W. T. Withers, Enos Campbell, L. B. Wilkes, Z. M. Sherley, S. M. Wing, Horace Miller, M. E. Rogers, Landon A. Thomas, James G. Kinnaird; James Crutcher, George G. White, A. M. Barnes, R. M. Gano.

The minutes of the last meeting were, on motion, adopted without reading.

CALL OF THE CURATORS OF KENTUCKY UNIVERSITY.

CINCINNATI, August 11, 1873.

Jos. L. Woolfolk, Secretary Board of Curators, Lexington, Ky.

DEAR SIR—Messrs. Withers, Elley, Ricketts, Gano and Steele, have made a written request of me to call a special meeting of the Curators of Kentucky University; and, as Chairman of the Board, it becomes my duty to do so, I therefore authorize you to call the Board together in extra session, to meet at Morrison College, in the city of Lexington, on Tuesday, September 16th, at 2 o'clock, P. M., to take such action as they may think best in regard to the action of the Executive Committee in the suspension or removal of Prof. J. W. McGarvey, and to transact every and all business that may come before them that they may consider important for the future welfare of the institution.

Respectfully, R. M. BISHOP.

To each Curator—(naming him):

DEAR SIR—You are respectfully invited to attend. Jos. L. WOOLFOLK, Secretary Board of Curators Kentucky University.

The call for the meeting having been read, the meeting proceeded to business.

W. T. Withers moved that the session of the Board, while on the subject of the suspension of Mr. J. W. McGarvey, be open.

Dr. Jos. Smith moved to substitute, by omitting the privilege to members of the press. The substitute was withdrawn, and the

original motion modified so as to extend the privilege until withdrawn, was passed.

It was moved and seconded that the proceedings of the Executive Committee, since the last meeting of the Board, be now read.

Mr. Bowman objected that the call was made for a specific purpose, and that it would be out of order to discuss other matters. He moved therefore a substitute that the articles of the call be taken up and acted upon.

Bro. Ricketts maintained that the meeting was called to consider all the interests of the University in its present status.

Regent Bowman insisted that the meeting was called for a specific purpose and that the by-laws precluded them from going into all the details of the business transactions of the Board since the last meeting. Such a course would unnecessarily consume time.

Curator Withers stated that the call issued by President Bishop was different from that read by the Regent.

Regent Bowman said he recognized no call but that which he had received, and the sections of which he desired to take up seriatim.

Curator Thomas supported the substitute, saying that it would be unreasonable to go into all the business of the Executive Committee.

Curator Ricketts was sorry that the discussion had taken such a turn, it looked suspicious and implied that the Committee had transacted business which it was not desired for the Board to know.

Regent Bowman said, warmly, that he had stated his reason for offering the substitute, but now that a suggestion had been made by Bro. Ricketts he was in favor of the whole proceedings being read at the proper time.

The substitute was adopted by a vote twenty to thirteen.

The vote on the substitute was considered a test vote upon the matter uppermost in the minds of the Curators.

On motion of Regent Bowman the proceedings of the Executive Committee in reference to the removal of Prof. McGarvey, were ordered to be read.

Dr. Jos. Smith read the proceedings, setting forth a resolution asking peremptorily for J. W. McGarvey's resignation.

Mr. McGarvey's reply to the same, refusing to resign, and asking for specific reasons for the action required of him. In the next letter that Mr. McGarvey addressed to the com-



mittee, he put sundry questions in regard to the legitimacy of the action of the committee, and as to whether any personal charges were made against him. The reply of the committee assured Mr. McGarvey that nothing personally derogatory to his character was charged, and that there was nothing on their records affecting his character.

Mr. McGarvey replied that the fact of his resignation was a reflection upon his character, and denying that he was one of those who could not work in peace and harmony with his fellows. He argued that it was singular that a man should be selected as a sacrifice on the altar of peace who had not broken the peace in the past. He was sarcastic on the emphasis which the Board laid upon having nothing on their records against him; holding that they drew a nice distinction between what was on their records and what was in their minds. He maintained that his resignation would not restore peace and harmony to the troubled councils of the University, but would rather increase them. He, therefore, declined to resign.

#### THE ACTION TAKEN.

Upon the reception of this letter the committee met and passed resolutions suspending Mr. McGarvey's connection with the University.

Mr. McGarvey wrote to ascertain what was the precise meaning of the resolution, and on what authority it was based. The committee deemed a reply unnecessary.

Mr. McGarvey wrote again denying the power of the Executive Board to remove him, and claiming all his rights and privileges as a professor under the charter, and promising to be on hand at the opening of the session, if alive and well.

The committee assembled, and, after a whereas, declared Professor McGarvey dismissed from his position in the University, and having no connection with the Bible College.

Curator Withers, after the reading of the correspondence, stated that he was one of the seven who had signed the call for the meeting. He desired to take up the sections as ordered; and to come at once to the matter, he would present the following resolution:

*Resolved,* That the action of the Executive Committee in assuming to dismiss Prof. J. W. McGarvey was unauthorized by the charter of the University, and is a direct violation of its provisions, and is therefore void and of no effect.

Curator Withers then said that they had met together upon a very important occasion, and upon the action taken now would depend, perhaps, the future success of the University. He, therefore, presented the resolution as a simple question of law. The question was one which could be settled by the charter and laws of the University. He maintained that the Executive Committee was absolutely without power to remove Prof. McGarvey or

any other professor, and held that he was sustained in this view by the statute which was the organic law of the institution. Quoting from the law he said, "None but a majority of the whole Board of Curators had the power to remove a professor, for sufficient cause." A quorum of nine members of the Board, he showed, was denied such an important power. How, then, he asked, can a committee of five men have that extraordinary authority? If they have power to touch a single professor, to remove a single one, they can, on the very day after the adjournment of the Board, remove every professor and reorganize the institution upon any basis they may see proper to adopt. He hoped that the Board would consider that he was arguing the question without prejudice and without passion, and as a naked legal question. He maintained that the professor had rights which should be regarded. When he became a professor he resigned a position in the outside world and forsook its turmoils and its troubles, and devoted himself to the interests of his professor's chair. He sacrificed much, and it would not do that his tenure of office should be at the mercy of four or five individuals. A proper regard for his interests, if even the charter was not specific on the subject, required that the same power only which elected a professor could remove him, viz: a majority of the Board of Curators. The Executive Committee had power to transact all ordinary business in the intervals between the sessions of the Board, but the removal of professors was not part of the power delegated to them; the Board by its by-laws reserved that power to itself.

Mr. Withers concluded by stating that he was supported in his views by the law faculty of the University, he having obtained the opinion from Hon. Jas. O. Harrison, concurred in by Hon. M. C. Johnson, and the written opinion was now in the possession of the Regent. He took it that the Board would be willing to act in accordance with the opinion of the highest legal authority of the University, that faculty which the Board had put forward to teach the youth of this State the science of law.

Curator Williams said he did not wish to make as lengthy a speech as Curator Withers. He confessed his surprise at the course which that gentleman had taken. Had he been the professor concerned, he should have been thankful if the legal points discussed had not been raised. The Board might very well come to the conclusion that the Executive Committee had transcended its powers, but that would not affect the question as to whether the professor had not been guilty of a course of conduct highly censurable. The Executive Committee never claimed to usurp the authority of the Board. What the gentleman had advanced on that point was common law and common sense. But the question was whether the committee could suspend



a professor *pro tempore*. This was a corporation, and he maintained that the Executive Board had the power to transact all the business of the Board *ad interim*, to have force and effect when ratified by the General Board of Curators. The action of the Executive Board was a temporary thing, subject to the action of the whole Board. He ventured to say that Prof. Jas. O. Harrison in that written opinion referred to, did not discuss the removal of a professor *pro tem*. They should be careful not to get involved upon these law points. The Board could either reverse or confirm the action of the committee, and the matter would be at an end.

The Board had been called together year after year in extra session, and peace committees had been appointed, and with what effect? Complete failure. And at length the conclusion was arrived at that one or other of the parties causing the discussion should get out of the University. Time was precious. He wanted to present a substitute for the motion which would bring the matter to a test immediately.

WHEREAS, The Board of Curators, having used all reasonable measures to adjust differences among, and to harmonize in cordial relations and co-operation, the officers and the members of the Faculties of Kentucky University, and having declared at its meeting, in June last, that "If there is anyone who cannot work in peace and harmony with his fellows in the Board, resignation would do honor to the head and heart of such a one," thus emphatically expressing a wish that any official disturbing the future harmony and peace of the institution should resign or be separated from further official relationship with the University; and,

Whereas, That Tutor E. Smith and Professor J. W. McGarvey did, in disregard of the expressed wish of the Board, publish articles improper and intemperate in their character, and calculated to reopen questions of strife and discord; and,

Whereas, Tutor Smith, on suggestion of several members of the Executive Committee and the Board, did tender his resignation, which was accepted by the Executive Committee, whose action is hereby approved; and,

Whereas, The Executive Committee did courteously and kindly request Professor McGarvey, for the sake of the peace and harmony of the institution, to resign his professorship in Kentucky University, which he declined to do; therefore,

Resolved, That J. W. McGarvey may be, and is hereby, removed from his professorship in Kentucky University, and that the chair formerly filled by him be declared vacant.

Curator Wilkes thought that it would be conceded that the Board should give some decided expression of opinion upon the action of the Executive Committee, that its powers in the matter in controversy might be accurately defined. It is conceded that the

Executive Committee had exceeded its authority.

Curator Williams, explaining, said it was not conceded that the committee had not the power to suspend, but had not the power to remove permanently.

Curator Wilkes said that he had understood the gentleman. He held that the committee dismissed the professor altogether from connection with the Bible College, contrary to law. He was in favor of a full and free investigation of the charges against the professor. That gentleman was in favor of it himself; if he was not, then he would be unworthy to hold the position from which he has been removed. He hoped that the substitute would be withdrawn and the original motion be voted upon first.

Curator Enos Campbell asked what power could remove a professor who had been guilty of some heinous offense against morality. According to the legal argument he had heard from Curator Withers there was no power in Lexington to remove him.

Curator Allen rose to a point of order. He claimed that the discussion was out of order. They had been convened to take action upon the course adopted by the Executive Committee in reference to the suspension or removal of Prof. J. W. McGarvey. Mr. Allen maintained that his point of order was well taken.

Regent Bowman asked if the object of Curator Williams in offering his substitute was to cut off discussion.

Curator Williams denied that that was his object.

Regent Bowman wanted to make an explanation in reference to a legal opinion alluded to as in his possession.

He was decided out of order.

Curator Ricketts held that the adoption of the substitute would cut off all investigation. He said that the interests of the Christian Church were involved, and if two-thirds of the members present were not of that church then all their acts would be null and void.

Curator Allen insisted upon his point of order. He wanted a full, fair and impartial investigation.

President Z. F. Smith rendered his decision against the point of order.

Curator Allen appealed from the decision of the chair.

In the progress of the vote Curator Elley made the point that the Executive Committee had no right to vote on the question.

The chair decided Bro. Elley out of order. He sat down saying: "Nice thing indeed."

The decision of the chair was sustained by a vote of 19 to 13.

Curator Wilkes then moved that the substitute be laid on the table. The motion was lost by a vote of 14 to 19.

Regent Bowman arose to discuss the substitute. It had been said that he held a document, being a legal opinion condemning the



action of the Executive Committee. He had nothing of the kind in his possession. Mr. Jas. O. Harrison had been asked for an opinion. He gave it without having the law or the charter before him, and it related to the permanent effect of the action of the Board. But he had the legal written opinions of other legal gentlemen—Hon. R. A. Buckner, G. B. Kinkead, Messrs. Breckinridge & Buckner and others sustaining the *ad interim* action of the committee.

Curator Withers asked if the opinions were not all against the action of the Executive Committee?

Regent Bowman answered that they were against the action of the committee as a finality, but not *ad interim*.

A motion was then made to adjourn to 7½ o'clock.

An amendment was offered to meet to-morrow morning at 9 o'clock.

The amendment was defeated.

The motion to adjourn was then carried.

#### EVENING SESSION.

After the opening of the session with prayer, Curator Williams, of Harrodsburg, moved that the Board adjourn from the board-room, small and ill-ventilated, to the chapel of the University.

This was opposed by Curator R. P. Miller, who moved to go into executive session.

[There were many ladies present at this time, and if the last motion prevailed they would have to leave.]

Regent Bowman moved to amend by excepting the members of the press from the action of the resolution.

Bro. Elley warmly opposed the motion to exclude the public. He was supported by Col. Withers.

The motion to go into executive session was carried and the ladies present walked out.

Curator Withers moved to invite the donors to remain.

This motion was carried by a vote of 23 to 11.

The members of the Faculties of the University were then invited to remain. Carried.

It was then moved that all present, and those who had left, be invited to remain. Carried. [Great laughter.]

Some of the gentlemen were then requested to go for the ladies who had left and induce them, if possible, to return.

A motion was then made to adjourn to the chapel. Carried.

Dr. Jos. Smith then announced that there were no means of lighting the chapel.

A motion was made to adjourn till 8 o'clock next morning. Lost.

The meeting proceeded to business.

The minutes of the afternoon session were read and approved.

The question being upon the motion of

Gen. Withers and the substitute of Curator Williams,

Curator Elley said he desired to express his mind upon the subject. He had not, he said, in the ordinary course of events, a right to expect to live another year, and therefore he wished to deliver himself freely on the subject. He succeeded in accomplishing the feat with a hand presentation. He went for the Regent and members of the Executive Committee, whom he charged with having violated the law—their action was a positive violation of the law, he said.

Mr. Benj. Gratz said earnestly that he had no hand or part in violating the law.

Brother Elley only intended his language to mean that he *knew* the law.

Curator Campbell objected to the language.

The chair said Curator Elley had used language which, in all probability, he did not mean.

Brother Elley—I meant every word of it.

Chair—You do not intend to be personal.

Brother Elley only meant what he said in a Pickwickian sense. He proceeded to argue the question. He said that it was public rumor that the Regent had made it a square issue; that either he or McGarvey should go out. "I wish to God!" he exclaimed, "that he (meaning the Regent) had gone out, and the Executive Board with him."

He was called to order.

Brother Elley—Well, if I'm out of order, I'll try it again.

It was not for the sake of harmony in the institution, but for the sake of harmony in the Executive Board that this action was taken in regard to Professor McGarvey.

He had a further statement to make. He learned from Curator Woolfolk that the institution was out of funds, and in debt to Mr. Sayre, the banker, for \$6,000 for salaries of professors, and Mr. Woolfolk had offered to pay the salaries for a year himself, if Prof. McGarvey were allowed to remain. It was also said Dr. Smith charged that Prof. McGarvey did not teach the truth. [Dr. Smith said it was not true.] He ridiculed the idea of Prof. McGarvey's conspiracy against the Regent. If it was treason to wish the removal of the Regent, then he (Elley) was guilty of treason, and over a hundred churches in Kentucky were treasonably conspired against him, for they wanted his removal, and nothing else would satisfy them or restore harmony to the institution.

He charged that the committee only existed to register the edicts of the Regent, who cunningly avoided the meetings of the Board when Mr. McGarvey was discussed. He charged that some of the members of the Executive Committee were prejudiced against Mr. McGarvey.

Mr. Gratz—I wish you would name them.

Mr. Elley—Well, sir, I name you.

Mr. Gratz—I deny it, sir. I never treated



Mr. McGarvey in any other way than as a gentleman.

Mr. Elley—Yes, and you would treat everybody else in the same way.

Brother Elley proceeded to excoriate the Regent, and the Board and Tutor Smith. He maintained that the action of the Board was an usurpation. Mr. Elley abused the newspapers for not giving him and his friends fair play, and spoke of the Cincinnati Gazette as never giving anybody fair play.

Brother Elley, during his speech, charged that the Chairman, Z. F. Smith, had said he would treat the petitions of the churches as he would the demands of a mob.

Mr. Z. F. Smith—I emphatically deny it.

Brother Elley said he had it on the word of a gentleman who wrote to him.

Mr. Smith explained what he had said, but did not satisfy Bro. Elly. He concluded by asking the Regent to step out of his office as he was disturbing the peace of the church, and was an element of discord in the University.

Curator Worthington moved to amend the substitute of Curator Williams by striking out the word *formerly* filled, and insert the word *now* filled.

Curator Williams refused to accept the amendment.

Curator Campbell thought it was an attempt to condemn the committee in a round-about way.

Curator Wilkes thought the point was a very important one. He maintained that the professor was not legally removed from his position in the Bible College.

After a rambling discussion, without coming to a decision, the meeting adjourned to next morning at 8½ o'clock.

### Second Day's Proceedings.

The Board was opened with prayer by Rev. C. C. Ricketts.

On motion it was resolved to have closed doors, excepting members of the press and Prof. McGarvey. Reading of minutes dispensed with. A motion was made that the speeches be confined to ten minutes, and opposed by Curator Ricketts. Prof. McGarvey desired to be heard, and that there would be no limit put upon the time necessary.

Mr. R. J. White, of Madison, thought that in order to a full, fair hearing, Prof. McGarvey should be heard at length.

Mr. Wilkes thought that the question before the meeting was a vital one, and should not be disposed of without due consideration. If the institution does not stand in the affections of the people, it should not stand at all, because under such circumstances it cannot stand to any purpose. Mr. Wilkes did not think it right to limit the speeches, as such a course would look as if it were not desired to give a fair hearing.

The amendment by Mr. Wilkes in reference to limitation, that three on each side be

heard without limit, was lost, the vote for the amendment being 11, and those against 23.

A request was presented asking for admission from a number of donors to the institution. The request was denied—the vote being taken.

The debate on the words *now* and *formerly*, to the latter of which, offense was taken by the friends of Prof. McGarvey, was resumed. The vote being taken as to whether the word *formerly* should be struck out, the result stood thus, for, 11; against, 22.

A good many suggestions and some quibbling were made on this subject of change of language, but the suggestions did not result in anything satisfactory.

Landon A. Thomas desired a vote on the main question at once.

Mr. Ricketts said that inasmuch as there seemed to be a desire to cut off all discussion and investigation, he would as soon take the vote at once as not.

A by-law was introduced which seemed to be in conflict with some steps which had been taken, and Regent Bowman moved that the by-law be suspended.

Col. Withers said that it could not be suspended.

Mr. Campbell said that the whole trouble arose out of incompatibility of temper, and that no charges had been made affecting Prof. McGarvey's character.

R. J. White, in common with another gentleman, who preceded, thought it all wrong at such a time, under such excitement as now exists, to proceed in the present hurried manner.

Col. Withers would not sweep aside a law to let one man get at another. Col. Withers could have nothing to do with such a partial proceeding. Col. Withers again and again contended that the law should be adhered to; to do otherwise would make every one look upon the Board with contempt.

Dr. Smith did not think that the by-laws should be suspended.

The vote being taken as to the suspension of the by-laws, stood thus: For suspension, 12; against, 23.

### THE CHARGES.

Prof. Williams thought that there could be no doubt as to the ownership of Kentucky University. The professor offered some remarks with a view to setting himself right before making some charges against Professor McGarvey. He then proceeded to read the following document, being the defense of the action of the Executive Committee:

*To the Honorable the Board of Curators of Kentucky University:*

GENTLEMEN—The Executive Committee to whom is delegated the authority to do, *ad interim*, any and everything which the Board itself might rightfully do, when in session, *provided* their proceedings so far as may relate to the legitimate business of the whole



Board, shall not be considered final unless they be ratified at the next meeting of the Board—ask leave to submit the following as the ground, in part, of their recent action in reference to the suspension or removal of Professor J. W. McGarvey:

The committee felt that, after the adjournment of the Board in June last, the work of restoring peace and official harmony in the University as far as this was practicable, was, by force of circumstances, by the very nature of their office, and by the action of the Board, thrown on their hands. They felt, moreover, in view of all the facts in the case, and the complications of a strife of several years, duration, and especially in view of the utter failure of every effort on the part of various committees to establish peace, that the work of properly preparing for the opening of another session was unusually delicate and difficult. Nevertheless, they resolved, with a full purpose to do their whole duty to the institution, to be guided by the clearly indicated policy of the Board, and by their own dispassionate judgment as to what was necessary and proper to be done.

After due deliberation they were forced to the conclusion that the resignation of Prof. J. W. McGarvey would greatly promote the desired harmony, and they accordingly resolved to request him, in kind and respectful terms, voluntarily to tender his resignation.

They were influenced in this decision by the following considerations:

1. His well known want of sympathy with the Regent, the chief officer of the University, in his educational work, and in his administrative policy, which work and policy the Board have always approved.

2. His strong opposition to that officer, reported by the *Committee on Grievances* long known to the Executive Committee, and since fully avowed by himself.

3. The want of proper co-operative harmony between himself and other instructors in the University, produced, we have reason to believe, by the course of Mr. McGarvey himself.

4. His conduct as editor of the *Times*, immediately after the adjournment of the Board in June last, in publishing articles concerning the report of the *Committee on Grievances*, before that report appeared; in which articles he does Mr. Bowman great injustice, by presenting him to the public as a false accuser of his brethren, when Mr. McGarvey himself had been Mr. Bowman's accuser before the Board.

The imperative necessity that one or the other party to an irreconcilable difficulty in any institution of learning should withdraw from the same, and the fact that the Board had refused to allow the Regent to resign, when he proffered to do so, left the Executive Committee no alternative, save to invite the resignation of Professor McGarvey.

Encouraged by their own view of what was

right in the premises, and by the very earnest and unanimous exhortation of the Board at its last meeting, addressed to all the parties in this controversy, and to all others as well, the Executive Committee resolved to address Professor McGarvey a respectful note, asking him, for the sake of peace and harmony in the institution, to tender his resignation.

But after the committee had thus resolved, they concluded to delay the sending of their communication, in the hope that when the report of the "Committee on Grievances" had been given to the press, Professor McGarvey's course would render the request unnecessary. They hoped that his editorial procedure at least would be so fair and generous and pacific, especially toward his colleagues, that all disturbances might be at last composed; or, if he chose to proceed otherwise, that he would feel it to be his duty to resign without a suggestion from them, as we hoped he would do after the action of the Board.

In all these expectations we were disappointed. The article in the *Times* of July the 3d, of which he is the acknowledged author, destroyed all hope that we may have had, that harmony could be restored, and the interests of the University promoted, without some action on the part of the Executive committee. We accordingly sent him a letter urging him to resign, and this we begged him to do voluntarily, for peace sake, and without prejudice to himself or censure from us. Mr. McGarvey declined, in terms not the most respectful, to comply with the request of the Committee and to conform his action to the line of peaceful policy so heartily recommended by the Board.

His course under the circumstances, so unexpected to the committee, left them no alternative save either to arrest the exercise of the functions of his office as professor, or to permit him to remain the occasion or cause of renewed strife and alienations in the institution.

They invite the close and unbiased attention of the Curators to the following considerations especially, as furnishing ample grounds for their final proceeding:

1. It is a fact well known to the Board that slanderous reports had gone out to the public to the effect that the Treasurer had fraudulently appropriated or misused the funds of this institution. A publication of the fact that Mr. Bowman had been unanimously re-elected Treasurer at our last meeting, and that his financial dealings had been, time and again, inquired into by the Board, and uniformly declared to be correct and faithful in every particular, was necessary to his vindication, as well as that of the Board who continued him in office.

The Executive Committee accordingly prepared a very brief statement of these matters of record, and did, as soon as possible after the adjournment of the Board in June last,



give them to the press, in connection with the report of the "Committee on Grievances."

Prof. McGarvey, knowing that the Regent of the institution had been injuriously misrepresented among the readers of his own paper, nevertheless deliberately refused or neglected to publish these facts as thus officially set forth.

2. The law of the University, p. 18, directs that the Executive Committee shall cause to be published *such documents* as will make a fair exhibit of the general condition of the University.

In the discharge of this duty the Committee prepared a paper for early publication, embracing the report of "Committee on Grievances," and such a statement of facts from the records of the Board as, in their judgment, was necessary.

Mr. McGarvey, although a professor in the University, suppresses the publication of these statements in his paper, and thus refuses to give to the public such facts as the Executive Committee deemed necessary to the interests of the institution.

The judgment of the committee as to what ought to be published should, on every principle of official honor, have prevailed over his prejudices and personal feelings against the Regent, so far as to have caused him to give to the public the entire paper of the committee. We can construe such action in no other way than as wholly incompatible with his subordinate position as professor, discourteous to the authorities of the institution, and as evidence of an unwillingness on his part to give a misrepresented colleague the benefit of the truth. During the summer and fall of '71 or '72, when certain parties thought proper to discuss the exciting questions of the hour in the newspapers, Dr. Peter judged it expedient to address certain communications to the press in reply to attacks on Mr. Bowman, and, as he believed, on the vital interests of the University. We would not here discuss the propriety of any of these publications. But the Board of Curators, after mature reflection, decided—

"The articles written by Dr. Peter, in common with other publications of the time, were, under the circumstances, ill-timed, injudicious, and, in their effects, detrimental to the interests of the institution."

In his recent article in the Times, Mr. McGarvey states simply that *Dr. Peter had been censured by this Board for articles which he had written for the newspapers*, "which articles," he adds, "were in the interests of Mr. Bowman, and antagonistic to the editors of the Times, and to the action of the Main Street Church."

The conclusion which his readers were thus forced to draw was that Dr. Peter alone was censured by the Board, and that too, for writing articles that were favorable to Mr. Bowman and unfavorable to Mr. McGarvey.

Now, the strife-producing character of Mr. McGarvey's articles appears in this: That he

suppresses the fact that others also were equally censured by the Board. He seems to labor to create the impression that Dr. Peter's articles alone, *because* unfavorable to him and to certain elders of the Main Street Church, and favorable to the Regent, were condemned by the Curators.

In this procedure he did all that an editor could have done, to fix in the mind of the public all the censure of the Board in this regard on his colleague, Dr. Peter, and that, too, on false grounds, knowing at the time that the condemnation was meant to be distributed among all the newspaper writers of the time, himself included.

4. An article written by Tutor Smith, on *University Troubles*, for the Cincinnati Gazette, Mr. McGarvey, after the adjournment of the Board, denounces in the Times as containing falsehood and base slander. Mr. Smith thereupon addressed him a note, asking space to reply to this grave charge, asserting his ability to prove that he wrote truth. Mr. McGarvey refused to give him the opportunity to reply to so serious an accusation. We do not, in any wise, indorse the propriety of Mr. Smith's writing any article on the University difficulty, being himself a teacher in the institution, but we submit whether Prof. McGarvey wrote in the interests of peace and harmony, when he thus denounces the statements of his colleague as *false* and *basely slanderous*, and then refuses the opportunity to reply.

Tutor Smith, finding all harmony between himself and Prof. McGarvey thus permanently disturbed, and learning that his article to the Gazette was, in the judgment of members of the Executive Committee, and other Curators, calculated to increase rather than to allay strife, had the proper self-respect and regard for the opinion of Curators to tender his resignation, which the Executive Committee promptly accepted.

We think that the course of Mr. McGarvey in his controversy with his colleague, was objectionable, and as he was the senior of the latter, who is a young man, and as he is an editor of a religious newspaper, his severe denunciations of Mr. Smith were, under the circumstances, the more inexcusable.

Moreover, we would impress it upon the minds of the Curators that it was under the professed apology of a reply to Tutor Smith that Mr. McGarvey finds the opportunity to injure the reputation and usefulness of the Regent.

5. Mr. McGarvey, in the article which we are reviewing, complains that the report of the Committee on Grievances had been anticipated by certain writers, and the nature of the case misrepresented in the papers before the report was prepared.

It is evident that he here seeks to make the impression that only the friends of Regent Bowman sought, by premature publications, to forestall opinion in regard to the report.



But the facts in the case furnish positive proof of Mr. McGarvey's determination to allow no peace in the University save on his own terms; for he himself, while thus publicly criminating a colleague, was guilty of the same offense.

In an article of June 26th, written before that report was given to the public, he states that the editors of the Times, Mr. Wilkes among the number, had been vindicated and were anxious for their *vindication to appear*. Whatever impropriety there was, therefore, in any attempt to forestall public opinion, Mr. McGarvey was equally guilty of it.

Moreover, in order to keep alive an unjust prejudice against Mr. Bowman, he claimed for his co-editor, Wilkes, that he had been vindicated by the yet unpublished report. Now, was this statement even *true*?

The Board decided that the charge which Mr. Bowman had once brought against Mr. Wilkes was sustained by the testimony; and that so far as his statements had made impressions injurious to the Regent, when opportunity to know better was in his reach, he was at fault.

With this verdict of guilt well known to him, Editor McGarvey, a week or more before the "report" was published, announces the vindication of the whole editorial corps!

In this connection the committee would call special attention to the fact that Curator Wilkes had repeatedly made the most serious charges against Regent Bowman, which charges had been before the committee for investigation. In view of these facts, the declaration of Prof. McGarvey to the effect that Mr. Wilkes had been vindicated by the Board, could have had but one meaning, viz.: That the Regent had been found guilty of the unfaithfulness with which Mr. Wilkes had charged him! We submit, then, that Prof. McGarvey was not only guilty of making the erroneous statement that the report of the committee contained the vindication of the honor of all the original editors of the Times, but that he thereby implies the very dishonesty and criminality that had been charged against the Regent.

This deliberate perversion of the character of the report, of itself is, in our opinion, sufficient ground to demand his removal from the institution.

6. Mr. McGarvey has inexcusably done Mr. Bowman still further injury and injustice by his suppression of a few very important words of the report, when endeavoring to persuade his readers of his own complete exoneration from what he calls the charges of the Regent. It will be remembered that in his memorial of January 11th, 1872, he calls on the Board to vindicate him from the charge of being a liar, which charge, he alleges, had been brought against him by Mr. Bowman.

In commenting on the decision of the committee in the premises, Mr. McGarvey says

that he had been completely exonerated from the charge preferred against him. He thus leads his readers to suppose that he had been tried and fully acquitted on some charge of lying that Mr. Bowman had publicly and falsely brought against him, when he himself had been Mr. Bowman's accuser, and had preferred charges against him. Now, the suppression of any essential part of the solemn decision of a tribunal like that, is morally improper. But, when such impression does injury and injustice to an opponent, it is unpardonable. In the case of Prof. McGarvey, his mutilation and misrepresentation of the report, to the injury of Mr. Bowman, is, under the circumstances, deserving of extreme censure.

The decision of the committee on the point alluded to, is that, while they exonerate Mr. McGarvey under an *alleged* charge of falsehood, they declare that no such charge had been made by the Regent at all, directly nor by implication, unless from inference, which even, if logically drawn, should be accepted by the Regent as his own, before they are made a subject of criminal charge against him (the Regent). Thus it appears that while the Board were willing to exonerate Mr. McGarvey under a charge of falsehood, which he alleges had been made by the Regent, they were also emphatic in denying in the same sentence that the Regent had brought any such charge, and yet Mr. McGarvey deliberately suppresses this fact. He thus leaves Mr. Bowman before the public in the attitude of a false accuser, convicted and exposed as such by the Board. This piece of injustice to a superior officer furnishes additional sufficient grounds for the action of the Executive Committee.

8. Another apparent effort on the part of Mr. McGarvey to do Mr. Bowman all the injury he could, and which served to render the breach between him and the Regent irreparable, is in Mr. McGarvey's editorial notice of the slanders of Mr. Bowman's private character.

Mr. McGarvey sees fit to refer to these refuted slanders again, and gives his readers the full benefit of the scandal by saying merely that the committee say of certain testimony touching the private character of the Regent: "*That it should not have been introduced.*" Now, the report of the committee emphatically declares not merely that that testimony should not have been introduced, as Mr. McGarvey has stated the matter, but that it should not have been introduced for the reason, that it was *confessedly based on rumor alone, utterly unsubstantiated by any evidence whatever, and irrelevant*, thus giving the amplest vindication of Mr. Bowman, and leaving the censure for its introduction to fall on whomsoever deserved it.

But, worse than all this, Mr. McGarvey, after endeavoring to exonerate himself from all blame for the introduction of this scandal,



pens this unfortunate sentence: "More on this matter (the scandal) we do not choose to write unless future developments shall compel us to do so."

In such a connection these words can have no other significance than to insinuate vice and to threaten its exposure—words that were sufficient of themselves to prevent all future co-operation with him on the part of the Regent, though nothing else had ever been written.

9. In explaining to his readers the very plain verdict of the Board in the case of Mr. Wilkes, Mr. McGarvey endeavors to persuade them that the Board did not find any fault with Mr. Wilkes for any statement which he may have made concerning the title to Ashland or Woodland, but only for the impression which his statements may have produced on the minds of some persons. Now, the verdict of the committee is in these words:

"That Curator Wilkes, much to the injury of Mr. Bowman, did repeatedly, and to different persons, give erroneous impressions in reference to the title to the Realty as being held in his own name instead of the University—that too subsequent to the time said title had been recorded—is sustained by the testimony; and, in so far as statements creating said impressions were made by him, when opportunity to know better was within his reach, he is at fault."

The charge of Mr. Bowman against Curator Wilkes is thus emphatically declared to be sustained. But, desiring that full justice should be done to all parties, the Committee proceed to censure Curator Wilkes for his statements, on the ground: 1st, that those statements gave erroneous and injurious impressions; and, 2d, that Mr. Wilkes had the opportunity to know better.

And yet, after Mr. McGarvey had heard the report of the committee read, he does not hesitate, as we have seen, to publish it as a fact that *Mr. Wilkes had been vindicated!* And more than this, he even spread the injurious statement again before the public that Mr. Bowman had held the title to Woodland in his own name for nearly a year after it had been paid for by the money of the University—a statement which is not true, and the facts connected with which Mr. McGarvey could easily have known had he desired—is virtually but a repetition of the story which the Board unanimously condemned as truthless and injurious.

In conclusion, we beg leave to say that, no documents touching the unfortunate difficulties in the University, for the removal of which the Board had wisely prepared the way, in the whole scope, tenor and spirit, could have been more injurious to others, and more fatal to the peace and harmony of the institution than those published by Prof. McGarvey in the Times, so soon after the adjournment of the Board, so palpably misrepresenting its action, and so manifestly calculated to

open up afresh the wounds which they had endeavored to heal.

These articles are herewith appended, and we leave it to the judgment of the Board, after carefully reading them, and weighing all we have said, to determine whether they do not furnish ample evidence of a persistent disposition on the part of Mr. McGarvey to use his office as professor, and his position as editor of a religious newspaper, to do some of his colleagues all the injury he can, and to defeat any effort for peace unless it be accomplished by the disgrace of the founder and the faithful, self-sacrificing Chief Executive officer of the University.

With the exception of Mr. McGarvey, there has been, and is, entire harmony and co-operation among all the officials of Kentucky University, as far as known to us.

From the foregoing statements, and from the fact that Mr. McGarvey is, and has been for years, more or less, not on terms of cordial relationship with a number of his colleagues of the Faculty and the officials of the institution, nor in proper sympathy to cooperate with its management, we are compelled to regard him as an irreconcilable element of discord in the government of Kentucky University, and his removal as necessary to the peace and prosperity of the same.

As the authority of the Executive Committee to suspend or remove Mr. McGarvey has been questioned, we beg leave to say that the power of appointment and the creating of vacancies in the Faculties has been repeatedly exercised by the committee for fifteen years, without a previous voice of dissent or doubt as to the legality of these precedents, Mr. McGarvey himself holding his professorship under the exercise of this authority.

BENJ. GRATZ, <i>Ch'm pro tem.</i>	} Ex. } Com.
JOSEPH SMITH,	
JOS. WASSON,	
JOS. WOOLFOLK,	

Mr. Allen thought that the charges brought against Prof. McGarvey should have been shown to the professor in time to give him an opportunity to get up a defense. Professor McGarvey was told that there were no charges, and then for so many to be brought forward at so late an hour was wholly unfair.

Mr. Bowman explained that the paper read was simply the defense offered by the Executive Committee, and were not charges.

The chairman, in reply to a question, said he thought the charges, if any, were made by Curator Williams.

Mr. Williams said that he had read the paper slowly, and there were twelve distinct charges or articles to the effect that Professor McGarvey had been guilty of conduct prejudicial to the harmony of the institution.

In reply to other questions, the chair again asserted that the paper read by Curator Williams was an argument in support of the charges embodied in the substitute.

Curator Withers wanted to know what the



charges were. He wanted a full and fair discussion. The character and pecuniary interest of a citizen who stood high in the estimation of 50,000 of his fellow-citizens were at stake, and such a matter could not be disposed of lightly.

[At this point R. M. Bishop appeared, but did not take the chair.]

Curator Withers continued. He read the substitute and asked Curator Williams whether he had made any other charge than that in his substitute. He was answered in the negative.

Col. Withers said he made the point of order, that by the by-law the charge cannot be entertained, as it does not pertain to either his incompetency or unfaithfulness as a professor.

The chair decided that if the charge be true that Professor McGarvey had been pursuing a course which would destroy harmony in the institution, then he was clearly incompetent and not carrying out the spirit and intention of the Board, and the point of order was, therefore, not well taken.

Curator Withers then presented a petition from 325 of the donors of the institution, representing over half of the endowment fund.

Regent Bowman asked if these documents were introduced as a part of the argument.

Curator Withers answered that they were not.

Regent Bowman—Then I object to this as out of order.

A motion to suspend the regular business in order to hear the petition was passed.

Curator Withers then read the petition of the donors setting forth the following:

1. Kentucky University is the property of the Christian Church in Kentucky.
2. That they made their donations on the strength of the representation of the Regent that the Bible College should be conducted in the interests of the Christian Church.

The remaining sections endorsed Prof. McGarvey and insisted on his being retained by the Board.

Dr. Smith asked if the heading to the petition had not been printed in this city and sent out to the other counties from here.

Curator Withers—I suppose it was.

Curator Withers then presented petitions from one hundred and eighty churches of Kentucky, reading the petition from the Walnut street church, in Louisville, asking for the retention of Prof. McGarvey, the separation of the Bible College and the College of Arts from the Agricultural College, and the removal of Regent Bowman.

Curator Williams said that the expression of opinion from the Christian Churches should be treated with every possible respect, and he, therefore, moved that the petitions be received and referred to a committee in order to prepare a suitable address in reply.

This motion was opposed by Curator

Withers, who said that the University needed the sympathy of the church at this time.

The motion was amended so as to cause the committee of reference to report before the adjournment of the Board.

The chair appointed the committee, consisting of Curators Williams, Campbell, Sloan and Torbitt.

Bro. Elley moved that the committee consist of seven, and that they be not all on one side. He did not like that sort of appointment.

The following gentlemen were added, Curators Withers, Herndon and, on motion, the chairman, Z. F. Smith.

Curator Bishop declined to serve, and Bro. Elley said that owing to what had transpired last night the chairman ought not to be on the committee. It was very evident that this report was going to be a bone of contention.

On motion, Prof. McGarvey was heard upon the charges against him.

Prof. McGarvey asked whether the vote on his exclusion would be taken at 12 o'clock. He said that if the motion that he should be heard had been made before the introduction of the long document of the committee, he would have been prepared, but under the circumstances he was not. He desired to make a few remarks, however, and proceeded to read the correspondence between him and the Executive Committee, already given in substance to the readers of the PRESS.

In this correspondence Prof. McGarvey said the committee persistently refused to give him any grounds for their action against him, but now they come in and give their grounds in a long and carefully prepared document, which is one of the most ingenious and most glaring and unjustifiable perversions of fact that it is possible to conceive. Now, if the Curators should take a vote upon his case without giving him ample time for defense, he was in their hands.

In order to give Prof. McGarvey time for preparation of his defense, Regent Bowman moved that the Board do now adjourn until 3 o'clock P. M.

The Board adjourned.

#### AFTERNOON SESSION.

The Board was called to order by President R. M. Bishop in the chair.

The minutes of the last meeting were read and amended.

Curator Allen objected that the minutes set forth that charges were made against Prof. McGarvey by Prof. Williams. That was not the object of the present call.

The minutes were then approved.

Curator Sloan moved that the Board go into executive session, inviting the reporters to remain.

The chair explained to visitors before the vote was taken that if carried it meant that they would be excluded.



Curator Withers moved that everybody be invited, and that the Board adjourn to the chapel. Lost.

Curator Withers moved to invite the donors to remain. This Board, he said, to all intents and purposes, was an open board, since the members of the press were here. It did seem to him that the donors of the University, those who had given their money to its support, should be present to hear a discussion which involved the very existence of the University.

Curator Sloan opposed the motion, because the same motion had been voted down several times during the session, and the Board ought to be consistent.

The motion was lost by a vote of 22 to 14.

Mr. R. McMichael, rising, said that he was a donor to the institution, and there was something significant in the fact that every time a vote of this kind came up there was a certain party voted against it. He said there was something significant in the fact.

The chairman said no doubt there was, but he did not want any personalities.

Mr. McMichael wanted to know if Major Luxon was a member of the Board.

Major Luxon said he was a reporter for the the Lexington Gazette.

Mr. McMichael was very mad, and remained with the door open determined to have an answer to his question.

The president ordered the door to be closed, but Mr. McMichael did not leave until the reporters had all reported their names and their papers.

The next thing in order was the address of Mr. McGarvey, which that gentleman proceeded to make.

#### PROF. M'GARVEY'S DEFENSE.

*Mr. Chairman and Gentlemen*—I stand before you under very extraordinary circumstances. It is a very rare thing in the history of a college for a professor to be dismissed from his position as I have been. It is the first time, I believe, that such an event has taken place, or even been proposed, in the history of this University. Its importance to me, personally, cannot possibly be overestimated. If the resolution now before you should pass, that resolution, taken in connection with preceding accusations, will, if believed, blast my reputation as a man, as a Christian, and as a gentleman forever before the community at large.

Of this, you are already aware, and you will perceive it more forcibly as I proceed. And if I shall say anything that shall grate harshly on the feelings of any member of the Board, I shall not be called to order on the ground of personality, for this is a personal question. My character has been assailed in a manner never before, perhaps, adopted towards any man, and if in defending myself, I shall cut severely into the feelings of any Curators or members of the Board, it is their

misfortune and not my fault. I shall not be interrupted because I have a protracted train of thought which I have prepared since the adjournment of the Board this morning, and I do not wish to be thrown out of my line of thought by interruption.

And first I shall call the attention of the Board to the correspondence between myself and the Executive Committee, and begin with the resolution, by which they determined upon my removal, and request the resignation of my professorship. The committee say, in their letter dated July 8th: "In the spirit of, and for the end specified in the recommendation of the special committee on complaints, recommended by the Board, and with the desire to secure harmony, etc., we request you at once to resign your position as professor in Kentucky University." Here the request was based upon the recommendation of the committee. I wanted them to state the grounds of their action. They said it was "in the spirit of, and for the end specified by the report of the committee." Now, the report of that committee upon the subject says: "Is there any one who cannot work in peace and harmony with his fellows in the Board (the Board, not the faculty) resignation would do honor to the head and heart of such."

I say the recommendation is intended for members of the Board, of which I am not one. But the members of the Executive Committee say the spirit of the recommendation included professors. Then, as to "peace and harmony"; I am not one of the number to produce discord and to defeat the desire for peace and harmony, for the committee on complaints exonerated me from that charge. Hence, the assertion that I was in the way of "peace and harmony" was false, and it was wicked for the Executive Committee to apply that language to me. It was my interest and my desire to work in harmony hereafter as I had done heretofore with my colleagues.

The first ground for desiring my removal was abandoned. They adopted another. They say in their communication of July 10th: "In our judgment your resignation would promote harmony." I replied that this was basing their action not on the records of the committee, but upon their own judgment. They refused an answer to my demand to give the further grounds for their action. They deferred it until this morning, when they present them by Prof. Williams in a long, exhaustive and carefully prepared document.

[This is the series of charges printed in another place.]

Let me call your attention to another part of the correspondence. In their letter dated July 14th, they say they want my resignation to be voluntary. Now, look at that! They say to me: "We wish your resignation to be regarded as voluntary on your part." Look at that! Gentlemen in authority in the University ask a professor to resign in order to



secure peace and harmony in the institution, and yet they wanted it to appear that my resignation was voluntary! I was not willing to go before the community with an appearance that was false. I was not willing to be a party to such a transaction. You see how it would have been if I had resigned. They would come forward, and when my friends spoke of my resignation as voluntary, would go to the records and say: "Look at these records and see whether it was voluntary or not"—just what they have done. I expected it, and I was prepared for it, thank God.

Again, with regard to the action of the committee toward me. The notice first sent to me was a dismissal and I should so regard it, and yet they asked for my voluntary resignation. I refused to resign for these reasons:

1. I occupied a position of duty and usefulness that I felt it would be a sin in the sight of God to abandon, unless for most important reasons, and so my friends regarded it.

2. Not a single man to whom I appealed for advice, with that accusation against me, whether in the faculty, in the Board, in the Church or in the world, but advised me not to resign, and included in that number is the very Curator who now introduces a resolution for my removal, and which is now before this body. In a conversation with him of two hours' length, he said: You cannot resign your position in such a condition of the case that casts imputation upon your character. When I read the correspondence between myself and the committee to him, he said that he had told the Executive Committee that they had made a blunder. He said I could not honorably resign under the circumstances, and now he offers this resolution to expel me.

And let me call attention to one clause of that resolution: "Whereas, the Executive Committee kindly and courteously requested Prof. McGarvey, for the sake of peace and harmony, to resign his professorship in Kentucky University, which he declined to do. Therefore, resolved, to remove him." I am to be removed for not doing the very thing that he said I could not do, and that he would not do if he were in my place.

The committee has suspended me, and I want you to note carefully the grounds. In the first place, they had *kindly* requested me to resign; secondly, I did not resign, and therefore I was suspended. Is that the law of this institution? When a man is asked to resign and he refuses, does that constitute sufficient ground for his suspension? If that is the law, proclaim it, and let the professors in this institution know on what insecure tenure they hold their office. But I do not think such an absurdity will be maintained.

Further—I declared their action to be illegal and in violation of the charter of the University. I will not consider this point at length. The admirable argument of Curator Withers on that subject—clear, transparent and to the point—covered the whole ground,

and it cannot have been forgotten by members of the Board.

The law governing this institution has no word in relation to suspension or temporary removal of a professor. The framers of the law never contemplated an act of that kind taking place. The suspension of a professor is illegal, and the law makes no provision for it.

One of the Curators discussing this very question said: Suppose a professor was guilty of drunkenness, murder or other heinous offense, was there no power to remove him? Can't the Executive Committee suspend him? No; it cannot. The law does not provide for it. That is something which requires the calling of the Board together to act upon it. And if members of the Board get drunk, what action can be taken? None other than calling the whole Board together, no matter at what trouble or expense. For these reasons I pronounce the action of the committee toward me as illegal.

Again, the committee were guilty of a great blunder in speaking of my suspension as final. I wrote, asking them to define the extent and duration of my suspension, and to refer to clauses in the charter and by-laws on that subject. They did not reply for six days, whereas, heretofore, they had replied to me next day. I wrote again. They replied, defining my suspension as dismissal from my office entirely. They started out with an absurdity, and, having to abandon that, finally pronounced me dismissed and having no longer any connection with the University. I was permanently dismissed.

Then they offered the chair they had assumed to vacate to another. They offered the chair of Sacred History to a life-long friend of mine, Alexander Proctor, of Missouri, and the Regent said that if he refused to accept it, another could be got from Illinois. They did attempt to vacate my chair, and the only reason that it was not filled on last Monday was, that they could not get any one in town to fill it. They wanted to dismiss me. The Board, itself, by its vote upon the question of striking out the word "formerly" and inserting the word "now," was of the same opinion. In the estimation of this Board I am not a professor of the institution.

A word as to my subsequent course. I refused to accede to the demands of the committee, and shielded myself under the chartered rights accorded to all professors. I determined to be present at the opening of the session, and I was. I met with the class, and at the close of the exercises I addressed the following note to Prof. Milligan, the President of the Bible College:

KENTUCKY UNIVERSITY,  
COLLEGE OF THE BIBLE, Sept. 8, '73. }

President Milligan:

DEAR BRO.—Regarding as illegal the recent act of the Executive Committee by



which they pronounced my connection with the University suspended, I hereby report myself to you as ready to enter on the discharge of my official duties for the session which begins this day.

Respectfully yours,

J. W. MCGARVEY,

Professor of Sacred History.

To this President Milligan returned the following reply:

KENTUCKY UNIVERSITY, Sept. 8, 1873.

Prof. J. W. McGarvey:

MY DEAR BROTHER—In reply to your note of this morning, in which you say that you are ready to enter upon the discharge of your duties as Professor of Sacred History in the College of the Bible, I respectfully submit to you the enclosed communication from the Executive Committee. You will see from it that the committee regards your connection with the University as now severed, at least for a time. What you should do in the case, you yourself will have to judge. It would be very agreeable to me to have the benefit of your labors and counsel as heretofore, but I am unwilling to decide between you and the committee in this case. Do as you think proper.

Very truly,

R. MILLIGAN.

The following is the communication alluded to:

Bro. Milligan:

I am directed to send you the following action of the Executive Committee:

WHEREAS, The chair of Sacred History in the Bible College has been made vacant by the suspension of Prof. J. W. McGarvey,

Resolved, That the Secretary be requested to notify President Milligan of this fact, and that he, with Prof. Pickett, be requested to make such temporary arrangements for the matriculations and instruction of students in Sacred History in said college, until the said chair is filled by the Executive Committee, or the Curators at its approaching meeting on the 16th inst. Respectfully,

JOSEPH SMITH, Secretary.

On receiving that answer I saw that the Executive Committee had directed another disposition of the class in which I was interested. To pursue my right, further would be involving Prof. Milligan in a dispute. I therefore retired and have not attended the class exercises since that time.

So much for the dealings of the committee with me up to the hour of the meeting of this Board and the offering of Curator Withers' resolution.

That resolution wanted the Board to pronounce the action of the Executive Committee unlawful. The majority of the Board were willing to vote on it. The substitute offered by Prof. Williams has been before the house ever since. If the substitute is adopted, the original question, which the meeting was called to settle, will still not have been touched. If you pass it, you put me

out upon a new charge from this individual, and say nothing as to the action of the Executive Committee.

Let me call attention to the preamble to the resolution. The fact of my suspension is not mentioned in it. The only accusation mentioned in it is that I was asked to resign and didn't do it.

And will you pass this resolution? Will you condemn me and whitewash the committee? I do hope that there is no fear of any man in this Board that it should go a way without one word as to the action of this Executive Committee. The charges as stated against me are known to the people, and I beg of you before you go, to tell me whether you approve of the action of this committee or not.

The first passage of the long preamble to the substitute misrepresents the report of the committee of the Board on complaints in two important particulars.

It says that the committee expressed emphatically a desire for the resignation of an official who could not work in harmony, &c. It was not any official—it was any *member of the Board*. And there is not one word in the report about separating a man from the University by suspension or otherwise. It is a palpable perversion of fact.

Again I read: "Whereas, That Tutor E. E. Smith and Professor J. W. McGarvey did, in disregard of the expressed wish of the Board, publish articles improper and intemperate in their character, and calculated to open questions of strife and discord, &c."

Now, I ask the Honorable Board, after reading the article of E. E. Smith in the Cincinnati Gazette and my reply in the Apostolic Times, whether you want to place me on a par with E. E. Smith. When you know that his article was a terrible assault upon my character, and that my article was a defense of myself. Would you call a man who killed another in self-defense a murderer? I do ask you, gentlemen, if you can appreciate the feeling that fills my breast, and that should actuate an honest man, not to say by your vote, at this or any other time, that I am to be publicly degraded and dismissed from this institution for speaking in defense of myself.

In reference to the next part of the resolution, the resignation of Tutor Smith, I wish to say some plain things. I call, in the first place, for the reading of the records of the Executive Committee in relation to this resignation.

Dr. Jos. Smith, secretary of the committee, read the minutes and the following letter of resignation of E. E. Smith:

LEXINGTON, KY., July 4th, 1873.

Gentlemen of Exec. Com. of Kentucky University:

I have understood that there is some dissatisfaction in regard to my connection with the University, on account of an article writ-



ten by me to the Cincinnati Gazette. I, therefore, deem it proper to say:

1. That in writing that article I have violated no law of the University, in so far as I know.

2. That being a paid and regular correspondent of the Gazette, I had as perfect a right to contribute an article on that subject as on any other.

3. That in said article I violated no law of propriety, inasmuch as I did not attack nor criticise the government of the institution in any way; and inasmuch as I stated, both before and then, that I recognized the action of the Board as settling the matter under dispute.

4. That said article was *not* written for the purpose of stirring up strife anew, but, as any correspondent would have given it, a sketch of the University, giving the origin and cause of the troubles which were disposed of, and showing where condemnation belonged.

5. That, nevertheless, if it is the opinion of the Executive Committee that my connection with the University is detrimental to its interests, or does in any way interfere with its peace and prosperity, I hereby resign my position as instructor in the Agricultural and Mechanical College.

The interest which I feel in the University, and the desire that I have for its growth and ultimate success, are the motives prompting me to this action. Very respectfully,

E. E. SMITH.

The resignation was presented on the 7th of July, and action was not taken upon it until the 10th.

Mr. McGarvey—That is sufficient. Now, gentlemen, I want you to note these facts. The very day this Board adjourned in June, Tutor Smith sent a dispatch to the Cincinnati Gazette.

[Mr. McGarvey read extracts severely reflecting upon him, and not in accordance, he said, with the truth.] All this was known to the Committee, and no notice was taken of it from June 28th to July 7th.

[Messrs. Jos. Woolfolk, Jos. Wasson and Benj. Gratz, denied having any knowledge of the article until they saw it in the Apostolic Times.]

Mr. McGarvey proceeded—Well it was published over the country, and when J. W. McGarvey writes a defense of himself then he is requested to resign, and not one of that committee was the man to come to me and request my resignation in a friendly manner. The committee conducted themselves all along as my enemies, and not as my friends, though I do not believe they are all at enmity towards me.

And now I take up the document presented by the committee this morning. I asserted that they had other grounds for my resignation, but they refused to let me know them, and why? Was it that they were afraid that I could explain them? What was it? Why were they refused when I begged and pleaded

for them, and then thrust in here upon me an hour before the time appointed for me to make my defense? It was unmanly—cruel. It was wicked to thus attempt to condemn a man without trial, and refusing to even let him know the charges against him, when those charges were of such a character as to blast his reputation, if they were true. I never before heard of such perfidy. The reasons they now advance as causes for my suspension are an afterthought. They were not in the minds of the men who suspended me. This document has been carefully prepared. They were vague and indefinite before; now it all comes out, and really I am at a loss to know why I did not obtain a copy of this before. If I mistake not, it was in the hands of some of the members of the Board last night. This is the way I have been dealt with by the members of the committee from the beginning, in their attempt to disgrace me and I ask you, gentlemen, whether you will sustain by your verdict such a course of action.

Gentlemen of the committee say that my removal was dated from July 3d, the date of my article in the Apostolic Times, when they had determined before that, that I should be removed. The document says: "After due deliberation they were forced to the conclusion that the resignation of Prof. McGarvey would greatly promote the desired harmony, and accordingly they resolved to so request him, &c."

Mr. McGarvey then asked for the reading of the records of the Executive Committee in regard to his resignation.

Dr. Smith read, showing that the resolution to request the professor's resignation had been passed some days before it was transmitted to him.

Mr. McGarvey—Is any ground mentioned there.

Dr. Jos. Smith—None but what I have read.

Mr. McGarvey—Gentlemen, they had resolved upon my resignation before the writing of that article—resolved upon my disgrace without ground. Can you indorse so dishonest a proceeding? You cannot indorse anything so dishonorable. Now, after they had resolved upon a proceeding which should stain my name with infamy forever, they look about for reasons, which they present here this morning. On the contrary, you should pass a resolution condemning their proceedings, and insist that the people who have brought this disgrace upon me should get out, and let the institution remain in harmony and peace. I ask you, as Christian gentlemen with the fear of God in your hearts, whether you can indorse the course followed by this committee? This matter clearly affects my honor, and that is dear to me next to the love of Christ.

This document says I was opposed to Regent Bowman. I am opposed to him, and why? Because he had run a ploughshare through



the Church of God, and sought to injure the cause of Christ, and I always will be opposed to him.

Regent Bowman—Did you not aver your opposition to my management of the University?

Mr. McGarvey—I did disapprove of his policy and management in some things, and I told the Regent so, and I could speak of them now, but it is none of my business.

This document also charges he with not co-operating with the other professors. I deny the truth of it. There is not a man in the institution that I am at enmity with. There are one or two with whom I am not in the most agreeable relations, but none to whom I would not speak.

Prof. Williams asked about his relations with Dr. Peter.

Mr. McGarvey—Our official intercourse is characterized by politeness and courtesy.

Regent Bowman—Were you in friendly relations with Prof. Shackelford, and did you not make an issue with him when he came here?

Mr. McGarvey—I did make an issue with him, but he and I are on friendly terms.

Some one asked his relations with Prof. Pickett.

Mr. McGarvey—We are on terms of friendly intercourse. [Mr. McGarvey explained the action of Prof. Milligan and himself in relation to the treatment of Prof. Pickett in the Bible chapel. Mr. McGarvey supported President Milligan in his course at that time.] When the Board was called together before to consider this question, President Milligan was aimed at. They knew if he left I would. Touch one hair in his head and you touch six in mine.

A Member—What are your relations now with Prof. Pickett?

Mr. McGarvey—Prof. Pickett has returned to the bosom of the Church, and I am on friendly relations with him.

Other questions were put, and some of Mr. McGarvey's friends interfered in his behalf, but he answered all questions put to him.

Mr. McGarvey (continuing)—Now, all the charges in this paper are baseless. But if I was not on terms of intimacy with the rest of the professors, what ought an honorable body to have done? Kick me out without ceremony? Is that the condut you will endorse? Is that the inducement you hold out to foreigners to come here to adorn the chairs of this institution? Is that the sort of inducement you offer to such a man as Alexander Proctor?

A long colloquy here ensued between Prof. McGarvey and Regent Bowman in reference to published charges affecting each other's character, and the fact as to whether or not Mr. McGarvey and Mr. Wilkes had been censured by the committee. It involved in the dispute nearly all the members of the Committee of Grievances, who had all some-

thing to say upon the matter. When this was disposed of

Mr. McGarvey continued—The next thing I am blamed for is my treatment of Tutor Smith. I pronounced his article as false and slanderous. I am not in the habit of using harsh language as an editor, but let me quote from the article of Tutor Smith in relation to me. [Mr. McGarvey read an extract charging him with being a member of a clique and a conspirator against Regent Bowman.]

Now, Gentlemen, when charged with such a thing as that in a paper that circulates in Ohio and Indiana, where I am not known, and to whose people I was represented as a dishonorable man, am I to be condemned for calling such things slanders? Is that the dominion under which I am to live? I could not speak of them politely, or in honeyed words. The Apostle Paul could not, when he pronounced his enemies children of the devil and enemies to all righteousness.

Another colloquy ensued about vindicating the character of Mr. L. B. Wilkes, when Mr. McGarvey came to a more serious matter.

Mr. McGarvey—It is that point of the document I hold in my hand which speaks of the publication of slander, that I shall now allude to. It is a reference to my article touching the charges against Mr. Bowman's character. [Mr. McGarvey read the article from his paper.] He blamed Tutor Smith for reviving the charges.

This again produced a rattle of musketry all round, in the course of which Mr. McGarvey found time to disprove two or three charges against him, among others of threatening the Regent in his paper.

The question of the injurious charge against Mr. Bowman of his withholding the deed to Woodland was gone into.

Mr. McGarvey went into an elaborate proof that there was good ground for believing that such was the case, showing that the Treasurer's reports reported the last payment as made in 1868, when the deed was not given until 1869.

STATE OF KENTUCKY, } SCT.  
COUNTY OF FAYETTE.

I, Allie G. Hunt, Clerk of the Fayette County Court, do certify that the records of my office show the last payment in the deed from J. B. Tilford and wife to J. B. Bowman, ("Woodlands") to have been due on the 10th day of May, 1867; and also, that the date of the deed, for the same property, from J. B. Bowman to Kentucky University, is June 1st, 1869.

Given under my hand this 17th day of June, 1873. ALLIE G. HUNT, Clerk.

By F. W. Woolley, D. C.

Mr. Bowman explained that he had paid the money out of his own pocket and did not reimburse himself until 1869, when, after crediting himself, he gave the deed to the University.

Mr. McGarvey dwelt on the discrepancy in



the reports, maintaining that the face of the reports justified the inference that the Regent had retained the deed to Woodland after it was the property of the University. It was not until now, he said, that Mr. Bowman had set up the defense that he had not reimbursed himself until 1869.

Mr. Bowman said all his books and papers were open for inspection and had been passed upon year after year.

At this time, it being dark and late, 7 o'clock, the meeting adjourned until 8½ o'clock.

#### EVENING SESSION.

The Board met again at half-past eight o'clock, and after some preliminaries Prof. McGarvey continued his speech, thus:

I regret exceedingly the necessity which urges me to make such demands on the valuable time of the Board. But I must speak deliberately and with a view to convince. The statements made in reference to the Regent are not untrue unless the Regent's own reports are untrue. If Regent Bowman can prove my allegations to be false, then I will be glad to publish it to the world. I have no intention to do the Regent either injury or injustice. To-night, for the first time, the Regent has shown cause why a deed to Woodland was not given to the University sooner. If the Board ratify the action of the Executive Committee, they will go back on their own action of June last. In introducing the subject of the deed I do so without any desire to stir up old strife. Tutor Smith acknowledged having published articles in the Gazette which were utterly false in reference to many matters, and particularly in reference to Curator Wilkes. It was for the purpose of putting a friend right, and nothing else, that caused me to put in print what I did. Only to-day the grounds of suspension has been given. The article in the Apostolic Times forms no part of the grounds on which the action of the Executive Committee was based. All the charges brought forward to-day were afterthoughts.

The Professor then gave a recapitulation of his whole speech, and then went on to say: Are these causes sufficient to have a professor removed? Incompatibility of temper! What sort of a charge is that? The articles written were prepared in self-defense and nothing more. Is the Board to be deceived and cast a man out on such miserable and shallow excuses? The whole movement indicates the most extraordinary action on record on the part of the rulers of a literary institution towards one of its professors.

But it can all be accounted for. The five men that have done the deed should be considered. Mr. Gratz is, under ordinary circumstances, fair and honorable, but incapable of doing me justice. Considering the sort of training which Mr. Gratz has received, no one will think that, in reference to me, he can form

the right kind of an opinion. He is not in sympathy with the religion which I profess and teach, and I do not think he is competent to deal with a problem which relates purely to the Bible College.

Curator Wasson for eight years has been strongly and bitterly opposed to me.

Curator Smith is the father of the man who originated all this strife, as well as the father of Tutor Smith.

Curator Smith may be disposed to do right, but can hardly be expected to do justice to me.

I have special faith in Curator Woolfolk, and if anywhere justice is to be found, I look for a full display of it from him, but even now there is blood relationship at work.

Regent Bowman is at the top, middle and bottom of the whole movement. Since the church difficulties arose he has never been disposed to treat me right. It was the Regent who put all the evil in the hearts of the other four, and but for him all would now be quiet. Some of the Board are not members of the Church of Christ. I ask them in approaching this great matter to put aside all prejudice. Then a good many of the Board have ties of blood which bind them to the Regent. I request them also to endeavor to deal justly. Others again have intimate business associations, but from all I request no more than a fair, honest, dispassionate hearing, and an action that shall harmonize with that hearing.

It was the fondest and most cherished hope of my life that I would spend my remaining days in teaching young men the precious truths which would enable them to go forth as lights to the world. I never had any intention to disturb the peace, and I say it before God. I now conclude, and if this Board shall say that I must go, I retire with no regret based on any pecuniary consideration, but only with sorrow founded on my deep and abiding love for the great cause of Christ. No bridegroom ever went to see his bride with more devotion than did I to prepare myself for the duties of my position. But if it must be so, I bid farewell with the deepest regret.

The professor, in making his beautiful peroration, seemed deeply moved.

Curator Sloan thought that all the strife originated in the newspaper discussions. Mr. S. on seeing the Gazette, was mortified almost to death, and wanted to have Tutor Smith put out right away. Mr. Sloan was very decidedly opposed to newspaper discussions. Mr. S. then read his reasons setting forth why he would vote thus and so.

[We may remark that the reasons were prepared in the closet of Mr. S. before the Board met.]

Curator Withers thought that all parties should be heard, in view of the fact that the matter was so very important, and the cause of great excitement. This gentlemen wanted to draw attention to the salient points of the whole case, and the consequences likely to



follow on any hurried action of the Board. He urged that the only charge against Prof. McGarvey was that in reference to the discussion with Tutor Smith. Such a charge is not sufficient to justify removal. According to the laws of the institution only incompetency can justify any such measure. Does it show incompetency to write a newspaper article? Surely that cannot be. Is it a crime for a man to speak in vindication of his honor? Then is the professor guilty, but only then is he at fault. Are the chairs of the institution to be filled by men who dare not lift their voices for their own protection? Then God help the University. A man who can submit to every indignity is not fit to be a professor, for he is not qualified to stand up as an example for youth; he is without spirit. There was a formed design on the part of the Executive Committee to put out the professor. Some one having a governing power must bear the blame of this base design. An institution whose chairs are filled by men who must get down on their knees every time the Regent passes by, will never be other than contemptible. And if you want peace you must have it outside as well as inside. There is now a storm without as well as within, and the only way to quiet the storm is to do justice. If Prof. McGarvey is turned out there will be no peace, but revenge for the blood that has been spilled—the crime that some now blindly desire to see done. This poor, distracted University wants peace, and you can have this by listening to the voice of the donors of this institution. Just as soon as Mr. McGarvey is put out there will be war waged to the bitter end.

Curator Gano did not think that the members of the Executive Committee should vote, because their own action is now involved in the removal of Prof. McGarvey. This thought was put down by R. M. Bishop, who occupied the chair.

R. M. Bishop said that newspaper correspondents were rather too much given to coloring up, and that he himself had been colored up two or three times.

The question being put, the result in reference to the removal of Prof. McGarvey stood thus—for removal, 22; against, 13.

A good many gentlemen gave their reasons for voting as they did, and they are on record. And so Professor McGarvey is no longer a teacher in the Bible College of Kentucky University.

Curator Withers next offered a resolution, which was withdrawn temporarily, to be brought up again during the present session of the Board.

Curator Z. F. Smith then offered this resolution:

*Resolved*, That in view of the precedents of the past fourteen years, and the powers conferred by the charter and by-laws of the University, it is the sense of the Board that the Executive Committee has the power to ap-

point or remove temporarily professors in the Faculties during the interim between the meetings of the Board.

The proceeding was spoken of by several gentlemen as inconsistent with the terms of the charter, and by several others as consistent. The question was asked, as having a bearing on the resolution: Has it been customary, in the last 14 years, to suspend a professor?

Curator Elley moved to adjourn, and then moved to adjourn himself, and did so promptly.

After going out, this gentlemen returned, and immediately on his doing this all adjourned to meet next day.

### Third Day's Proceedings.

The Board of Curators of Kentucky University met in their room at the University, Thursday morning, to conclude the business which had brought them together.

The action of the night before in relation to Mr. McGarvey had anything but thrown oil on the troubled waters. It was evident that much of an interesting character would transpire at the morning session, and perhaps even a crisis in the affairs of the University would be brought about by the springing of dangerous questions. In consequence quite a respectable audience gathered to be present at the proceedings, but were disappointed.

President R. M. Bishop in the chair called the meeting to order, and after prayer and calling of the roll, the minutes of the last meeting were read and adopted.

#### RESIGNATION OF A CURATOR.

The President then read the following communication from a Curator:

*Board of Curators Kentucky University:*

Having just received notice to attend a called meeting of the Board of Curators on the 16th inst., and finding it inconvenient to attend the meetings of the Board, I hereby tender to the Board of Curators my resignation as a Curator, that you may elect one in my place who can meet with you and lend his aid in promoting the welfare of the institution. Respectfully, G. W. N. Yost.

A debate arose as to the expediency, and even right, of the Board to appoint a Curator in place of Curator Yost, resigned. It was argued that the number of Curators was already in excess of the legal number allowed by the charter, and that the expenses of calling so large a body of men together from a distance, so frequently, were great.

Regent Bowman explained that the expense consequent on the meetings of the Board of Curators does not exceed \$125.

Col. Withers was in favor of reducing the



number of Curators. He wanted to go back to a place of safety for the University—the charter—and to abide by its provisions. The charter provided, he said, that the Board of Curators should consist of thirty members. It was now composed of forty-one. He was in favor of reducing the number to thirty, and moved to that effect.

Curator Williams raised the point of order that the discussion was out of place.

The chair ruled otherwise, or rather did not rule at all, and

Curator R. M. Gano rising, announced his concurrence in the opinions expressed by Curator Withers, and asked him to modify his motion by adopting thirty-one as the number. Curator Withers adopted the amendment.

Regent Bowman said the language of the charter was not that the Board should consist of thirty members, but *not less* than thirty—that was the minimum number. Any county subscribing \$15,000 dollars to the endowment fund is entitled to a representative in the Board, and if forty more counties should subscribe, each that amount, that same number would be added to the present. He did not fear that it would become too cumbrous.

The amendment was voted on and lost. The original motion was carried and reference made to appropriate committee.

Curator R. M. Gano arose to make a statement for Prof. Milligan, who desired him to say to the Board that the Bible students had determined to leave to-day unless something was done to retain them.

The chairman looking round upon the Board said, yes, I think so—something ought to be done. I believe something has been done. We will come to that. I should like for Prof. Milligan to address the Board.

#### PRIVILEGE.

Curator Worthington (the same who had a personal altercation with Regent Bowman last session of the Board, upon this very subject) arose to a question of privilege. He said earnestly that his character for veracity had been impeached at the last meeting of the Board, in a dispute between himself and the Regent. [They had come to blows then; now, they were situated in diagonally opposite corners of the room, eyeing each other askance.] It was said that he had misrepresented the Regent. He wanted to quote from the bill consolidating the Transylvania and Kentucky Universities.

The preamble to the bill recites that the Curators had an endowment fund of \$200,000. Now, the Regent had said emphatically that whoever made such a statement was guilty of a falsehood. There is the fact in the preamble to the instrument, by authority of which we have our existence.

Dr. Smith asked if the Curator had not stated that the \$200,000 were invested.

Curator Worthington—No, sir.

Regent Bowman asked if he might make a statement.

The Chair decided him out of order.

Curator Withers said he desired, in view of what had been said on the subject, that Prof. Milligan be invited to address the Board.

Curator Gano said that Prof. Milligan did not want to come before the Board, but he did wish to have his statement presented. Said Mr. Gano, "I was touched at the tears in that aged man's eyes when he said that he had done all he could, and that the students would leave unless something was done."

On motion, Prof. Milligan was invited to appear before the Board.

Curator J. A. Williams here reported that the committee on petitions had not been able to make a report, and asked for further time.

Here Prof. Milligan entered the hall.

#### A PROTEST.

Curator W. S. Williams, rising, said he had something to say which he desired to say before Prof. Milligan. It was a recognized principle in the charter—the principle of representation. Dr. Given and himself had represented the county of Lincoln. He had thought he represented that people, and he desired to carry out their wishes. He, therefore, kindly, but earnestly presented their protest against the late action of the Board.

WHEREAS, By an action of the Board of Curators of Kentucky University, Prof. J. W. McGarvey was removed from the chair of Sacred History, in the Bible College, in the Kentucky University, upon what we believe illegal grounds, and without sufficient cause, we therefore, Curators of Kentucky University, and having voted against the removal of Prof. McGarvey, respectfully petition the honorable Board of Kentucky University to receive the following protest to the action of the Board of Kentucky University removing Prof. J. W. McGarvey, and that the same be placed upon the records of this Board. Our protest is made on the following grounds and for the following reasons:

1. By a law of the Kentucky University no charge may be brought against any professor except for incompetency and unfaithfulness.

2. The alleged cause of the removal of Prof. McGarvey is the one as given by the Executive Committee, and a totally different cause as given by the mover of the resolution for the removal of Prof. McGarvey.

3. That the removal of Prof. McGarvey was without sufficient cause and without preferment of sufficient charges, and therefore contrary to the charter.

The speaker proceeded to say that all who chose to sign that petition might do so.

G. W. Elley—I heartily endorse it and sign it.

Curator Steele—I was not aware of the existence of that paper, but I endorse the sentiments and wish to sign it.



Curator Kinnaird said he had voted against Prof. McGarvey's removal and gave his reasons for so doing. He stood by his action then.

Curator Withers—I want to sign that document.

Curator Ricketts—I desire to attach my name to that protest.

Curator B. M. Gano—I heartily endorse the language of the protest and desire my name added.

Curator Worthington—I endorse it heartily and add my name.

Curator Wilkes—I endorse every word of that protest, and desiring to promote the interests of the University, I desire to attach my name.

On motion the petition was received and ordered to be spread on the minutes.

President Milligan then, upon invitation, addressed the Board. He said, I do not know, Mr. President, that I yet understand the object of my being invited here, sir.

The President—Curator R. M. Gano gave us your statement just now in regard to the Bible College. In view of that, we want to hear what you have to say and what suggestions you can make under the circumstances.

Prof. Milligan—Do you mean that you want me to tell you what I have done or what can be done in order to give entire satisfaction to the students and friends of the college?

The President—You are not confined in your statement.

Regent Bowman here remarked, that the Board went into executive session on yesterday morning and excluded all but reporters for the Press. He desired to present the credentials of Messrs. J. R. Morton and Fletcher Johnson as reporters for the Lexington Gazette.

Prof. Milligan—I am obliged to you, gentlemen of the Board, for your courtesy in inviting me to address you, and I confess that I still feel embarrassed in regard to what I ought to say, or what the Board desires to hear me upon. I might talk a long time and yet not say anything that would be of profit to the Board. When the young gentlemen came to the Bible College they entered with feelings of embarrassment. They had been advised, some to stay at home until the action of the Board was determined, and others were advised to come here and await such action, and matriculate then. Most of them came advised one way or the other. I told them, as an officer of the institution, to go on as I was doing myself, and do their duty faithfully, and trust to the action of this Board. The Board is an honorable body, in whose integrity I have the utmost confidence. I knew not what would be its action. I told the students to go on and do their duty. I believe there were about thirty entered.

This morning, without any conversation with any student until after prayer, two of

them came to me and said that they were disappointed at the action of the Board, and desired to be honorably dismissed. I asked how extensive was this feeling. They said it was general. I told them not to act hastily. They ought to consider the matter, and, meantime, go on with their classes. They said they had great respect for me, but in view of the advice they had received at home and here, they had come to the conclusion to leave, and believed a large body of students would do the same.

I thought it my duty to mention this to Brother Gano, that it might be brought before the Board. I deemed it proper to be put before them that they might take some immediate action. [Silence for some minutes.]

If you want my judgment on what will restore peace and harmony, and on the ability and character of my esteemed colleague, Prof. McGarvey, I am ready to speak. [Silence ensued.]

The President—I do not know anything to ask, if you have nothing more to say.

Prof. Milligan—I will say that I had hoped the difference which has distracted this institution would have been otherwise settled than it has. I had hoped until last night, and still hope, that the action of the Board in relation to Prof. McGarvey be reconsidered and that he be retained. If that is done it will restore peace and harmony, and give great satisfaction to the students here, and to others who have written to me.

Allow me to say—and nothing I shall say is intended to reflect upon any member of the Board—allow me to say that it has never been my good fortune to co-operate with any man more earnest in his work, and in the course of thirty-three years as a teacher I have never met one more honest and faithful in the discharge of his duties than Professor McGarvey.

Curator J. A. Williams desired to say that it was the duty of the Board to give an assurance to Prof. Milligan and the students that something should be done in regard to the Bible College, and for that reason he offered the following resolution:

*Resolved*, That in answer to Prof. Milligan that assurance be given to President Milligan, and through him to the professors and pupils of the Bible College that ample provision will be immediately made for their full instruction, and that Prof. Milligan be furnished with a copy of this resolution.

This resolution was carried.

Curator B. M. Gano—In view of what has transpired, I move to reconsider the vote removing Prof. McGarvey.

The President said that such a motion could only be put by one who voted for the motion removing the Professor.

Curator Gano (looking round)—Is there not one member of the Board who voted in the majority who will move a reconsideration?



There being no reply,  
Curator Wilkes said he hoped Prof. Milligan would not be asked to say what he might not want to say. He could say that ample provision may be made, but not *will* be made.

Curator Withers—I desire to say in explanation of my vote, that I do not think the Board can make ample provision.

Curator Elley—I do not think that all the professors you could put in this college would bring a certain class of students here.

Curator J. A. Williams said he did not wish to be understood as introducing his motion for the purpose of appeasing anybody. He thought that Prof. Milligan ought to be assured in answer to the statement he had made, and it was right that the Board should give that assurance.

#### ALEXANDER PROCTOR.

Regent Bowman—I desire to offer a resolution which I think will settle this matter. The Executive Committee has taken some action looking to a filling of the vacancy in the Bible College. The resolution reads as follows:

WHEREAS, The Executive Committee suspended, *ad interim*, Prof. J. W. McGarvey from the chair of Sacred History in the Bible College of Kentucky University; and

Whereas, Said committee have tendered said chair to Elder Alex. Proctor, of Missouri; therefore be it

*Resolved*, That Alex. Proctor be, and is hereby, now elected to fill said chair.

Curator Wilkes said—I have the highest regard for Alexander Proctor. We were school mates together, and early college friends. I admire his character and his talents. I ask now whether Alexander Proctor has signified his willingness to accept this chair.

Regent Bowman—I wrote to Alexander Proctor of the action of the Executive Committee, and also of the Board of Curators, on the 16th of September. I did not desire him to act hastily in the matter, and if he waited it would not be considered a discourtesy. There was much excitement about the matter, and we wanted him to have the full benefit of the action of the Board before he acted. No response from him had, as yet, been received.

Curator Worthington moved as a substitute that Elder John I. Rogers be appointed to fill the vacancy.

Regent Bowman asked whether it was the intention now to act on nominations, or to refer them to the committee on nominations.

The President said the motion was to endorse the action of the Executive Committee. If the amendment prevailed, both men would be appointed.

Curator Wilkes—I am opposed to both nominations on the principle that I know that they cannot be had. I do not think the place ought to be filled at all just now. He did not think that any appointment just now

would give satisfaction to the people. He thought it was by no means certain that they could fill the place with anybody. Mr. Wilkes proceeded to account for the action of the Board the night before, stating that it was based upon Prof. McGarvey's writing an article in his paper in reply to a slanderous attack upon him. Prof. McGarvey was punished because he opened his mouth in self-defense. He wanted to know whether it was to be the rule of this Board that a professor could not defend himself when attacked.

Dr. Smith raised the point of order that the discussion was out of order.

The President—We want to hear Brother Wilkes.

A Member—I hope speeches will be limited to ten minutes.

Curator Elley—Oh, yes, three.

Curator Wilkes—I am opposed to filling the vacancy at this time. No man whom we can desire will accept that place while the present animus exists. I saw Alexander Proctor two weeks ago, and talked with him for two hours, when he stated that he would not accept the position.

Regent Bowman—Perhaps the same plan had been adopted to secure Brother Proctor's refusal as had been adopted to secure signatures to the petitions.

Curator Sloan said he had been misrepresented by Curator Wilkes in his statement about professors uniting in self-defense. What he did say was that officials of the University should not publish articles about the affairs of the institution. The report in the PRESS did not represent him correctly in regard to his reasons for his vote. His speech was not written before the evidence was before him. In regard to Brother Proctor, he thought that Curator Wilkes had put it to him as he had put it to the Board, that he was not in favor of any one taking the position.

Curator John A. Williams moved that the nominations be referred to the Committee on Nominations, who should consult with Professor Milligan.

Curator Williams asked leave that the Committee on Nominations withdraw and confer with Professor Milligan.

#### RECONSIDERATION.

Curator Z. F. Smith moved, in accordance with a request made of him, to reconsider the vote of last night in regard to the action of the Board in Professor McGarvey's case.

Regent Bowman—I move to lay that resolution on the table. Carried by a vote of 22 to 13.

The resolution offered last night by Z. F. Smith, endorsing the action of the Executive Committee, and asserting their right to suspend *ad interim*, came up for action.

Curator Ricketts said the charter only gave such a right to a quorum of the Board.

Regent Bowman said—I have not delayed



the business of the Board with speeches. I have made none so far, and I do not now intend to speak except through the mouths of others. I desire to read the opinions of legal gentlemen upon this question.

The Regent then read the following:

OPINION OF GEO. B. KINKEAD AND RICHARD A. BUCKNER.

The following question has been submitted to us for our opinion:

"Has the Executive Committee, as agents of the Board of Curators (of Kentucky University), the power to remove, per interim, a professor who is a ministerial officer or appointee of the corporation—an act which would be simply tantamount to suspension from office until the corporation confirms or revokes the action of its agent, the Executive Committee?"

After examining, with some care, both the charter and by-laws of the University, we are of opinion that the Executive Committee has such power.

By the 11th section of the charter, "no less than a majority of the whole Board (of Curators) shall have power to appoint the president, professors, &c.; \* \* \* to remove the same from office for sufficient cause, and to fill all vacancies in the same, whether by death, resignation, removal or otherwise, provided a vacancy may be filled by a quorum until a meeting of said majority shall be held."

By the 10th section, it is provided a majority of all the Curators shall have power to remove a Curator from office, for any cause they may deem sufficient, and shall have power also to define the qualifications of a Curator.

These are the only parts of the charter which require a concurrence of the majority of the Board.

By the 4th section it is provided: "They (the Curators) shall have full power to select and employ any officers and agents they shall deem proper; \* \* \* also to make, ordain, establish and execute or cause to be executed all such by-laws, rules and ordinances not inconsistent with the Constitution and laws of the United States, or of this State, as they may think necessary for the welfare of said institution for their own government, the good government of the professors, instructors, tutors, agents, officers and students of the same, and generally to do all acts necessary and proper to promote the welfare and prosperity of said University."

Under this clause various by-laws were made by the corporation, among others the following:

"The permanent officers of the Board shall consist of the President, Secretary, Treasurer and Executive Committee."

They (the Executive Committee) shall have full power for, and in behalf of, the Board, to transact all business which the

Board might rightfully do, and which ought to be done, in the *interim* between the meetings of the Board; *provided*, however, that the acts of said Executive Committee, so far as they relate to the legitimate business of the whole Board, shall have full force and effect only until the next meeting of the Board, unless at said meeting they shall be ratified by the Board.

The limitations of the *proviso* excludes all consideration of the power of the Board to authorize the Executive Committee by a by-law to act definitely and finally on the matters confided to them. The Board, by its by-law, has not attempted to confer such power upon the committee.

The powers conferred by the 4th section are very broad, and while it may be admitted that no by-law can be made under them inconsistent with the positive prohibition contained in the 11th section (about which, at present, we are not asked for an opinion), we do not doubt that a by-law may be made in perfect consistency with all other parts of the charter, under which the Executive Committee may temporarily remove or suspend from office one of its professors.

The power to make its own by-laws is an incident of every corporation, and this, because in the judgment of the law, it is necessary for the proper exercise of its functions. And hence courts have given validity to them, when at first sight it was not expected. For instance—In *Ret. & Spencer Burrow R. 1829*, a note of the case is in the following language: "The charter directs the nomination and election of common councilmen to be by the Mayor, jurats and commonalty, and their successors, or the majority of them, out of the principal inhabitants of the said town and parish."

A by-law was made "to restrain the number of electors to such of the commonalty as have executed the office of church warden and overseer."

It was objected to this, that "the by-law is *contradictory* to the charter, which requires the election to be by the body at large. So that it is repugnant to the charter, both in letter and spirit. Lord Mansfield, in giving his final opinion on the case, says: \* \* \* "But when the power of making by-laws is in the body at large, they may delegate their rights to a select body, who becomes the representative of the whole body." And while the case was progressing the same learned judge said (page 1833:) "It is now settled that the number of the *electors* may be restrained by a by-law."

And this view was sustained by Lord Ellenborough in a subsequent case, "The King vs. Ashwell," reported in 12 East, p. 22, when the Chief Justice said: "With respect to elective functions to be performed by the body at large, they may in this manner delegate them to a select part of themselves, and I cannot say that it is an unreasonable by-



law, because an inconvenience may, by bare possibility, result from it." We have cited these cases to show to what extent courts have gone in upholding by-laws made by corporations in furtherance of the general interest of the body. These, however, must not contradict the charter. To determine when they do, depends on the construction of the whole charter, and a proper construction of the by-law.

A charter is necessarily general. By-laws are always particular. While the latter is subordinate to the former, both ought to be construed together in view of the general working of the corporation. Now, then, if there be no power in the Executive Committee to suspend until the next meeting of the Board to await the action of the majority, then this power does not exist anywhere; a quorum can fill a vacancy, but a quorum cannot suspend an officer, and the extraordinary state of case is presented that a professor may demean himself ever so unworthily, and no power can restrain him, until a majority of the Board can be convened.

If the courts uphold a by-law which limited the number of electors, when the charter conferred the right on all, how much more would they uphold a by-law which, without contradiction, supplies a deficiency of its charter.

Can a power to suspend a professor until a majority of the Board can have an opportunity to act be considered inconsistent with a power to remove? We think clearly not. A majority is required to remove; but where is the prohibition on a less number to suspend for a limited time? A power to suspend indefinitely might be considered a power to remove, but a power to suspend until the Board shall meet cannot be so considered. If a power to *remove* was claimed under the by-law, it might be replied that the power to *remove* is limited to a majority of the Board, but until a power to *suspend* for a limited and fixed period shall be construed to mean the same thing as a power to *remove*, it cannot be insisted that the by-law and charter are in conflict. A power so necessary should be upheld by the courts, and, in our judgment, would be, unless there was an express prohibition of it, and we think there is none.

Another by-law provides that "The Board of Curators reserved to themselves the right to dismiss any professor or instructor whenever, in their judgment, the interests of the University requires it."

It is manifest this has no bearing on the question we have been considering, but concerns only the professors, and not the power of the Executive Committee, and the whole by-law is designed to put it out of the power of a professor to resign or surrender his place, except at certain times, while it reserves the right in the Board to dismiss him at any time.

GEO. B. KINKEAD,  
RICHARD A. BUCKNER.

Sept. 10, 1873.

OPINION OF W. C. P. BRECKINRIDGE AND B. F. BUCKNER.

*John B. Bowman, Regent, &c.:*

DEAR SIR—The Curators are the corporation, and, therefore, do not in any true sense exercise any delegated powers. By section 4 of the charter they are given full power to select and employ any officers and agents they shall deem proper, and to make, ordain, establish and execute or cause to be executed all such by-laws, rules and ordinances not inconsistent with the Constitution and laws of the United States or this State, as they may think necessary for the welfare of the institution, for their own government, the good government of the professors, instructors, tutors, agents, officers and students, and generally to do all acts necessary and proper to promote the welfare and prosperity of said University.

By section 5 it is made the imperative duty of the Curators to elect an Executive Committee, the duties and powers of that Executive Committee are of necessity to be prescribed by the Curators under the power given in section 4.

These duties and powers are thus prescribed, to-wit: "The delegated and representative powers of the corporation are vested in a Regent and Executive Committee," and the Executive Committee shall consist of the Regent, who is *ex-officio* chairman, and four members of the Board, who shall be styled the Executive Committee of the University.

2. They shall have full power for and on behalf of the Board to transact all business which the Board might rightfully do, and which ought to be done in the *interim* between the meetings of the Board. Provided, however, that the acts of said Executive Committee, so far as they relate to the legislative business of the whole Board, shall have full power and effect only until the next meeting of the Board, unless at said meeting they shall be ratified by the Board." (Page 17.)

Whatever the Board has power to do finally, the committee has power to do temporarily. The Board is the corporation, and has power to delegate its powers to selected officers. This seems too clear to require argument, unless there be some restriction especially enacted. The power of the committee is the whole power of the Board. There is a very perceptible difference between the power conferred and the mode of exercising that power.

The Board has certain powers conferred; as to some, a certain mode is pointed out; as to others, another mode. It is always one Board, and, as such, upon it are conferred all the powers granted.

Now, to this Executive Committee are granted all the powers of the whole Board during the recess of the Board.

When the committee acts its action is binding only during such recess. When its action



is reported to the Board for confirmation, the power conferred on the Board must be exercised in the mode pointed out in the charter; that is, the ratification must, in certain matters, be by a majority of the whole Board.

For instance, the Board has the undoubted power to dismiss a professor. That power is to be exercised in the mode pointed out by section 11. It has power to delegate this power under section 4, and most clearly to an Executive Committee, and has so done. This delegated power must, of course, be subject to ratification. When that act of ratification is to be passed, the Board must act as pointed out by said section 11. We, therefore, are of the opinion that under the charter and by-laws submitted, the Executive Committee have power to dismiss a professor until the Board meets.

The power to remove a professor without any explicit reservation is, we think, a clear common law right, and that without trial or formal charges.

Such an officer, appointed *durante bene placito*, may be removed without any other cause than that the pleasure of those who appointed him is determined. It would indeed be unfortunate if there did not reside this power in some body, always in session, always capable of acting. Such is the apparent reason for creating an Executive Committee; one who can at once be gathered together and immediately act.

Respectfully,

BRECKENRIDGE & BUCKNER.

Curator Withers—Is that all the legal opinion the Regent is going to read? I want to know if the law faculty of the University have not given an opinion.

Regent Bowman—One of the law professors had been consulted—Hon. Jas. O. Harrison. His opinion was written out and is in the possession of the secretary, Woolfolk. Gen. Huston was asked. He gave his opinion. That was in the hands of the secretary. Maj. Johnson had been asked for an opinion. He had so far given none.

Curator Woolfolk said he had mislaid Mr. Harrison's opinion, but he had General Huston's.

Curator Withers—Regent Bowman said of the opinion of James O. Harrison, that it was given without having the charter and by-laws before him.

Regent Bowman—I say yet it was. It is in Mr. Harrison's own handwriting in the opinion itself, that he gave his opinion without having the charter before him. Produce the document and read it.

Curator Withers asked if, when the discussion was up, the Regent did not say that the other opinions were given on due consideration, and the opinion of Jas. O. Harrison given without the charter before him. Such a charge as that would weaken the opinion of any lawyer in the mind of another.

Regent Bowman—I said so under the impression, which I still have, that he states himself that the charter and by-laws were not before him.

Curator Withers—The Regent accuses the law faculty of acting inconsiderately.

Regent Bowman—I believe certain queries were propounded to Mr. Harrison, and full extracts of the law were given to him by Major Luxon, I having but one copy of the charter at the time. I subsequently found a copy and gave it to Mr. Buckner, whose opinion I had asked.

Curator Withers—It is strange that the opinion of lawyers favorable to the committee had been preserved and the others not.

Regent Bowman—That is a reflection on the Secretary of the Board which he can himself answer.

Curator Withers—I make no reflections on the Secretary; there is no issue between us; he has no connection with the question at issue.

Curator Worthington said he had seen Judge Buckner that morning, and he did not think he favored the opinion presented.

The resolution was then read and adopted.

#### A BLOW AT THE REGENT.

Curator Withers then introduced the following:

WHEREAS, The 7th section of the charter of Kentucky University provides that the annual account of the Treasurer must be accompanied by the certificate of the Executive Committee, signed by each member thereof, and stating that it has been examined and that it is correct.

And, whereas, the by-laws provide that the Executive Committee shall approve all drafts upon the treasury and examine and adjust all accounts against the University, and also that they shall audit the annual reports of the Treasurer.

And, whereas, both the charter and by-laws of the University indicate the Executive Committee as the guardians of the Treasury, and the charter expressly enacts that when the Treasurer's term of office expires, or he shall resign his office, or be removed therefrom, that he shall deliver up to the Executive Committee or their order, all the books and papers pertaining to his office, and in each and every particular account for, and pay over, all money, or other things of value, which may come to his hands as Treasurer, and shall also permit his books to be examined at any and all times by the Executive Committee.

And, whereas, the duty usually devolves on the Executive Committee to examine and approve the bond of the Treasurer, and to determine the sufficiency and solvency of the securities to the Treasurer's bond, which the charter requires to be renewed each year after his re-election to office.

And, whereas, it is inconsistent and repug-



nant to reason that under these circumstances the Treasurer should be a member of the Executive Committee; therefore, be it

*Resolved*, 1st. That it is improper for any member of the Executive Committee to hold the office of Treasurer.

2d. That the by-laws and statutes of the University be amended by adding under the title of the Executive Committee as follows: No member of the Executive Committee shall be eligible to, or even hold, the office of Treasurer.

A motion was made to lay these resolutions on the table. Carried by a vote of 21 to 10.

Curator Withers—I desire now to offer another set of resolutions, and in introducing them I desire to say that it is with the kindest feelings and best intentions. The churches are deeply moved by the dissensions in the University, and their petitions ought not to be disregarded. The committee appointed to report upon them have not done so and are not likely to do so.

The Curator then read the following

RESOLUTIONS:

WHEREAS, In the preamble to the charter of Kentucky University it is distinctly stated: That an institution of learning, known and called by the name of Bacon College, was founded by certain members of the body of the Disciples of Christ, denominated Christians, and was chartered by the Legislature of Kentucky in 1836, which institution finally suspended its regular collegiate operation for want of a permanent endowment; and, that in view of the educational wants of said body of Christians in Kentucky, and of their wishes for the permanent success of said institution, known and expressed at various times, a plan for its full endowment and reorganization had been prosecuted by John B. Bowman, which had thus far resulted in raising \$150,000 of endowment fund; and, to carry out such design, it was necessary to amend and extend the provisions of the charter of Bacon College.

And, whereas, in pursuance of said design, the charter of Kentucky University was adopted in 1858 as an amendment of the charter of Bacon College, and the name of said institution was changed to Kentucky University.

And, whereas, it was provided that thirty persons, named in the 2d section of said charter, should be incorporated by the name of the Curators of Kentucky University, in whom was vested the legal title to property of said University, and the general control and government of said University was committed to said Curators.

And, whereas, it was provided by the 8th section of said amendment of the charter that, for the ownership and control of said University, at least two-thirds of the Board of Curators shall always be members of the Christian Church of Kentucky.

And, whereas, doubts exist in the minds of many members of the Christian Church of Kentucky as to the designs and purposes of the Board of Curators in administering the trust committed to them, and, with a view to remove all doubt and apprehensions on the subject; therefore, be it

*Resolved*. 1st. That we distinctly avow that we regard ourselves as the Trustees for the Christian Church of Kentucky for the ownership and control of Kentucky University.

2. That we pledge ourselves to manage and control Kentucky University, except the Agricultural and Mechanical College of Kentucky, in the interests of the Christian Church of Kentucky, disclaiming, however, any design to have Theology taught in any of the colleges of the University, except in the College of the Bible.

3. That, in view of said provisions of the charter, and to carry into full effect its spirit and intent, it is necessary and proper that at least two-thirds of the Executive Committee should be members of the Christian Church of Kentucky in good standing and full fellowship.

After a rambling, pointless discussion

L. B. Wilkes moved to lay the resolutions on the table. He said he wanted an expression of opinion.

Curator Z. F. Smith said he thought he could suggest a way of reconciling the differences. Let the committee on petitions make a minority and majority report if necessary, and publish them side by side.

Curator Withers was willing to adopt the compromise. Some members were disposed to oppose the compromise and Curator Withers pressed his resolutions. He wanted the church to know in what relation to it the Board stood.

Regent Bowman thought that the resolutions ought to be referred to a committee like the petitions.

Curator Wilkes insisted on his motion to lay upon the table.

Curator Sloan complained of the course pursued by Curators Withers and Wilkes in cutting off debate.

Regent Bowman then moved to refer the resolutions to committee on petitions.

Curator Elley—I want to say distinctly that I am opposed to referring this document to that or any other committee. One hundred churches in Kentucky, and over three hundred donors, addressed to you a polite note, asking that you do not do a certain thing, and you did it. Now, these questions ought to be settled. I want these resolutions passed or laid on the table. The committee had treated with disrespect the petition from the churches, and he wanted to let the people know in what relation the Board stood to the church.

Curator Enos Campbell said the assertion that that committee to whom was referred.



the petition of the churches, treated them with disrespect, was a horrible blunder and utterly unfounded.

The President—No more courteous parliamentary action could be adopted towards petitions than reference to the committee.

The idea of Curator Elley, that the committee or this body intended to treat the churches discourteously, was a great mistake.

Curator Enos Campbell—Tremendous.

The President—Yes, a tremendous mistake.

Curator Elley—(Pricking up his ears; he is deaf.) What's that? What was your last remark, sir?

The President—I say it was a great mistake.

Curator Elley—(resting his hands on the arms of his chair and rising half out of it)—Did you say premeditated?

The President—(getting "riled")—No; I said tremendous.

[Bro. Elley dropped into his chair, folded his hands, crossed his legs, and pulled down his eyebrows, as if he had met with a serious disappointment.]

The President continued—I say that I know it to be the intention of the Board, at least so far as I am concerned, and I occupy such a position in the central church in Cincinnati, that what I say is believed, my word and judgment being both relied on there, though they may amount to very little here. I say, so far as I am concerned, I desire that the petitions of the churches shall be treated with the utmost respect and answered courteously. And I say now, though I did not intend to say it, that the manner in which these petitions were gotten up is unknown in the history of the church. I know that some of these churches and donors will reverse their action, and some of them have told me that they would.

Curator Elley—Name one.

The President—I can name them, sir, but I desire to let them speak for themselves. Some of them told me that they would have their names taken off now, if it were not too late. These petitions were *ex parte* in toto, and when the churches hear the other side they will reverse their decision.

The previous question being called for, the vote was taken upon the question of reference.

Curator Z. F. Smith—When his name was called he explained his vote. He said the report has gone abroad, from what source I will not say, that there are some members of this Board who are designing to pervert the management and control of this University

from the original purposes of the charter and donors to same. The vote on the reference of the resolutions may be construed as to favor this impression. It is not the case. I want the declarations of the sense of this Board to be carefully prepared in language that will be in accordance with the terms of the charter, and such as we can all sign, and will be satisfactory at the same time to the most captious. From long and familiar association with this Board and its proceedings, I do not believe there is one member of this Board, or one officer of this institution, who has, or ever had, the remotest design to pervert the purposes of Kentucky University; or that there is one who does not desire to control and manage the institution in strict accordance with the letter and spirit of the charter and in the intent of the donors, and strictly too, as the representative institution of the Christian Church, just as Georgetown College is the representative of the Baptist Church, or Center College of the Presbyterian Church. I want the language of such declaration to state the facts of the case in accordance with the charter of the University, and such as I can conscientiously approve. No resolution before this Board heretofore has met these conditions looking to this end.

Curator Enos Campbell, explaining his vote, said he adopted the sentiment of Curator Smith.

Curator L. B. Wilkes said that there was a wide-spread feeling that the Board was inimical to the church. He could not vote for reference.

Curator Kinnaird said that he could not vote for the resolutions as they are, and, therefore, voted for reference.

Curator R. M. Gano, had been in hopes that an expression would go out to the churches reassuring them. He had been told that some time ago there was a movement on foot to deprive the Church of the University. He was glad to hear the expression from Curator Z. F. Smith, and to see so many endorsing it. But these resolutions ought to pass, and he would therefore vote against reference.

Curators Wilkes and Allen obtained leave of absence.

Several members wanted to leave on the cars, and at one o'clock, before the vote was taken, a member moved to adjourn sine die, which was carried, and the Board adjourned. It immediately convened, however, with a quorum of nine, to adopt the minutes and then adjourned finally.











