

PRELIMINARY STATEMENT

On March 18, 1915, and within the five weeks following, seventeen members of the faculty of the University of Utah resigned their positions in protest against certain acts of the President of the University (Dr. J. T. Kingsbury) and of the Board of Regents. Sixteen of those who resigned concur in summarizing as follows the reasons for their action:

The immediate cause of our resignations was the dismissal of certain of our colleagues and the demotion of others by a method so unfair and so arbitrary as to make it impossible to retain our self-respect and remain in the University. It is our firm belief that the changes made by the administration are but the expressions of a general policy of encroachment on our academic rights and duties by certain interests which are seriously threatening the efficiency of the University.*

In view of the large number of university teachers concerned in the case; in view, also, of the fact that teachers in many subjects were involved, and that an inquiry into

* Statement to Secretary of American Association of University Professors, April 17, 1915, signed by the following: Byron Cummings, dean of the College of Arts and Sciences and professor of ancient languages; Frank E. Holman, dean of the Law School; William G. Roylance, professor of history; W. C. Ebaugh, professor of chemistry; Charles T. Vorhies, professor of zoology and botany; Joseph Peterson, professor of psychology; R. L. Byrnes, professor of bacteriology and pathology; H. A. Mattill, professor of physiology and physiological chemistry; L. L. Butler, assistant professor of English; R. G. Sharp, assistant professor of embryology; F. O. Smith, assistant professor of education; F. H. Fowler, assistant professor of ancient languages; G. A. Hedger, instructor in English; F. C. Blood, instructor in English; Harold M. Stephens, lecturer in law; J. J. Thiel. T. W. Arnoldson, professor of modern languages, also resigned. The President's recommendations that four members of the faculty be dismissed, and that one be demoted, were adopted by the Board of Regents on March 17. Those dismissed were A. A. Knowlton, associate professor of physics; G. C. Wise, associate professor of modern languages; P. C. Bing, instructor in English; C. W. Snow, instructor in English. G. M. Marshall, professor of English, was removed from the headship of the department, but not from his professorship.

the affair could not, therefore, well be undertaken by any one scientific society; and in consideration of the gravity of the situation created at the University of Utah by these resignations, and by the charges made in connection therewith, it has seemed best to the Council of the American Association of University Professors to take measures to secure a thorough investigation of the conditions of professorial service in the University, and a report upon the case by an impartial committee.

As a first step to this end, the Secretary of the Association visited Salt Lake City early in April, and spent four days gathering information to be laid before the Committee of Inquiry. The purposes and scope of the investigation are indicated by the following extracts from the Secretary's letter to the President of the University:

The situation that has recently developed at the University of Utah has aroused much concern throughout the country among persons interested in the work of the American universities, and especially among members of the university teaching profession. It has, however, been difficult for those at a distance to be sure that they had correctly gathered the essential facts of the case from the incomplete and more or less conflicting *ex parte* statements which have appeared in newspapers and periodicals. In particular, the statements made upon the two sides of the controversy appear to have failed specifically to join issue upon certain points of interest. It has, therefore, seemed advisable to the president of the American Association of University Professors, Dr. John Dewey, to send a representative of that organization to interview yourself and others concerned, with reference to the matters in controversy; and to endeavor to secure as full and impartial a statement as may be of the relevant facts. It is perhaps advisable to explain the nature of the interest which the Association of University Professors takes in the matter. It is coming to be a well recognized principle that the general body of university teachers is entitled to know, with regard to any institution, the conditions of the tenure of the professorial office therein, the methods of university government, and the policy and practice of the institution with respect to freedom of inquiry and teaching. In the absence of information upon these

points, it is impossible for members of the profession to judge whether or not the institution is one in which positions may be properly accepted or retained by university teachers having a respect for the dignity of their calling, a sense of its social obligations, and a regard for the ideals of a university.

It is, therefore, important to the profession that when criticisms or charges are made by responsible persons against any institution, with respect to its policy or conduct in the matters to which I have referred, the facts should be carefully determined in a judicial spirit by some committee wholly detached from any local or personal controversy, and in some degree representative of the profession at large. It is in this spirit, and for these purposes, that information is sought in this instance. What appears to be particularly desirable, in the present case, is a fuller and more definite statement than has yet been made public upon certain matters of fact which still remain not wholly clear, but which are, presumably, not incapable of ascertainment. We, of course, assume that the administration of the University is equally desirous that all the facts in any way pertinent be thus fully made known, and submitted to the impartial judgment of both the academic and the general public.

We therefore venture to count upon your aid in this attempt to draw up a complete and unbiased summary of the circumstances of the case; this, we hope, may be of some service to the University as well as to our profession.

The evidence thus brought together consists of the following: replies in writing from the majority and the minority of the Board of Regents to twenty-two questions submitted by the Secretary; oral statement made to the Secretary by the Chairman of the Executive Committee of the Board of Regents, Richard Young, Esq.; oral statement of President Kingsbury, supplemented by written replies to seventeen questions; collective statement of the resigning professors; oral and written individual statements and replies to questions by Dean Cummings, Dean Holman and six other professors who have resigned, by those dismissed, and by fifteen members of the faculty who have not resigned; affidavits of Dean Cummings, Prof. R. R. Lyman, Mr. M. H. Sevy, and formal declarations of others, in regard

to one of the incidents in the case, and copy of letter of the Governor of Utah to the Board of Regents, relating to the same incident; affidavits of Dr. A. A. Knowlton and Messrs. E. H. Beckstrand, W. R. Argyle, J. H. Wolfe, John Jensen and Nelson La Mar, relating to one of the charges; written statement of Mr. O. J. P. Widtsoe; letters of former students of Prof. G. M. Marshall and of Prof. G. C. Wise; "Public Statement" of the Board of Regents issued March 18, 1915, letters of resignation, and other documents already published. The Committee desires to acknowledge the courtesy with which both the personal inquiries of its representative while in Salt Lake City, and subsequent written communications, have been responded to by the President and Board of Regents, by the dismissed members of the Faculty, those who have resigned, and others concerned.

The undersigned have been appointed by the President of the American Association of University Professors a committee to examine this evidence and to present findings in accordance with it. Of the members of the Committee, Messrs. Seligman, Fetter and Lichtenberger represent the Joint Committee on Academic Freedom, constituted in 1914 by the American Economic Association, the American Political Science Association, and the American Sociological Society; and they act in this case with the authorization of that body. Mr. Warren similarly represents the Committee on the Academic Status of Psychology of the American Psychological Association. The remaining members of the Committee are appointed from the general membership of the Association of University Professors.

The report following is intended primarily to present, not a narrative of the incidents which have recently occurred at the University of Utah, but an analysis of the various conditions and administrative methods at the University which affect, or have been alleged to affect, the status, the educational work, or the professional or personal rights, of the members of its faculty. Of these conditions and methods the Committee has judged chiefly in the light

of official acts prior to or immediately following March 18; but it presents its findings in a topical order, and not in the chronological order of those acts. The Committee regrets that it has been obliged to enter into so much detail in the citation and analysis of evidence, especially in connection with some incidents which would, apart from their relation to the case as a whole, possess little public interest. The case, however, is one of considerable complexity, and it is further complicated by apparent conflicts in the testimony with reference to certain material questions of fact. In these circumstances, it has appeared advisable to set forth all of the essential evidence, so that readers of this report may be qualified to form their own judgment as to the truth of the matter.

I. TENURE OF OFFICE

1. *Term of Appointments.* All appointments to the Faculty of the University are for the term of one year and, in accordance with the following section of the Compiled Laws of Utah, may be terminated at the will of the Board of Regents even before the expiration of that term:

All contracts hereafter made with professors, instructors, or employes, whether for a definite or indefinite time, shall be subject to termination at the will of the Board, or of its Executive Committee, if the Board be not in session, when the interests of the University so require. (Section 2300.)

The Committee is, however, informed by the Board of Regents that the power of terminating contracts conferred by this statute has never been exercised. With regard to the policy and past practice of the University in the matter of reappointments, the following question has been submitted to the Board of Regents: "Is there, in the case of professors in the University of Utah, a definite presumption of continuous reappointment after a certain number of years of satisfactory service?" The Board answers:

While there has been no distinct and definite rule, it has generally been understood that there was a presumption of continuous reappointment after a number of years of satisfactory service. A number of years ago a schedule was arranged under which, after a certain number of years of service, salaries were increased from time to time and promotions in grade given. We deem it better, however, to state exact facts and practice.

The Board accordingly reviews the records of the Faculty since 1878, and concludes:

From the above data it will be seen that during nearly forty years only eight professors have failed of renomination, and of these, four failed because of friction between the professors themselves, making it imperative that the University should dispense with the services of one or both of the disputants.

2. *Official Grounds for Dismissal.** In any attempt to judge of the conditions of professorial service in a university, it is manifestly important to know what are officially regarded as pertinent and sufficient grounds for dismissal. There appear to be at the University of Utah no statutes or permanent regulations of the governing board defining these grounds. They are determined in individual cases by the judgment of the President and Board of Regents holding office at the time; and may be diversely determined at different times. In this sense, the government of this University, like that of many others in America, is a government of men and not of laws. The acts or utterances which are by the present administration of the University treated as among just causes for dismissal are indicated by the recommendations made by President Kingsbury, and adopted by the Board of Regents, on March 17. On this date, President Kingsbury, besides recommending that two instructors, Messrs. Snow and Bing, be not reappointed, also recommended the dismissal of two associate professors, Messrs. Knowlton and Wise, and stated the charges against these professors as follows:

1st. *Dr. A. A. Knowlton.* The following are the reasons why I do not nominate Dr. A. A. Knowlton for re-employment: I am convinced that Dr. Knowlton has worked against the administration of the University. Dr. Knowlton has also spoken very disrespectfully of the Chairman of the Board of Regents. My opinion is that respect is due the Regents, especially their presiding officer, from the Faculty, and that therefore the author of such remarks should not be retained in the employment of the University.

2d. *Associate Professor George C. Wise.* I cannot recommend Prof. George C. Wise for re-employment in the University for reasons as follows: I am convinced that Professor Wise has

* The term "dismissal" is used in the following, for the sake of brevity, to designate a refusal of reappointment to any member of the Faculty above the grade of instructor. As instructors in other colleges frequently hold only one-year appointments, a refusal to reappoint teachers of this rank at the University of Utah cannot be regarded as necessarily equivalent to a dismissal.

spoken in a depreciatory way about the University before his classes, and that he has also spoken in a very uncomplimentary way about the administration.

The four following acts are therefore regarded by President Kingsbury as among the proper grounds for public charges, followed by dismissal: (a) "speaking in a very uncomplimentary way about the administration;" (b) "speaking very disrespectfully of the Chairman of the Board of Regents;" (c) "speaking in a depreciatory way of the University before classes;" (d) "working against the administration." The last mentioned charge appears to the Committee to be of a greater significance than the first three, and is dealt with separately below, under the head of "Truth of Principal Charge." With regard to the other three charges, the Committee has attempted to ascertain more precisely the nature and occasions of the expressions used by Messrs. Wise and Knowlton, which are set down by the President as reasons for dismissing these professors.

(a) President Kingsbury was asked to inform the Committee as to the nature of Mr. Wise's uncomplimentary references to the University administration, and to state whether these references were made in private conversation or on a public occasion. Dr. Kingsbury replies that the expressions complained of were "statements as to the unfitness of the President for his position;" and that "it is not claimed that the uncomplimentary references were made in public, but they were made freely and without reserve." Mr. Wise, however, states that he never categorically declared Dr. Kingsbury to be unfit for his position, though he has in private talk made criticisms of the President and of several of his official acts and policies. "In departmental matters," Mr. Wise writes, "I have frequently differed from Dr. Kingsbury. I have opposed the policy which regulated the number of teachers by the plans of the President of the University and not by the number of students to be helped. Another 'policy' I have fought is that of keeping Germanics and Romance in one department." Mr. Wise adds that once, in reply to a question

from a group of students after a lecture, he said that in his judgment a political meeting of a student club, which had been forbidden by the President, should have been allowed. Mr. Wise, declares, however, that on this occasion he "cautioned the students against being hasty in their judgment of the President, adding that he probably knew just what he was doing," and suggesting that the laws of Utah possibly made the President's action inevitable. Mr. Wise further states:

I have in many instances defended and praised Dr. Kingsbury, both privately and publicly, in classes and elsewhere. Until this alleged "breach" our relations have been in general, so far as I know, friendly and pleasant.

(b) Professor Knowlton writes:

The charge of disrespect to the Chairman of the Board of Regents has been made specific, and is that on certain occasions in private conversation I said: "Isn't it too bad that we have a man like that as Chairman of the Board of Regents!" or words to that effect. It has been specifically denied that there was any objection to the form of the remark.*

With reference to this charge the following question was submitted to President Kingsbury:

One of the two reasons given for the dismissal of Professor Knowlton is that he "has spoken very disrespectfully of the Chairman of the Board of Regents." Professor Knowlton has publicly declared that he had not spoken in this manner, beyond expressing an unfavorable opinion of the qualifications of the Chairman of the Board of Regents for the position he holds; and that this opinion was expressed only in a private conversation. Does President Kingsbury deny these statements of Professor Knowlton's?

President Kingsbury's reply was in the negative. It is clear also from another of President Kingsbury's answers†

* Signed statement in *The Utah Survey*, April, 1915.

† "Before the statement was made to the Board of Regents, the President brought Dr. Knowlton and the person to whom the remarks were first made. The circumstances under which the remarks were made were gone over and the remarks, as charged, were repeated to Dr. Knowlton, and he did not make a denial of them."

that the charge referred to remarks made on one occasion to one person, who, the Committee is informed, was a member of the University faculty.

(c) The charge that Mr. Wise "spoke in a depreciatory way of the University before classes" is thus amplified by President Kingsbury in his statement to the Committee:

Professor Wise, by repeated unfavorable comparisons of the University of Utah with other institutions, depreciated its value to the students and made some of them dissatisfied with the University, and others became dissatisfied with his teaching in consequence. Professor Wise persisted in making these unfavorable comparisons even after his attention had been called to their bad results. Shortly before the President decided not to recommend him for re-employment, a certain professor in the University entered an indignant protest against Professor Wise's teachings, declaring that he was continually destroying, in the minds of the students, that confidence in their University which he and other professors were trying to build up.

Mr. Wise has been informed of this amplification of the charge against him. He affirms in reply that criticisms of the University on his part were neither habitual nor derogatory, and that they were always constructive in purpose. He writes further:

The discussions of the University before classes were "frequent" during the comparatively short time when second-year German and French classes were studying German and French institutions of learning, but in respect to the remaining time, and to other classes, they were decidedly not frequent. These discussions, the alleged "depreciation," have always been suggested by the texts studied and have frequently been started by the students themselves.

Mr. Wise states that he believes this charge to have been based chiefly upon the following incident: One day early in 1913, in reply to a direct question from a student in the course of a class discussion, he expressed the opinion that the educational standing of the University of Utah was inferior to that of such a University as Yale, and between

that of Colorado and that of Nevada. "I did not forget to add," says Mr. Wise, "that in this respect Utah was improving rapidly." The incident was evidently reported by some student or students, and brought to the notice of the President. "Shortly after," writes Mr. Wise, "I was called to the President's office on account of this discussion. Upon criticism from the President, I refused to recant without a statement from him that I was wrong. This statement he did not make, and the matter dropped." "During my eleven years of service here," Professor Wise declares, "I have habitually and constantly praised the University. This academic year I have been sent out by the University authorities as a lecturer from the institution; this has been the case since 1912."

The Committee has also received letters from thirteen students or recent graduates of the University, members of Professor Wise's classes during the past three years; all testify that they have never heard him "depreciate the University." Mr. W. J. McCoy writes:

I completed two years of college work in German under Dr. Wise. Some of this work was done in small sized extension classes where I had every opportunity in the world to "draw him out," and I assert that I never heard him utter a disloyal sentiment towards Dr. Kingsbury, nor in any way depreciate the University. On the other hand, I have often heard him predict great things for the University of Utah.

Miss Ethel S. Chance writes:

During the current year I have been a regular student in Professor Wise's class room. I have never heard him speak depreciatingly of the University, nor have I known a single student to say that he did. His whole attitude towards his classes tends to the raising of standards of scholarship, and can in no manner lessen the affection students feel towards their *Alma Mater*.

Mr. La Mar Nelson of the present senior class writes:

Professor Wise has occasionally drawn comparisons between European universities and American universities. He has praised

the good points of American schools and methods of education, and has been free and outspoken in his depreciation of the weak points. Some of these criticisms, of course, were applicable to our own University. The criticisms, too, were constructive always. I know of no comment among the students or faculty members of the University as a result of these statements and criticisms.

The other letters from recent students are similar in tenor.

The Dean of the College of Arts and Sciences, Professor Cummings, writes:

Professor Wise has ever worked faithfully and earnestly for the upbuilding of the institution. I have never heard any statement from him, or any statement quoted from him, that would seem to indicate disloyalty. The only things that have come to me pointing in that direction are a hint from the President early in the present school year, and an occasional statement from students on circumstances occurring in class, when Professor Wise had evidently spoken of some weakness, as it seemed to him, in the institution, to arouse the students to discussion and make them interested citizens in their university world. In the former instance, President Kingsbury spoke to me in his office one day regarding the severe criticism of the work of the School of Arts and Sciences by members of the faculty and by the public. On my several-times repeated request to know the source of that criticism, the President said as I was about to leave the office, "You'd better talk with Professor Wise. I just suggest that." During our conversation, I had said to President Kingsbury that I did not think we should spend our time and energy considering criticisms that were general and indefinite, and brought by people who were unwilling to come out into the open, especially when he and I knew those criticisms to be unjust and unwarranted. I have found no good grounds for considering Professor Wise disloyal or unjust in his criticism of the institution.

Dean Holman deposes that "he is, and has been, acquainted with many students who have pursued courses of study under Professor Wise; that he has known some of these students intimately, and often talked with them about

their University work; that, until after March first, 1915, he never heard it reported either by students or by Faculty members that Professor Wise had spoken unfavorably of the University or otherwise criticized it detrimentally; and that he had made inquiry of students and faculty members, and so far as he is informed and knows, the charge of unfavorable criticism is made now only by persons who are attempting to justify the recent action of the University of Utah administration." Other colleagues of Professor Wise give similar testimony.

This concludes the evidence which the Committee presents as to the specific meaning of the first three charges, and as to the circumstances under which Professors Knowlton and Wise employed the expressions upon which President Kingsbury based his recommendation that the connection of these professors with the University of Utah be terminated.

The Committee conceives it to be scarcely needful to say that it regards neither of the first two charges as presenting any proper ground for the dismissal of University teachers. On the other hand, it seems to the Committee to be a wholly unwarrantable extension of official authority, that the President and the Chairman of the governing board of a state-supported institution should publicly announce, or permit it to be announced, that unfavorable judgments of their qualifications for office may be uttered by professors in private conversation only on peril of dismissal. In particular, that charge (b) should have been brought against Professor Knowlton, appears to indicate the existence of a highly undesirable condition at the University of Utah. It means that casual expressions uttered in informal talk with a colleague, repeated by him, and carried by gossip to the ears of the President and of the official criticised, may become the basis of public charges leading to a loss of position. The law of *lèse-majesté* can not with advantage, in the Committee's opinion, be applied to university faculties in America.

That an abstention from such remarks as that made by Professor Knowlton will, so long as Dr. Kingsbury is President, be regarded by him as among the conditions of the tenure of professorships in the University of Utah, is indicated by the President's reply to the following question:

Does the expression in private conversation of an unfavorable opinion of the Chairman of the Board seem to President Kingsbury a proper ground for dismissing or otherwise disciplining a university professor?

Answer: Should a very disrespectful remark be made against an official, as was the case here, and it should become generally known, it would very properly become a strong factor against the reëmployment of such a professor.

With regard to the charge of "depreciating the University before students," brought against Professor Wise, the Committee considers that such expressions, if exaggerated, habitual, and flippant or malignant in tone, might conceivably give ground for the dismissal of a University teacher. The Committee does not, however, find it to be established by the evidence that Professor Wise's remarks upon the educational status of the University, or his comparisons of it with other institutions, exceeded the limits of legitimate, or even desirable, criticism, or that they were animated by any other motive than zeal for the improvement of the University.

It is to be noted—as bearing upon the question of the adequacy of the reasons for the resignations of professors—that the pertinency of all the grounds for dismissal given by the President was apparently affirmed by the Board of Regents in its "Public Statement" of March 17. It is true that the Board gave as its actual reason for sustaining the recommendations, not the charges upon which they were based, but the allegation that there was "such a serious breach between the President on one side, and Dr. Knowlton and Professor Wise on the other, that one or the other must go." (This allegation the Committee will examine hereafter). But the Board at the same time made it clear

that, apart from this consideration, "it would, were it necessary, adopt the President's recommendations on the above grounds alone,"—*i.e.*, on the grounds given by the President himself.* And in vindication of the legitimacy of dismissal upon such grounds as these, the Board presented in its "Public Statement" a (to the Committee) novel conception of the meaning of "freedom of speech." The passage is of sufficient interest to quote at length:

It is argued to the Board that professors and instructors should have the right of free thought, free speech, and free action. This cannot be and is not questioned. The Board, however, has the same rights. These privileges are reciprocal. When the rights of the two clash, then it is for the Board to determine which is right and which course serves, or is inimical to, the best interests of the University. Some one must have the right and responsibility to decide such matters, and the law has vested it in the Board. Professor Wise, for instance, has seen fit to belittle the University, and to speak in an uncomplimentary way about the administration. That is his privilege. It is also the right and privilege of the President and Board to say that his course is wrong and refuse longer to employ him. Professor Wise may then go to another institution and State where his views and those of the governing board may coincide, if there is any place where an employe is permitted to belittle the institution that employs him and to criticize its management unjustly.

What has just been said applies also to Dr. Knowlton, who has seen fit to speak very disrespectfully, if not insultingly, of the Chairman of the Board of Regents. From his standpoint, this doubtless means that he has exercised his inalienable rights of free thought, free speech and free action. But the President and the Board also have an equal right to free thought, free speech and free action, with the result that the President and Board do not agree with Dr. Knowlton's sentiments; he may hereafter find an institution and State where similar sentiments against the presiding officer of the governing board may be approved. If so, that is where he belongs.†

* "Public Statement," page 4.

† "Public Statement," pp. 9-10. The Board later adds: "At the same time the President and Board concede to professors and instructors the perfect right and freedom to make healthy and judicious criticism of the

It is evident from this passage that the "freedom of speech" (even in private conversation) assured to teachers in the University of Utah is officially defined as freedom to express sentiments in agreement with those of the President and the Regents, or to seek employment elsewhere. The Committee is unable to feel surprise that the publication of this "Statement" was immediately followed by the resignation of a number of members of the faculty.

3. *Procedure in Dismissal.* From the question of the nature of the grounds for dismissal the Committee turns to examine the procedure followed by officers of this University in making dismissals; and, in particular, to inquire whether teachers in the institution are guaranteed a fair trial before removal upon charges.

(a) The Committee has laid before the Board of Regents, first, the general question whether the right to a hearing before dismissal is recognized in the case of professors in the University of Utah. The answers of the majority and the minority of the Board are subjoined.

Question: Is it the understanding of the Regents that they may at any time refuse to reappoint a professor, without specific charges against him and without a hearing?

Answer (Majority reply): Yes. However, we deem it better to state the facts and practice . . . In practice, reasons have been uniformly given the person affected, and a hearing, if one were desired, except, as we now recall, in the case of one person only, as to whom it was considered by the Board to be for the best interests of the University and of the professor concerned not to grant a hearing.

Board of Regents, the President, the Faculty, the University and everything connected with or related to its management, and the President and Board retain the same right and freedom to think and act within their respective spheres." The Committee does not find in this sentence anything which alters or modifies the practical import of the passage above cited, inasmuch as the "freedom to act within its sphere," reserved to the Board, appears to be that indicated in the previous passage—freedom to discuss professors "with whose sentiments the President and Board do not agree."

Answer (Minority reply): The Board of Regents has taken the position that it may at any time refuse to reappoint a professor without receiving specific charges against him and without a hearing.

The minority members add that they do not concur in this policy. Both answers indicate that the right of professors to a hearing before dismissal is not recognized in principle in this University. It is not clear whether the statement of the majority answer as to the past practice in the matter is intended by the Board to cover the cases recently brought before it. The Board, however, insists, in the course of its answers to other questions, that Messrs. Knowlton and Wise "were afforded an opportunity to be heard."

(b) Before considering the question whether the privilege of a fair trial upon the charges was, in fact, offered the professors accused, the Committee notes the procedure employed by the President, and also by the Board, in the matter of the verification of the principal and only significant charge against Professor Knowlton—that of "working against the administration." The Committee finds it to be established by the evidence,* and, indeed, not denied by the representatives of the University administration, that President Kingsbury accepted as true, without investigation, the secret statements of private informants; that he at no time permitted the professor concerned to know the names of his accusers or the nature of the specific acts of which he was accused; that the President laid the charge before the Regents, and also published it, after receiving an absolute denial of the truth of it from Dr. Knowlton, and without examining the other evidence offered him as proof of the falsity of the charge; and that the Board of Regents adopted the President's recommendation for the dismissal of this professor, without knowing the source of the principal accusation against him or

* Written statements and replies to questions by Professor Knowlton, oral statement of a member of the Board of Regents, written reply of minority of Board, cited below.

the nature of the evidence upon which it was based. It is manifest, therefore, that whatever the facts as to the truth of this charge against Professor Knowlton, neither the President nor the Board took any just and adequate measures to ascertain whether or not it was true.

(c) So far as the Board is concerned, it explains this procedure on the ground that the dismissals were not directly based upon the charges, but upon the fact that there existed an "irreparable breach" between the President and the professors whose dismissal he recommended; and that, therefore, the Board had no occasion to inquire as to the character of the evidence behind the President's charges, or even as to the pertinency of those charges as grounds for dismissal. The Board informs this Committee that:

The President stated to the Regents and to a Committee prior to the meeting of March 17, 1915, that if the Board considered it best to retain Dr. Knowlton and Associate Professor Wise, he, President Kingsbury, would submit his resignation; that he would not remain as President with Dr. Knowlton and Professor Wise, or either of them, on the instructing force. At the meeting of the Regents on March 17, this status of affairs was known by the Board.

In such circumstances, the Board has publicly declared, "it is not concerned with the question who is right and who is wrong in this disagreement, but is concerned only with the question as to whose services it considers the more valuable to the University."*

The Board, being of the opinion that Dr. Kingsbury's services were more valuable than those of Messrs. Knowlton and Wise, and being now presumably of the opinion that his services are more valuable than those of the seventeen resigning professors and instructors, based its decision upon this consideration. It observes:

Any state, religious, business or other organization, must have and preserve a practical working organization, or fail; when fric-

* Letter to the Salt Lake City Federation of Women's Clubs, April 7, 1915.

tion is developed to a serious and irreparable point it must be eradicated. Investigations to ascertain whether the superior officer or a subordinate is most to blame do not stop friction. In such cases the only practicable course is to remove such causes of the friction as are deemed least valuable to the work of the organization.*

Upon the position thus assumed by the Board, the Committee makes two observations. In the first place, if the Board felt absolved by the considerations it mentions from the obligation to make any genuine inquiry into the truth of the charges, it should not have permitted those charges to be laid before it; still less should it have published them, and have published them in such a way as to lead the public to suppose that the Board believed, and had reason to believe, them to be substantiated. The Board did, however, print these charges in its "Public Statement" of March 17; and it accompanied them with the following comment:

As to Dr. Knowlton and Professor Wise, the members of the Board do not know of their own knowledge as to the truth of *all* the facts given by the President as reasons why these gentlemen were not renominated. We believe, however, from the statements and facts submitted to us, that the President's reasons are well founded; and were it necessary the Board would adopt the President's recommendations on the above grounds alone.

It was clearly incumbent upon the Board if, as was the case, it had taken no evidence,† and had nothing resembling proof, as to the truth of the charge of disloyalty against Professor Knowlton, to state the fact without equivocation. The Board not only failed to do this in its "Public Statement," but in its (majority) reply of April 17 to the inquiries of this Committee, it answers in the affirmative the question: "Does the Board of Regents still maintain the

* "Public Statement," page 5.

† Reply of Minority of Board of Regents: "*Question:* Has the Board taken evidence as to the truth of this charge (that Professor Knowlton had worked against the administration)? *Answer:* The Board has not taken evidence."

charge that Dr. Knowlton had worked against the administration?"

The Committee further notes that the Board grounds its acceptance of the President's recommendations upon a general rule of policy, *viz.*: that when serious "friction" arises between university officials and teachers, the governing body should consider only the past and the inferential future value to the institution of the services of the persons concerned, and should not consider the question "who is right and who is wrong in the disagreement." The functionary of superior value should be retained, the others removed. Though this rule doubtless has some plausibility, and sometimes appears to make for efficiency, it seems to the Committee, as a principle to be followed in University administration, to be wholly inadmissible. The Committee can construe the Board's repeated public enunciation of this principle only as an announcement that considerations of equity were not taken account of, at the time of the dismissals of March 17, and that, so long as the Board adheres to this principle, such considerations will not be taken account of, in cases involving the relations of the President of the University and the faculty. Such a rule of action on the part of a governing board contains the potency of grave injury to the institution under its control, not less than of grave injustice to individuals; for a publicly proclaimed indifference of the governing body to the question of justice as between individuals is sure to cause damaging resentments and a loss of public confidence. Just how effective this rule may be, as a means of "preserving a practical working organization," is well illustrated by the present condition of the University of Utah. In a letter published April 14, 1915, the Board has conceded that, through the resignations resulting largely from its adherence to this rule, the University has been deprived of the services of a number of "competent men whose positions it may possibly be difficult to fill;" and it remarks that the Regents are "not so blind as to believe that the University will not suffer because of this agitation." The University and the educational interests of Utah have unquestionably already suffered greatly

from the consequences of the Regents' action on March 17. These unhappy consequences are chiefly due to the fact that the policy of disregarding considerations of equity, and of heeding only considerations of 'efficiency,'* does not in the long run tend to the efficient working of any organization of human beings. It is certain to engender far more 'friction' than it allays; it is not permanently effective even in the management of workshops or business houses. Applied in the government of universities, it is the sure beginning of disaster.

(d) The above-mentioned principle, repeatedly enunciated by the Board, evidently implies that an investigation into the truth of the charges against Messrs. Knowlton and Wise would have been irrelevant to the consideration upon which the Board based its action. The Board nevertheless (as already mentioned) declares in its statements to this Committee that the opportunity of having an investigation was offered these professors, and was rejected by them. The Board, for example, was asked the following question: "Has it hitherto been the policy of the Board of Regents usually to sustain recommendations of the President without inquiry, even when these recommendations involve charges against professors?" The Board replies:

No, not even in one instance (except as above noted),† has the policy suggested in this question been followed.

* It would appear, indeed, that the Board was prepared to sacrifice even the educational efficiency of the teaching staff, in order to retain the President and secure a faculty in harmony with him. The following is an extract from an address by Regent Van Cott before the Commercial Club of Salt Lake City: "There is an irreparable breach between the President and the resigned members of the Faculty of the University. In order to secure the best results in the work of the institution, it is necessary that there be perfect harmony between the President and the Faculty. Otherwise, there is too much friction. Now the President has been a faithful and valuable servant of the University for twenty years, and it is not advisable to part with his services. It is better to secure mediocre instructors and secure harmony than to get the best and most efficient professors and not secure harmony."

† The exception referred to is, as the context shows, not the case of Professor Knowlton or of Professor Wise, but one occurring in a previous year.

In reply to another question the Board remarks: "We cannot permit you to infer that charges against professors have not heretofore been investigated." And it elsewhere reiterates that "Dr. Knowlton and Associate Professor Wise were given an opportunity to be heard."

The Committee finds that, in the physiological sense of the word "heard," the accused professors were, in fact, given an opportunity to be heard. Dr. Knowlton, for example, was apprised in writing of the charges against him, and was notified to appear before the Board at its meeting of March 17. He on that date sent a letter to the President which was read to the Board at its meeting. The essential parts of this letter are here reproduced:

You write, "I am convinced that you have worked against the administration of the University." I assume that this has the same meaning as your statement made in our conversation of March 1, when you said, "I think you have been working against me." That is, I understand this charge to involve a charge of personal loyalty rather than of loyalty to the University. My position upon this point is, I think, made sufficiently clear in my letter to you dated March 1, and delivered in person on that date. If the charge that I have, by underhanded means, sought to undermine your influence and secure your removal as president of the University, is true, then your action is fully justified. This raises a question of fact to be determined by evidence. On March 1, I gave you a letter referring you to several men of good standing in Salt Lake City, who were in a position to speak from first hand knowledge of my attitude toward you. On March 3 you stated in reply to my inquiry that you had not sought information from any of these men, and I have reason to believe that you have not done so, up to the present time, although you have, as I am informed, been in communication with at least two of these men on other matters.

Now, Mr. President, I have made and do make the most positive and unqualified assertions of the falsity of any charges of disloyalty either to yourself or to the University, and I have offered you positive proof that on certain occasions I have been your loyal supporter and defender. You have, in effect, refused to investigate the proof offered. Therefore, if my dismissal is to

be based upon this charge of disloyalty, I ask that the Board of Regents make a full and searching public investigation for the purpose of establishing the truth or falsity of this charge.

With regard to the other charges against him, Mr. Knowlton wrote:

I am not greatly concerned with the truth or falsity of this charge. I believe that in such a private conversation I had a perfect right to express my opinion as to the fitness or unfitness of the Chairman of the Board of Regents for his position. If you, Mr. President, and the Board of Regents wish to put my dismissal upon the ground that a member of the faculty is denied the right of freedom of speech, even in private conversation, I am most certainly willing that you should do so. I, for one, should not care to remain as a member of the faculty where such a curtailment of personal rights existed. It follows that if the Board of Regents cares to accept this as a material reason for your actions it will be altogether unnecessary for them to give me any hearing upon the matter.

Regarding your verbal invitation to me to be within call of the Regents at their meeting tonight, allow me to make the following statement: The above letter outlines my position and desires. I shall welcome the most careful and searching public investigation of any specific charges upon the matter of disloyalty, but I do not see that any good could come of my meeting the Board under conditions such as would exist tonight. Whenever the Board is ready to take evidence in the matter, I shall be glad to arrange for the presentation of such evidence in my behalf; until that time I can see no good end to be gained by such a meeting as you suggest.*

* Oral statements of Professor Knowlton indicate that his reason for taking this position was a fear that, if he appeared before the Board under the conditions proposed (*i.e.*, without any assurance of an opportunity to present evidence and secure a thorough investigation) he would thereby prejudice his claim to such an investigation. A similar position was adopted by Professor Wise. The Committee takes occasion to say that Mr. Knowlton, in refusing to recognize the authority of the Board to take cognizance of his private expressions of opinion concerning the qualifications of the Chairman of the Board, seems to the Committee to have done a service both to his profession and to the interests of the University of Utah.

The Committee can not regard the privilege of a "hearing" thus offered Professor Knowlton as equivalent to an assurance of a genuine and thorough investigation into the charges. It is, indeed, compelled by the Board's public declarations, and by its replies to certain questions propounded by the Committee, to conclude that the Board was on March 17 committed to a policy which deprived such an investigation of pertinency to the principle by which the Board's action was determined; and that, in fact, the Board formally refused an investigation, in the proper sense of that term. For, in its "Public Statement" of March 17, the Board defined its position in the following terms:

It is not necessary for the Board to rest its decision as to Dr. Knowlton and Professor Wise upon the above reasons [*i.e.*, the charges], because the Board knows that there is such a serious breach between the President on the one side, and Dr. Knowlton and Professor Wise on the other, that one or the other must go. We therefore base our decision on that point. No public hearing, no judicial or other investigation, can change or obviate the fact that there is a serious and irreparable breach.*

Later in its "Public Statement" the Board, replying to a petition received from the Alumni Association, declares that "it refuses to be forced into a public or any investigation by the resolution" adopted by the alumni at their meeting. The Committee feels compelled to suppose that when the Board thus officially expressed itself on March 17, it correctly defined its own attitude on that date toward the requests for an investigation into the cases of the accused professors. The expressions then used are clearly irreconcilable with the contention that the Board was at that time prepared to carry out a genuine investigation into the truth of the President's charges and the adequacy of his reasons

* "Public Statement," page 4. The breach, it is well to make clear, consisted solely in the President's belief in the charges against Messrs. Knowlton and Wise, and his consequent determination to secure the removal of these teachers. There was, apart from the charges, no personal quarrel between the President and the two professors.

for his recommendations. The Board, moreover, on April 17, made the subjoined reply to the following question:

Question: Is the Board at the present time willing itself to investigate the charges against Professors Knowlton and Wise?

Answer: No, not in view of the attitude taken by the Board regarding the existing breach between President Kingsbury and Professors Knowlton and Wise.

This breach, however, by the Board's statements, existed on March 17, and the Board's "attitude regarding this breach" was the same at that time as at the time the above reply was formulated. It is manifest, therefore, that the Board had then the same reason for refusing an investigation that it had subsequently; and that in fact it did not then make any genuinely judicial inquiry into the charges, and that it still refuses to make such an inquiry.*

It appears clear to the Committee that in any university in which the principles and procedure of the President and governing board, in relation to dismissals and to the making and publishing of charges against professors, are of the sort shown by the foregoing analysis, teachers have no substantial security against the most serious injustice.

4. *Question of Truth of Principal Charge.* It remains for the Committee to inquire as to the truth of the only one among the four charges which it is able to look upon as seri-

* Since the above was written, the Committee has received from the Chairman of the Executive Committee of the Board of Regents a copy of an article by him in the *Salt Lake Tribune* (May 27, 1915) which explicitly states that an investigation was denied the professors dismissed. Mr. Young writes: "Mr. Kingsbury, upon information deemed satisfactory to himself, believed that Messrs. Knowlton and Wise were disloyal to him, and ergo, he being the duly constituted head of the school, to the university itself. Believing that, he determined not to recommend their re-employment and so informed them. They demanded reasons, which he outlined, and an investigation, which he denied. The Regents, impressed, through long years of acquaintanceship with Dr. Kingsbury's fundamental conservatism and square-dealing, decided to sustain his action and to deny an investigation, on the doctor's assurance that the board must choose between him and the released professors."

ous, the one which alone (as will appear later) the Board itself now appears to regard as a legitimate ground for dismissal. This, as has been mentioned, is the charge of having "worked against the administration." Whether this is a grave accusation or otherwise depends upon its meaning; the terms in which it is couched are extremely vague. The Committee has therefore asked the Board of Regents the question: "What specific acts, or modes of action, are by the above expression charged against Professor Knowlton?" For answer the Board has referred the Committee to the replies of President Kingsbury. The Committee is, however, unable to find among Dr. Kingsbury's replies any answer of the specific sort desired.

In answer to the question, "What is the nature of the evidence upon which this charge is based?" Dr. Kingsbury makes the following statement:

Answer: No. Not in view of the attitude taken by the Board regarding the existing breach between President Kingsbury and Professors Knowlton and Wise.

Dr. Knowlton was told that the President was convinced that he (Dr. Knowlton) was working against the administration and that he (Dr. Knowlton) had spoken very disrespectfully of the Chairman of the Board of Regents. Soon after this statement was made to Dr. Knowlton, many things occurred which added to the conviction of the President that his friends who had told him that Dr. Knowlton was working against him had told the truth. It took more than a year for the President to become convinced that his friends had made no mistake in regard to what they had told him. This he fully realized when the efforts being made to remove him culminated in the Board of Regents. The following is a quotation from the letter of a resigning member of the Faculty: "I have been long enough at the University of Utah to realize that your suspicions of disloyalty are not unfounded. There are things which cannot be substantiated by legal proofs and still they exist. Whoever has had ears to hear and eyes to see knows that there have been more or less covert aspirations for the President's chair. As my interest has been all centered on my own professional work, I have preferred to maintain an attitude of reserve. But now I do not hesitate to say that, in my

opinion, the President's position is too important to be coveted. Your successor, Mr. President, if he is to take up your mantle worthily, should be a man disinterested in all this subtle agitation.

This reply appears to contain three assertions or direct implications: that an attempt has been made in the Board of Regents to remove President Kingsbury; that this attempt resulted from, or was connected with, efforts to secure his removal made by one or more members of the Faculty; and that Dr. Knowlton was active in this effort. The fact that Dr. Knowlton alone was dismissed on this ground would seem to imply the further charge that he was a leader in the movement.

For the assertions relating to Dr. Kingsbury personally, it is to be observed that Dr. Kingsbury offers nothing in the nature of evidence beyond his personal belief, and the statement that "friends" (unnamed, and unspecified as to number) made these assertions. Representatives of the University administration subsequently informed the Committee that if given some additional time they hoped to be able to induce these confidential informants of the President to testify over their own names. Though the Committee had already for some weeks been seeking to elicit this evidence, it was unwilling to reach a decision upon the point until every reasonable opportunity had been given for the production of all available testimony. The Committee, has therefore, deferred for six weeks the completion and publication of this report. Up to the time of its preparation for the press, no evidence from the anonymous accusers of Professor Knowlton has been forthcoming.

Dr. Knowlton, on the other hand, lays before the Committee as evidence, first, his personal affidavit, as follows:

STATE OF UTAH
COUNTY OF SALT LAKE } ss:

A. A. Knowlton, being first duly sworn upon oath, deposes and says, That since Sept., 1909, he has held the position of Associate Professor of Physics at the University of Utah; that during that time he has always been a loyal supporter of President J. T.

Kingsbury; that he has never entered into any plot or conspiracy against the said J. T. Kingsbury and that he has never known of the existence of any such plot or conspiracy; that, on the contrary, he has on several occasions defended the said J. T. Kingsbury against the criticism of others and has frequently expressed a favorable opinion of the past services of the said J. T. Kingsbury to the University of Utah; that until the events subsequent to Feb. 25, 1915, affiant verily believed that the said J. T. Kingsbury was well fitted to perform the duties of President of the University of Utah, and that the said J. T. Kingsbury was a desirable man for the position which he held; this opinion affiant frequently expressed and he believes it to have been well known to many people.

Affiant further says that he has no knowledge of any specific charge of disloyalty upon his part toward the said J. T. Kingsbury; that the said J. T. Kingsbury has refused either to make any specific charges or to confront affiant with those responsible for the general charge that affiant has been "working against the administration." This general charge affiant declares to be wholly untrue.

(Signed) A. A. KNOWLTON.

Subscribed and sworn to before me this 16th day of April, 1915.

A. M. CHENEY

Notary Public.

Dr. Knowlton also transmits to the Committee formal statements from four other persons relating to his attitude towards the President of the University; two of these are appended, the others, for the sake of brevity, being summarized:

(a) *To Whom it may Concern:*

In the Physical Science building of the University of Utah, Professor Knowlton has occupied as his office room 31, while I have occupied as my office room 32. These rooms are adjacent with a door connecting them. This has resulted in Mr. Knowlton and myself being, by chance, very closely associated. We have engaged in many conversations and on many subjects. I do not recall that in any conversation that we have had, has Mr. Knowlton ever expressed any disloyalty toward the Executive of the University or the Regents of the University.

(Signed) E. H. BECKSTRAND,

Professor of Mechanical Engineering.

(b) Be it known that I, W. R. Argyle, am a senior of the University of Utah, a member of the A. F. Fraternity, have been a stock-room assistant for two years in the Department of Physics, and am majoring in Physics. On several occasions I have talked confidentially with Dr. Knowlton on student affairs. Dr. Knowlton has as frequently been a guest at the fraternity house, and on no occasions has Dr. Knowlton spoken in such a way as to tend to lessen the respect of the students for the President. On the contrary he has stood by him and has encouraged us to do the same. This was most forcefully brought to my attention when the following incident happened: Last fall the A. F. Fraternity were entertaining two Phi Delta boys from California in the hope of gaining their help in obtaining a charter in their national fraternity. During their visit they had an interview with President Kingsbury, at which time the latter displayed considerable ignorance concerning the fraternity situation at Utah. I related to Dr. Knowlton the conversation, and I rather resented the fact that our President showed such ignorance concerning fraternities here. Dr. Knowlton took issue with me and expressed himself by saying that the President was entirely excusable for such mistakes, and that his worth to our school along other lines was of such importance that this incident meant but little. He expressed the wish at that time that the fellows might get behind the President and support him better than they were.

W. R. ARGYLE.

Subscribed and sworn before me this 13th day of April, 1915.

R. H. FORSYTH,
Notary Public.

(c) James H. Wolfe, a member of the Athenian Club of Salt Lake City, of which Dr. Knowlton is also a member, states upon oath that Dr. Knowlton by request of the Committee on Programme addressed the Club on January 8, 1915, on the subject of "The University of Utah;" that this address "was highly commendable to the work and progress of the institution, and to the policy and ability of Dr. J. T. Kingsbury;" and that other members of the Club then present remarked upon the loyalty and fairness of Dr. Knowlton.

(d) John Jensen deposes that he was present at a banquet given in honor of the athletes of the University of Utah during the past winter, and sat at a table with Dr. Knowlton and a

number of alumni. Mr. Jensen further deposes that during the evening the question of the fitness of Dr. Kingsbury for the presidency of the University of Utah came up for discussion. Several of those at the table "expressed the conviction that Dr. Kingsbury was no longer the right person for the place, and voiced the belief that his retirement and the securing of the services of some educator of recognized standing would result in the greater development of the University of Utah. During the whole of this discussion not one word of criticism of President Kingsbury came from Dr. Knowlton. He was the only man at the table who dissented from the opinion expressed."

Professor Knowlton's affidavit and an indication of the nature of the supporting testimony have been communicated to President Kingsbury and the Regents, and they have been invited to submit evidence in rebuttal if they desired to do so. No such evidence has been received up to the time of the preparation of this report.

The Committee, however, desiring to do all in its power to secure such evidence, if it existed, on May 17, addressed a letter to all the non-resigning professors of the University of Utah Faculty, asking, among other questions, the following:

Have you any first-hand knowledge as to the connection of Professor Knowlton with any movement within the Faculty to displace President Kingsbury?

Fifteen out of the twenty-one professors to whom this letter was sent replied; all answered this question definitely in the negative. Three replied more fully as follows:

(a) I have no first-hand knowledge, or any other kind of knowledge or belief, that Dr. Knowlton was connected with a movement to replace President Kingsbury. Dr. Knowlton has been one of our most esteemed Faculty members. . . His demeanor in the performance of his official and social duties has been exceptionally exemplary, with my knowledge.

(b) No! On the contrary, Dr. Knowlton has in my presence defended Dr. Kingsbury.

(c) No. On the other hand, I have every reason for believing that Professor Knowlton has been a warm supporter of the Administration and of President Kingsbury.

Two professors speak of having heard at second-hand that Professor Knowlton was involved in a movement against the President. One of these, Professor J. H. Paul, states:

Some six months before February, 1915, I was informed by a man in whom I have great confidence, that there was a movement afoot to displace President Kingsbury. He named Professors Knowlton and Ebaugh, and said there were others. I did not mention this to any one until after the trouble arose at the University. When professors began to resign, I tried to get from my informant the details of this movement, but he has not to this time (May 22) answered my inquiries.

The informant* here referred to is not a member of the University faculty. Professor W. C. Ebaugh has been notified by the Committee of the inclusion of his name in the statement of Professor Paul's informant. He replies by telegraph: "Your letter of May 29 contains matter veritably new to me. The statement connecting me with any person or persons as mentioned, or with any movement like that under discussion, is unqualifiedly false." The Committee has received through Dean Cummings a telegraphic communication, signed by himself and all the resigning professors whom he was at time of sending able to reach—Messrs. Holman, Mattill, Peterson and Vorhies—denying knowledge of any effort, before March, 1915, among any faculty members, for the removal of the President. Professor Wise has testified in the same sense. Thus, out of thirty-three professors and associate professors, replies have been received from twenty-one in addition to Dr. Knowlton himself, all but seven being members of the faculty who have not resigned; none have first-hand knowl-

* The Committee knows the name of the person in question, but has thus far been given it only upon condition that it be not made public. The Committee has attempted to induce this person to testify, without success.

the policy of the Administration was wrong; that it is unfair, unjust and untrue to say that the A. F. Fraternity has worked against President Kingsbury.

LA MAR NELSON.

Subscribed and sworn to before me this 5th day of June, A. D., 1915.

FRANK E. HOLMAN.

Notary Public.

My commission expires March 12, 1916.

Finally, the Committee has received statements in regard to this charge from members of the Board of Regents. The minority of the Board (Messrs. W. W. Armstrong, Ernest Bamberger and G. C. Whitmore) declare, in their reply of April 16:

On the facts so far elicited, the charge against Professor Knowlton, *i.e.*, that he had "worked against the administration," has not been proven, and should not be maintained by the Board of Regents.

The Committee understands that one or more other members of the Board share this view but are unwilling to be quoted.

This statement of the Regents not only shows that President Kingsbury has, even up to May 27, never laid before the Regents anything resembling evidence of his charge against Professor Knowlton; it also constitutes first-hand testimony to the fact that Professor Knowlton was not in any degree responsible for a motion made in the Board of Regents for the retirement of the President, and supported, as the Committee understands, by some of the Regents mentioned.

The Committee, therefore, in view of all the foregoing testimony, finds that this charge against Professor Knowlton is wholly unsupported by evidence, beyond the assertions, reported at second-hand, of one or more persons who now refuse to testify or to permit their names to be divulged; that the charge is in conflict with the sworn statement of Professor Knowlton himself, and with similar statements from a number of other witnesses; and that it is irreconcilable with the fact that no member of the Faculty has been

found who knows, of his own knowledge, of any activity against the President of the University on the part of the professor accused.

The Committee has thought it advisable, also, to inquire fully into the question whether there was a movement on the part of any other members of the faculty to secure the retirement of President Kingsbury. The President's statement cited above intimates that "efforts" to this end had been made by professors. Upon receipt of this statement, the secretary of the association telegraphed Dean Cummings, asking from him, from Dean Holman, and from any full professors accessible, immediate answers to the following questions:

First, did you ever speak to any other professors before March in favor of effort to secure the President's removal? *Second*, did you ever suggest to any Regent the desirability of his removal? *Third*, do you know of efforts before March among any Faculty members, for the President's removal?

The reply, sent by Messrs. Cummings, Holman, Mattill, Merrill,* Peterson and Vorhies, answered all three questions emphatically in the negative, and added: "The first suggestion of removal of the President came from members of the Board of Regents." Dr. Knowlton also declares in his affidavit, and Messrs. Ebaugh and Wise in their statements that they have known of no faculty movement against the President. After postponement of the publication of this report was decided upon, the Committee sent to all of the non-resigning professors an inquiry upon the point, in the form of the following question: "Have you first-hand knowledge of any movement that existed within the faculty to displace President Kingsbury?" Of the fifteen replies received, all were in the negative. One writer states that after the announcement of the President's intention to recommend the dismissal of four members of

* Prof. J. T. Merrill, one of the members of the Utah faculty who have not resigned. Dr. Merrill is dean of the School of Mines and professor of physics and electrical engineering.

the faculty, one of his colleagues (who has since resigned) said to him: "If enough of us get together and stick, we can force the President to retain Knowlton, or we can force him out, or we can ourselves get out with dignity and self-respect." As this incident occurred not before, but in consequence of, the President's recommendations, it is not germane to the question which the Committee is here considering. One writer, Professor Bennion, mentions a piece of hearsay evidence as to the existence of opposition to the President among the Faculty:

Early in February I was informed by a member of the Board of Regents, that an effort was being made to remove the President, and that a fellow-member of the Board had said that a majority of the Faculty was against the President.

The Committee cannot attach importance to third-hand testimony of this kind; and the reported statement in any case was an expression of a belief as to the prevailing Faculty opinion, and did not assert the existence of any conspiracy or concerted movement against the President. The Committee concludes that there is no evidence deserving of consideration to show that any such movement existed; and that there is positive evidence that it did not exist. For it is scarcely conceivable that such a movement should have been going on without coming to the personal knowledge of any of the twenty-three professors, including four deans, from whom the Committee has received replies.

It would obviously have been much easier for President Kingsbury to ascertain all of these facts than it has been for the present Committee to do so; and it was manifestly his first duty to ascertain them, before giving credence to the statements of his secret informants. The conduct of the President in this matter appears so singular that it seems to the Committee necessary to mention, for the information of those unacquainted with general conditions at the University of Utah, certain related circumstances which at the University appears to be matters of common knowledge. President Kingsbury—as is shown by passages already cited

and by other evidence in the Committee's possession—had of late been unpopular with a large number of the students and alumni. Criticism of him in these circles, during the past year especially, is said to have been vigorous, widespread and unconcealed. Members of the Faculty in their intercourse with alumni, undergraduates, and townspeople, frequently encountered this sentiment unfavorable to the President. As the evidence heretofore given shows, Professor Knowlton as well as other members of the Faculty, in such situations, frequently defended the President against his critics. The feeling of the students and graduates, however, found an echo in the Board of Regents; and as the Committee is informed, within the past year a motion looking to the President's retirement was made at a meeting of the Board. The motion was supported only by a small minority, but it is clear that at this time the President became apprehensive for the security of his own position. It was this situation which seemed to him to give significance to the assurance of his unnamed informants, that certain members of the Faculty were "working against him," and that Professor Knowlton was a leader in this movement. The Committee finds that Dr. Kingsbury was led by these circumstances into an unreasoning attitude of suspicion towards Professor Knowlton and towards others of the Faculty; and in consequence of this attitude, his subsequent conduct, especially with respect to Professor Knowlton, was to a singular degree uncontrolled by considerations of fairness, by a sense of the obligations imposed by the quasi-judicial character of his office, or by the practical judgment properly to be expected in the head of an important educational institution.

5. *Present Attitude of Board of Regents with Regard to Dismissals.* Since its meeting of March 17, the Board of Regents appears to have changed its opinion as to the legitimacy of dismissing members of the Faculty upon the first three of the four grounds given by the President as reasons for his recommendations. The Board has been asked by the Committee, with respect to each of these three whether

it regards that reason "as among the proper grounds for terminating a professor's connection with the University." The reply, under date of April 16, was in each case negative.* The Board has as noted, also received through this Committee a copy of the affidavit of Professor Knowlton, together with an indication of the nature of the supporting evidence. In sending this affidavit, the Secretary of the Association wrote as follows:

I conceive it to be my duty also to transmit to the Board the enclosed sworn statement from Professor Knowlton, in which he makes a categorical and sweeping denial of the only serious charge against him. If the Board still maintains this charge against Dr. Knowlton, it thereby also maintains against him an accusation of false swearing. It would, I think, greatly interest the Committee of the Association of University Professors to know whether, in these circumstances, the Board is disposed to maintain the charge. I am not myself able to see that the Board can justly avoid the alternative of either a public withdrawal of the charge, or a statement of the specific acts referred to by that charge, with a public presentation of sworn evidence in support of it. I cannot but feel confident that the Board will agree that no third course of action would be consistent with the principles upon which honorable men are accustomed to regulate their conduct in such matters.

The Committee regrets to report that the Board has adopted, with respect to charge against Dr. Knowlton, neither of the alternatives suggested by the Secretary; and that it has, in spite of the change of view mentioned, refused to reopen the cases of the professors dismissed. The Committee takes pleasure in recording, however, that Regents Armstrong, Bamberger, and Whitmore, have as individuals frankly and unequivocally expressed their disbelief in the accusation of disloyalty brought against Professor Knowlton.

* To the question: "Is it among the conditions of the tenure of office in the University of Utah, that expressions uncomplimentary to the administration be not employed even in private?" the majority reply was a qualified negative: "No, unless such conduct be offensively persisted in." The minority of the Board answers all three of these questions "emphatically in the negative."

6. *Summary of Findings.* The findings of the Committee, so far as they relate to the recent dismissals, may be briefly recapitulated as follows:

(a) Of the four charges which were given by the President of the University as his reasons for recommending the dismissal of professors, three specify no proper grounds for such action, and the fourth is without basis in fact.

(b) The President of the University and the Chairman of the Board of Regents by their recent action virtually gave notice that the expression by a professor, in private conversation, of an unfavorable opinion of their qualifications for office would be a ground for dismissal. This action, unjustified in general, the Committee regards as peculiarly unsuitable in officials of a state university.

(c) The governing body of the University has publicly declared that in cases of serious friction between officers and teachers of the University, it is not concerned to know "who is right and who is wrong in the disagreement," but only to secure harmony by eliminating from the University those whose services it believes to be relatively less valuable. This, in the light thrown upon its practical meaning by recent action of the Board, appears to the Committee equivalent to a formal announcement that considerations of equity have not been, and will not be, taken account of by the Board, in cases involving the relations of the President of the University and the Faculty.

(d) The Board has, however, given two irreconcilable versions of its attitude on March 17 towards the request for a judicial investigation of the charges. The first version is that, in view of the Board's adoption of the last-mentioned principle, no investigation could alter the essential consideration upon which the Board based its action; and that, in fact, the Board "refused to be forced into a public or any investigation." The other version is that an opportunity for an investigation was actually afforded the professors accused, and was rejected. The Committee finds that though the professors accused were invited to appear at a meeting of the Board, no properly judicial investigation

into the truth of the charges has ever been made either by the President or by the Board of Regents.

(e) The Board now appears to regard either two or three of the charges as "not constituting proper grounds for terminating a professor's connection with the University." It has also received through this Committee the sworn statement of the professor against whom the fourth charge was made, categorically denying the truth of the charge. The Board nevertheless refuses to withdraw this charge, to present evidence in support of it, or to reopen the cases of the professors against whom these four charges were brought.

(f) The evidence shows that, under the present administration, unverified gossip, coming from persons unwilling to assume public responsibility for their statements, has played an unfortunate part in the affairs of the University of Utah; and that Professor Knowlton was dismissed without ever being permitted to know who were his accusers, in the case of the principal charge against him.

(g) In its "Public Statement" issued on March 17 in explanation of the dismissals, the Board denied the limits of freedom of speech in the University in such a way as to justify any member of the Faculty in resigning forthwith.

II. RELATION OF FACULTY AND REGENTS

One of the reasons assigned for their action by several of the resigning professors, is the fact that no consideration was given by the Board of Regents at their meeting on March 17, to the following communications from the Faculty:

*To the Honorable, the Board of Regents,
The University of Utah,
Salt Lake City, Utah.*

DEAR SIRs AND MADAM:

At a meeting in the Faculty room today (March 9), beginning at 4.10 p. m., to which all members of the Faculty had been invited and to which the President made a statement, the undersigned members passed the following resolution:

Resolved, That, in view of the public agitation, it be the sense of this Faculty that a statement from the Board of Regents, assuring the public that a hearing will be given each man affected adversely by the recent recommendations of the President, and that results of said hearing will be published, will greatly benefit the University.

This petition was first adopted by a large majority of those attending, and to it the individual signatures of twenty-two members of the Faculty were attached. The petition was transmitted to the Secretary of the Board of Regents accompanied by the following statement of Professor Joseph Peterson, chairman of the Committee, having the petition in charge:

I am authorized to state for most of those who signed this resolution—by an oversight the matter was not brought before all—that the Faculty invites an investigation of its own members as to their loyalty and attitudes towards matters involving the welfare of the University.

The fact that this request of the Faculty not only was not granted, but was not in any way considered or acted upon, was, then, regarded by a number of the signers as showing that, in the words of Professor W. C. Ebaugh, the Regents were "absolutely inaccessible to the Faculty." This condition appeared to those professors to give absolute power of control over the Faculty, and over all educational policies, to one man, the President, who was under no obligation even to seek the advice of the Faculty before making to the Board the recommendations which that body, as a rule, adopted without inquiry. The Committee is further informed that on a previous occasion, in 1913, the Faculty had sent to the Regents a petition, asking, in view of certain incidents which had recently occurred, that the Regents consider the question of the tenure of office of professors, and the condition of the University. The communication was as follows:

University of Utah,
Salt Lake City, October 28, 1913.

To the Board of Regents of the University of Utah:

I have the honor to transmit herewith, in behalf of the members of the Faculty whose signatures appear thereon, a communication to your honorable body, which was adopted after a series of meetings devoted to a consideration of the matters set forth in this paper. Extended and unrestrained discussion preceded the wording of the document, and the proceedings were characterized by temperate and detailed exposition of the duties and obligations of the teaching force to the institution. It may be unnecessary to add that there was no hostile or individual criticism during any of the meetings of members of the Board of Regents. An earnest desire for the welfare of the University was apparently the sole aim of those who participated. Yours with respect.

(Signed) J. H. PAUL,
Secretary of the Meetings.

October 13, 1913.

The Board of Regents, University of Utah, Salt Lake City, Utah.

GENTLEMEN: Believing that the remarkable growth and prosperity of the University of Utah during the past decade has been due largely to the good understanding and friendly coöperation

that have existed between the Board of Regents and the Faculty, and fearing lest with the growth in numbers of the Faculty and the increasing demands of routine business upon the time of the Regents, these relations may become less satisfactory, we, the members of the Faculty, respectfully desire to call the attention of the members of the Board of Regents to the following statement:

We believe it to be the function of the Board of Regents, acting through the President of the University, to select as instructors and heads of departments the very best men available, and we believe that the men so selected should be held responsible in the highest degree for the successful organization and conduct of the work intrusted to them. We are of the opinion that the history of university education in this country shows conclusively that those institutions have been most useful where such responsibility has been united with the most perfect freedom on the part of the instructor and the greatest permanency in the tenure of his position; and that, on the contrary, those institutions in which the freedom of the instructor has been abridged or the tenure of office has been uncertain have been unable to attract to themselves men of the force and ability needed for the proper advancement of the schools concerned. We have been perturbed, therefore, because of certain recent acts which appear to have infringed upon the proper freedom of the individual instructors and to have raised a question as to the security of the tenure of office, to wit:

(1) The order concerning physical examinations was undoubtedly well meant, and certainly no member of the University Faculty wishes to appear to be in opposition to any measure which will limit effectively the spread of tuberculosis. However, the time at which this action was taken, the refusal to accept certificates from any but the designated physicians, the requirement that the fee for such prescribed examinations be paid by the individual, and the feeling that other, and perhaps more serious, sources of possible infection were being neglected, have combined to cause a very considerable feeling of dissatisfaction upon the part of a large number of the members of the Faculty.

(2) The purpose of the regulation concerning the acceptance of a nomination for political office is not well understood. If it is intended merely as a safeguard against neglect of duties arising from such candidacy, it seems unnecessary. If it has any other purpose, it appears to many of the Faculty to constitute an infringement of the proper freedom of action of the individual.

(3) Members of the Faculty have been subjected to censure because they had expressed views upon debatable questions which did not conform to those of some other persons.

(4) We understand that a prominent member of the Faculty, whose work had attracted much favorable comment, has been removed from his position without being fully informed as to the reasons for such action, and without being accorded a hearing in his own behalf by the Regents.

We are far from believing that the above mentioned acts are indications of an intent upon the part of the Regents to deal unjustly with the Faculty either as a body or as individuals but we do believe that they are indications of a growing lack of mutual understanding which should be the subject of serious consideration upon the part of both bodies.

We urge, therefore, that there may be occasional meetings of the Regents and the Faculty for the serious open discussion of problems pertaining to the life and development of the University, and request that your honorable body may take under consideration the questions of (a) the tenure of office of University teachers, and (b) the nature of the relationship that should exist between a teacher and the University. Respectfully submitted.

(Signed) *Jos. F. MERRILL,*
Chairman of Meeting.

The signatures of forty-seven professors and instructors were attached.

This petition manifestly was a courteous and friendly suggestion of practicable means for a freer consultation and a better understanding between Faculty and Regents. The only response to it which reached the petitioners was a note from the Secretary of the Board stating that the communication had been received and laid upon the table. The action of the Board on March 17, 1915, thus seemed to many of the Faculty to be a reiteration, upon a still graver occasion, of the Board's former discourteous refusal, to give any attention to the earnest and respectful representations of the educational staff of the University.

To this complaint of the resigning professors the Board of Regents made three answers:

(a) The Board states that the Faculty petition was not in fact received by it at its meeting of March 17. The petition was in the portfolio of the Secretary, who declares that "he used his best efforts to bring it to the attention of the Board, but without success." The Board adds:

In simple justice to the Board of Regents and to the Secretary it should be said that the hour was very late and that the Secretary did use his best endeavors to have the Board consider a number of communications addressed to the Board. On account of the lateness of the hour it was ordered that all further business be carried over until the next meeting. It was not until several days after March 17, that the Regents knew that such petition was in the portfolio of the Secretary at the meeting in question.

The force of this explanation seems to the Committee much diminished by certain facts. That the University Faculty had drawn up a petition to the Regents with reference to proposed dismissals and demotion had been published in the city newspapers, and even in conspicuous headlines in those newspapers, on March 9, and in the college newspaper on March 10. It is, therefore, somewhat difficult to suppose that all the Regents as individuals were unaware on March 17 that a communication had been submitted by the Faculty, relating to the matters of business then before the Board. It was, in fact, a matter of common knowledge throughout the city and state that petitions bearing on these matters had been sent in, not only by the Faculty, but also (in much more emphatic terms), by the students, the Alumni Association, the Federation of Women's Clubs, and one or two other organizations. That they had before them a mass of protests against the acceptance of the President's recommendations without a thorough investigation, was the capital fact confronting the Regents at their meeting. The "Public Statement" adopted at that meeting twice refers to requests for an investigation. Furthermore, President Kingsbury who was present at this meeting of the Board, was also well aware of the action of the Faculty. Again, it seems to the Committee an unusual procedure for a

public body to postpone the hearing of petitions relating to a pending matter until after the matter is disposed of; this, however, was, by the Board's Statement, its procedure on March 17. The Committee is, therefore, unable to conclude that the Board as a whole was ignorant that the Faculty and other bodies had addressed it, asking it to investigate the charges before acting; and it is compelled to believe that the failure of the Secretary's "best endeavors" to have these communications considered was essentially due to the Board's frequently announced resolution to sustain the President without an investigation.

The Board of Regents further explains to this Committee that, though it did not receive the Faculty petition, it "has done just exactly what the petition requested, without knowing that the petition was there," inasmuch as "an opportunity for full hearing to Dr. Knowlton, Associate Professor Wise and Instructors Snow and Bing, was afforded." That the Board did in fact offer these teachers a hearing has already been indicated. It appears, however, somewhat excessive to suggest that the Board's action was in substantial conformity with the Faculty's request. The Committee is unable to suppose, and can not assume that the Board supposed, that the Faculty was petitioning for a hearing which should have no influence upon the Board's acceptance or rejection of the President's recommendations. The Board, however, by its own statement, adopted at the meeting at which the recommendations were considered, declared that "no judicial or other investigation could change or obviate the fact" which led the Board to sustain those recommendations. The petition, moreover, asked for a hearing for each of the men "affected adversely by the recent recommendations of the President." One of the men so affected was Professor Marshall, who after many years' service was superseded in the headship of the English department by the appointment of Mr. O. J. P. Widtsoe, Principal of the Latter Day Saints High School, to that position. It was intimated by the President and the Board* that Professor

* "Public Statement," page 14.

Marshall's demotion was due to inefficiency, a charge regarded as unfair by many of his colleagues and former students, and believed by them not to correspond to the President's real motive in making the change. The Committee has not learned that any investigation into these matters was offered Professor Marshall.

3. The Board's most significant answer to the complaint that the University Faculty has hitherto been unable to get its views and its requests properly presented to, and considered by, the Board is, in substance, a recognition of the justice of the complaint, together with a plan for the future correction of the condition complained of. In a communication to an alumni committee on April 13,* the Board, speaking of the "alleged inadequacy of consultation between the Faculty and Regents which has characterized our practice in the past," does not deny the allegations, but announces the adoption of measures for securing fuller consultations between the two bodies hereafter. The first step to this end was the adoption of the following resolution on March 27, 1915:

Resolved: That the Chairman appoint a committee of five on Faculty Relations, whose duty it shall be to keep posted on the views of the Faculty and to report the same to the Board; and the Faculty is hereby invited to constitute such committees as it may see fit with such respective duties and powers as it may give from time to time; and the Faculty may provide how the Board shall be advised of its views.

A committee of seven members of the Faculty appointed to devise a method for carrying the above resolution into effect has recommended the following "Plan of Administration:"

1. There shall be established an Administrative Council of the University of Utah. The President and Deans of the Schools shall be *ex officio* members of the Administrative Council, and the

* Published in Salt Lake City newspapers on April 14.

Faculty shall elect from its own body members whose number shall be two more than the number of *ex officio* members.

2. The President of the University shall be *ex officio* chairman of the Administrative Council and its executive officer.

3. The Administrative Council shall determine, subject to the approval of the Board of Regents, all matters pertaining to the educational policy and educational administration of the University. Examples of these matters are—requests for appropriations, apportionment of funds, the appointment, promotion, demotion, removal, or failure to recommend for reappointment, members of the teaching force, and such other matters as may be referred to the Council by the President, Board of Regents, or the Faculty.

4. All appointments, removals or changes in rank of members of the teaching force shall be made upon recommendation of the President to the Administrative Council after consultation with heads of Departments and Deans of Schools concerned.

5. All legislative power shall be vested in the Faculty of the University.

6. The Administrative Council shall hold regular monthly meetings during the school year, and such special meetings as may be found necessary.

7. Of the members of the Administrative Council elected by the Faculty, one-half shall be elected for one year, and the remainder shall be elected for two years. Their successors shall be elected for two years; they shall be elected by secret ballot, and a majority of all votes cast shall be necessary to election.

8. A record shall be kept of all actions of the Administrative Council. The record shall be open to inspection by the Faculty and Board of Regents. All votes on matters of policy or administration shall be by roll call and the names of the voters and the way in which their ballots are cast shall be part of the record.

9. The regular medium of communication with the Regents shall be the Administrative Council, but the Faculty may at any time communicate with the Regents by conference, resolution, special committee, or otherwise.

The Committee has asked the Dean of the School of Education, Professor Milton Bennion to inform it whether the complete plan has been officially adopted. Mr. Bennion replies on April 23:

We have assurance from the Regents' Committee on Faculty Relations that we may go ahead with the operation of this plan and amend it from time to time without presenting it to them for approval. The Chairman of the Faculty Committee has just received a letter from the Chairman of the Regents' Committee suggesting that we provide specifically for transmitting both majority and minority Faculty views to the Regents whenever there is a difference of opinion on important matters or a difference between the Faculty and the President. If the plan is modified before being put into operation, it will be in conformity with the wishes of the majority of the Faculty. Pending the adoption of this plan and the election of the Council, the members of the Faculty who have not resigned have elected by a secret ballot six of their number to act with the President and the three Deans who have not resigned as a temporary Administrative Council. The Regents' Committee on Faculty Relations has had several meetings with the Faculty during the past few weeks. At two such meetings held this week, the problems of freedom of teaching, political activity on the part of Faculty members, and tenure of office were freely discussed by both Regents and Faculty members. There seems now to be a thorough understanding between the faculty and the Regents' Committee in regard to these matters.

The Committee views these changes in the plan of administration of the University of Utah with much satisfaction. They provide practicable means for the correction of two of the most serious imperfections in the constitution of most American colleges and universities, namely: the lack of conference, and frequently of a good understanding, between the two legislative bodies of such institutions, the Faculty and the Board of Trustees; and the anomalous position of the college president, as the only representative before the board of trustees, of the views and wishes of a faculty which does not select him as its representative, and to which he is in no way responsible. The scheme of organization proposed for adoption at the University of Utah might, in the Committee's opinion, be considered and imitated with advantage by many other universities and colleges.

The Committee feels, however, obliged to add that its satisfaction in learning of these changes in the administra-

tive machinery of the University is sensibly decreased by certain circumstances which must be mentioned.

(a) The Board of Regents has refused to apply the new plan of action to the cases which came before it during March, 1915. Initiated only ten days after the meeting of March 17, the plan was peculiarly applicable to the situation then existing, inasmuch as it was adopted in recognition of the fact that the Board had not hitherto had so full knowledge as was desirable of the judgment and the state of feeling of the Faculty. By suspending its action until counsel should be taken with the Faculty, the Board would not only have given convincing evidence of the earnestness of its desire to do justice to the views of the teaching staff, but would also have done much to put an end to the dissatisfaction, suspicion and public criticism to which its previous action had already given rise. The Committee deeply regrets that this course was not followed by the Board.

(b) The Board, so far as the Committee is aware, has at no time indicated its abandonment of the rule of policy upon which the Committee has already animadverted; indeed, the most extreme expression of that policy has been published since the adoption of the plan for a "Faculty Relations Committee." The Regents still stand publicly committed to the principle that, whenever a superior officer declares the existence of an "irreparable breach" between himself and any subordinates, the Board will not inquire who is right and who is wrong in the disagreement, but will simply retain the officer whose services are deemed more valuable, and dismiss the others. Until this principle is definitely repudiated by the Board, the Committee is unable to see how recommendations from a Faculty Committee can have any relevancy to the considerations which actually move the Board in its action upon recommendations of the President. The Faculty recommendations, in such a matter, presumably can deal only with the merits of the case; but the Board has twice officially announced, and has never withdrawn the announcement, that it is not concerned with the merits of the case.

In view of these circumstances, the members of the Committee feel constrained to reserve final judgment as to the actual effects of the new plan until its working under local conditions has been tested by experience.

The Committee thinks it incumbent upon it, as a matter of justice, to make two remarks concerning the members of the Utah Faculty who resigned between March 18 and 27. The importance attached by the Board to the new administrative plan is manifestly equivalent to an acknowledgment that there were substantial grounds for the protest made by these teachers against antecedent conditions. And if, as the Committee earnestly hopes, beneficent consequences to the University eventually result from the adoption of this reform, the credit must primarily be given to the men who, at the cost of personal sacrifices, made the protest necessary to bring the reform about.

III. THE COMPLAINT OF "REPRESSION"

Several of the resigning professors charge that the recent policy of the University administration has been characterized by an effort to repress the legitimate liberty of utterance of members of the Faculty upon political, economic and religious questions. It is not charged that this in any case led to dismissal, but only that a number of teachers were on various occasions summoned to the President's office and given what they construed to be official warnings against the repetition of certain public utterances, or the continuance of certain civic activities. It seems clear that the action of the President in these instances was not due to any personal desire to restrict the freedom of expression of teachers on such matters, but to an apprehensiveness with regard to the effect of certain professional utterances upon influential citizens, or upon the Board of Regents, the State Legislature, or the Governor, and consequently upon the amount of the appropriations received by the University. An illustration of the character and motive of the President's intervention in relation to the discussion of religious questions by professors, is given in extracts from a letter addressed to President Kingsbury on March 26, 1915, by Dr. Joseph Peterson, Professor of Psychology:

MY DEAR DR. KINGSBURY: Following is as specific a statement as my memory permits of instances of advice from you as to the need of being careful in my teaching here:

(1) Nearly three years ago, or at least over two, you called me to your office and told me that "a very influential man" in the city had objected to certain of my teachings in Genetic Psychology, and had said that if his children had to get such things in the University he would send them elsewhere. You also said that I had been charged with teachings such that my students did not care for their religion and that they were not willing to go on missions. You named _____ as an example of the former

condition. I pointed out that he had not been in any of my classes in the University. I named students of mine who had gone, and were then on missions, and some who were then talking of going on missions. I remember naming to you _____, among others. I also pointed out the fact that such conditions as to students' attitudes toward religion were frequent results of college education, and that it was unjust to charge all of them to my teachings. You agreed to this.

(2) Later, just before my reappointment two years ago, you again called me into the office. You told me that "certain Regents," or "a certain member of the Board of Regents"—I do not remember just which—had brought to you certain criticisms of me, that, *e.g.*, I "had taught against the experiences of Joseph Smith." This I denied, and offered you means of proof that I had not done this, that I had never referred to or made insinuations concerning such affairs. You also said at this time that certain Regents, or a certain Regent, had said that some of the members of the Legislature were not willing to make the needed appropriations to the University because of my being here. You advised me to be extremely careful, "not even to mention the word religion," so that people would not feel this way towards the University. I told you later that I went twice to your office to resign, so that the University might not miss any appropriations on my account. You were not in, and in the meantime a colleague convinced me (in his own words) "that the University needs something else more than it does large appropriations."

(3) Later I learned that you had defended me, as I remember, to Regents, as to my fairness in teaching in the University; you advised me, however, incidentally, to bring into class discussions and explanations the term *God* or *Deity*, if I "could conscientiously do so."

In these conversations your own attitude towards me was friendly and obviously to protect me, though after the conversation I felt personally that my presence here was beginning to be embarrassing to you. Of this view I was very much disabused in a conversation with you a year or so ago, after which I concluded that you actually were anxious for me to remain in the University. In this conversation you had pointed out to me that my presence here is evidence that the Church is not controlling the University.

Other examples of this practice on the part of President Kingsbury are given in a letter to the Committee from Dr. W. G. Roylance, Professor of History and Political Science:

(1) Upon request of a number of citizens, including members of the Legislature, a professor gave advice and assistance in the construction of a Public Utilities Bill and was told by the President that an objection had come to him, coupled with a threat that if such activity did not cease, the University's appropriations would be cut off. The President declined to disclose the source of this complaint and threat, nor would he either approve or disapprove of the action in question.

(2) In numerous instances of complaint to the President of utterances of professors in the classroom, bearing upon religion, politics and other matters, after proof that nothing improper had been said, instead of upholding the accused and vindicated instructor, the President would avail himself of the incident, as an opportunity to impress upon the instructor the need of caution.

(3) In general, the President has fallen into the habit of placing instructors always on the defensive, with regard to complaints from without, yet has failed clearly to vindicate them when complaints of charges have proven groundless.

Several other instances of a similar sort have been reported to the Committee; some of them are referred to under (3) in the Faculty petition of October 28, 1913, already cited. Mr. Milton Sevy, a member of the graduating class of 1914, deposes that in conversation with President Kingsbury in June, 1914, the President admonished him that he should

Be careful in saying anything that would offend any supporter of the University; that when various interests were supporting the University by taxation they were very sensitive about being criticized. I replied that in my opinion the University should not yield to the criticism of outside interests, and that students as well as Faculty members should be permitted to investigate and speak frankly about all matters of public importance. I cited him the example of the University of Wisconsin. This seemed rather to shift the trend of the President's criticism, and he said that if he were in a position to conduct the University as he wished there would be even greater academic freedom at the University than I

had suggested. He further said that I could not realize the various forces brought to bear on him as President of the University. . . . I told him that I sympathized greatly with him in his position, but I thought it a shame that the President of the University should have to submit to outside interference. I further stated that in my opinion, if the people of the State knew the character of the interference he was obliged to tolerate, they would rally behind him in his adoption of a broad, progressive administrative policy, like that which I had argued for in my commencement speech.

It appears from this testimony that President Kingsbury has himself admitted that there exists at the University less academic freedom than he regards as desirable. With reference to the general situation in the University, the following question was put by this Committee to President Kingsbury:

Question: Does the President feel that in view of local conditions it is necessary to restrict the utterances and the civic activity of professors in the University of Utah to a greater degree than might be needful elsewhere?

Answer: Probably not any more than in several other state universities.

The Committee is also in receipt of a signed article by Regent Richard W. Young, Esq., written for the purpose of justifying the President and Board of Regents, but acknowledging the occurrence of certain incidents of the kind complained of by the resigning professors and conceding that there may have been other such incidents. Mr. Young acknowledges:

That the President had warned a certain prominent professor that his activity in behalf of a public utilities bill might injure the University; that he advised an instructor against participating in a political campaign, and enjoined a partisan rally on the campus.

In doing these things, President Kingsbury was actuated by an abundance (possibly a superabundance) of caution. He feared, with much reason, that there might be a disposition, human, though illogical, to visit the political sins of the professors on the

school itself. He appreciated that the University moves and has its being, not in the pure ether of theory, but in the vitiated atmosphere of Earth.

Occurrences of this kind Mr. Young describes as "trifles," and he apparently does not regard such "superabundance of caution" on the part of the President as giving just ground for criticism.

The state of things disclosed by this testimony is manifestly an extremely unwholesome one. In particular, the first incident related by Professor Roylance must, it appears to the Committee, be of grave interest to the citizens of Utah; an official investigation is clearly called for, to determine whether the person who made the threat repeated by the President holds—as would appear to be suggested—some important public office. There exists, doubtless, in the case of any state university, a danger that from time to time persons possessing, or reputed to possess, political influence will attempt to shape the teaching in the University, or to restrict the legitimate liberty of utterance and of civic action of university teachers, not by direct attack, but by threats of reduction of the appropriations. If our state universities are to continue to be institutions in which self-respecting scholars can serve, or in which the true character of a university is maintained, it is essential that all such attempts be vigorously resented, and that no ground be given even for the suspicion that teachers in these institutions are under pressure of the sort exemplified in the first case cited by Professor Roylance. There may be room for legitimate debate concerning the proper limits of freedom of teaching; there can be no room for debate as to the impropriety of permitting powerful individuals outside the university, whether in or out of public office, to dictate to university presidents respecting the utterances of university professors. And the resistance to such attempts must necessarily come first and chiefly from the presidents of the state universities. To the Committee it seems clear that President Kingsbury, while personally desirous of maintaining a due measure of

freedom in the University of Utah, has not sufficiently resisted pressure of the sort mentioned, but has rather, at times, permitted himself to be used as an instrument through which such pressure was transmitted to members of the Faculty. The Committee recognizes that the President's motive in this was doubtless an earnest desire to avoid injury to what he believed to be the interests of the University; but it can not consider that he has adequately realized the truth of the observation of one of his colleagues, that "the University needs something else more than it needs large appropriations."

The only admissible view with respect both to freedom of teaching within a state university, and to the legitimate extra-academic activities of teachers in such institutions, seems to the Committee to have been expressed with admirable clearness and force in the recent report made to the legislature of Wisconsin by the State Board of Public Affairs, a non-academic body. As the principles enunciated by that Board clearly have not hitherto been fully realized at the University of Utah, the Committee thinks it pertinent to quote several passages of the report:

Certain activities of the University have taken it into the domain of public affairs to an extent which has resulted in the charge that the University is in politics. Complaint has been made that members of the Faculty appear before committees of the Legislature in advocacy of or in opposition to pending measures affecting the University as a whole or certain of its colleges, schools or departments. In the opinion of this Board it would be impossible for the Legislature to act wisely with regard to any bill affecting the University without consulting those in charge of the department, college or school to be affected.

Complaint has been made also that members of the Faculty have framed and advocated legislation. In recent years, while the state has been attempting to meet economic and industrial needs by new legislation it has been a common practice to consult with those who have studied and written of those problems. In the University Faculty there have been and now are men who by reason of a life-time of study are familiar with the various phases of these problems as they have developed and as they have been

treated in other countries and states. Many of those urging legislation along these lines have read the writings of these men, and not infrequently legislators, attempting to apply the experience of other states and countries to Wisconsin conditions, have sought personal interviews with those professors having special knowledge of the subject under consideration. In the opinion of this Board, the state, having engaged the services of the men in the University Faculty, is entitled to such advice and counsel as these men can give regarding the subjects to which they have devoted much and special attention. . . .

That occasionally members of the University faculty have been active at election time has been charged and is true. In the opinion of the board of public affairs it is neither possible nor desirable to deprive a college professor of the political rights vouchsafed to every citizen. Investigation shows that in so far as students, Faculty members and Regents are in politics as individuals, the University of Wisconsin is in politics. Students form political organizations, both partisan and factional, representing every faction and every party. Members of the faculty on occasions address these student clubs and give expression to personal convictions. In so doing, students, Professors and Regents, in the opinion of this Board, have exercised only their rights to independent thought and action as individuals and citizens. . . .

In the opinion of this Board, any attempt on the part of the state to prevent or discourage political activity along broad lines would be un-American. The University of Wisconsin is a public institution. Its politics and practices are determined by public opinion. So long as the University continues as a part of the state, so long must the State preserve freedom of expression and action regarding it. . . .

Conflict of interest and opinion naturally begets misunderstanding and misrepresentation. Motives are questioned and opposition engendered to such an extent that those who represent the institution frequently are made to quail before the attack. Therefore, the people well may look with concern upon assaults calculated to impair the usefulness of the institution. In such crises it is the duty of the state to defend freedom of investigation, freedom of instruction, and freedom of opinion and expression in its University to the end that academic freedom may not be an empty phrase, but shall be a living fact. (Report upon the Survey of the University of Wisconsin, December, 1914. Madison, Wisconsin: *State Printer*, pp. 9-13.)

IV. INTERVENTION OF THE GOVERNOR OF THE STATE IN FACULTY MATTERS

The Committee turns now to examine into an incident which, while it is essentially merely a further illustration of the conditions set forth in the preceding section of this report, acquires special significance because of the part which the Governor of the State is alleged to have played in it.

The incident had its origin in a class oration delivered by Mr. Milton H. Sevy, a member of the graduating class of 1914, at the Commencement of that year. The oration, of which a copy is before the Committee, is in general a plea for an abandonment of the ultra-conservatism which the speaker declares to have been long characteristic of Utah, and to have secured "an octopus-like grasp upon our political life." The principal contention of the disclosure is illustrated by the following citations:

What we need is a different point of view. The people must be converted that their political hope lies in the breaking down of ultra-conservatism and in the leadership of young, progressive men. The time is ripe for this change; only the proper leadership is needed. There are many young men in Utah, graduates of other colleges, graduates from our own institution, and men without college education, who are ready and willing to disregard political differences and fight to place Utah on the progressive map. This transformation will take some time; the new leaders must fight against the inertia of the established prestige of present leaders; but here is an urgent present need in the state, a need which calls to the University as an institution and to its graduates, to assume the role of leadership. . . .

Granted that these problems are vital and a solution desirable, you will say, how is the University to adjust itself to meet them? Already the pioneer work is under way. The extension work, the correspondence work, the social survey work, and above all, the new life and vigor now being generated within the alumni

organization are all steps leading towards the desired goal. But this is not sufficient. What the University most needs, and must have, if it is to assume the role of leadership, is a definite, vigorous, progressive policy. It should strike out and generate public opinion and public policy, instead of occupying a compromise position. Unfortunately, there still remains some vestige of the old-time church antagonism. Some provincial ideas and narrow prejudices are still held by representatives of all factions. In the past, diplomacy has demanded that the University attempt to placate all factions by following the happy mean as a policy. But we have now reached a crisis in our development; we can not grow as we should under such a policy; we must have a broader and bigger outlook. This lingering ghost of former troubles should now be banished from our midst; it should no longer have a hearing in our council chambers in determining the policy of our institutions. The University should help deliver this death blow by adopting a broad, definite and progressive policy, and then carrying that policy into effect—regardless of the outside criticism of Reverend A., Bishop B., or Taxpayer C. If *this* condition prevailed, then the taxpayers throughout the state would have infinitely greater confidence in their state institution, and this confidence would be measured in greater appropriations. The University would then become, in a true sense, the great dynamic force in the state.

The speaker incidentally argued briefly in favor of four specific measures: A public utilities commission, an investigation into the methods of mining and industrial corporations, a more liberal support of the juvenile court, and reforms in the State's system of taxation. In referring to the last, the speaker complimented Governor Spry upon having taken the initiative in this reform. The oration contained a single sentence reflecting upon some legislators for the reasons alleged to have been given by them for voting against a certain University appropriation.

If a progressive point of view prevailed, state legislators would be forced to give better reasons for voting against girls' dormitories, than the one given in 1913; namely, that the housing of cattle at the state fair should take precedence over the housing of girls at the University.

The Commencement oration seems to the Committee, whatever its limitations in thought and taste, to tend to show that the teachers in University of Utah were giving to its students what ought especially to be desired in graduates of a state university—some independence of thought and an eager and liberal-minded interest in public affairs. It is full of that hopeful insurgency of youth upon which the continued intellectual vitality of any community must depend. To many of its local hearers it appears to have contained especial promise and significance, as an expression of the temper of the younger generation in the state. No person of generous mind, however much in disagreement with the views expressed, can have failed to hear it at least with good humor and with appreciation of the natural and wholesome youthful enthusiasm which characterized it.

It has, however, been asserted by alumni, by some of the resigning professors and others, that the Governor of Utah took umbrage at this discourse, expressed his disapproval of it to the University authorities and brought pressure to secure the disciplining of such professors as had read and approved of the speech before its delivery. In inquiring into the truth of these assertions, the committee laid the following question before President Kingsbury.

Question: Did the Governor of the state, or any member of the State Administration, ever express to President Kingsbury, directly or indirectly, an unfavorable opinion of the speech of Mr. Sevy, delivered at the 1914 Commencement?

Answer: No.

The Committee regrets to state that this answer does not in any way indicate the essential facts of the matter about which the Committee sought information, and that, indeed, the answer can be reconciled with the facts and with certain other testimony only upon the assumption that Dr. Kingsbury gave to the word "indirectly," in the above question, a special and unfamiliar sense. The facts and testimony are the following:

(a) Governor Spry on June 6, 1914, sent to the Board of Regents a long letter expressing strong indignation over Mr. Sevy's speech. The letter, of which a copy is before the Committee, contained the following passage:

In attending the Commencement exercises of the University on Wednesday last, I was amazed at the utterances of the Class Valedictorian. While the impulse was strong to give public expression of my disapproval of the spirit of the address, and while I felt that the extravagant criticisms should not pass unchallenged, I refrained mentioning the matter in my address, feeling that doing so might embarrass and tend to mar the proceedings of the day. However, deliberate reflection upon the matter convinces me that I would be negligent to my duty did I not call the matter to the attention of the Board of Regents and enter a most vigorous protest against this outbreak.

The Committee would, even in the absence of the testimony following, be unable to suppose that the President of the University was unaware that the Governor had expressed an unfavorable opinion of the speech to the Board of Regents, of which body the President is a member.

(b) Mr. Milton H. Sevy states under oath that on or about June 6, 1914, he had a long conference with the President, at the latter's request. Mr. Sevy deposes that on this occasion the President said in substance and effect:

That the Governor had taken the matter of my Commencement speech up with the Board of Regents and they had requested him, the President, to speak to me about it. . . . The President proceeded to admonish me to be careful in saying anything that would offend any supporters of the University, that when various interests were supporting the University by taxation they were very sensitive about being criticized, etc. [What follows in the affidavit, has been cited above.]

It is, then, established, in the first place, that the Governor protested to the Regents against the speech; that the President knew of this protest; and that in consequence of it he cautioned the author of the speech, on the ground that

such utterances might unfavorably affect the University's appropriations.* Thus far the incident appears as an example of the policy of repression already mentioned.

It is, however, charged that the Governor did not merely indicate his disapproval of the speech, but brought pressure to bear upon the President and Regents to have them curb or dismiss the individual teachers who had passed favorably upon the speech before its delivery. With reference to this matter the Committee put the following question to President Kingsbury:

Question: Did the Governor ever seek from President Kingsbury or (so far as Dr. Kingsbury is aware) from any professors, information as to what members of the University Faculty had read, or passed upon, Mr. Sevy's speech, before its delivery?

Answer: No. The Governor did not seek to find out from President Kingsbury information as to the person or persons who may have read or passed upon Mr. Sevy's speech, nor did he seek this information from any professors, so far as the President knows.

On the other hand, the Committee has before it the following evidence upon this point.

(1) Mr. Sevy's affidavit states:

On or about the 4th of June, 1914, Prof. F. W. Reynolds of the University of Utah met me, and in referring to my commencement speech Professor Reynolds asked laughingly who I had had write it, and said complaint had come from the Governor's office accusing me of having had my speech written by members of the University Faculty. While walking from Douglas Avenue and Third South Street toward the University he asked if I would have any objections to a conference with the Governor on the matter. I answered, "Not in the least." He further asked me to call and see President Kingsbury.

Mr. Sevy deposes that in the course of his subsequent interview with Dr. Kingsbury, the President asked:

* It is, of course, evident that the Governor, through his influence with the Legislature and through the veto power, was in a position to determine the amount of the appropriations.

Whether any Faculty members had anything to do with my speech, either writing it or passing upon it. I told him that Dean Cummings had looked at it from the standpoint of content and Mr. Snow and others had heard it delivered from the standpoint of declamation. The President said he was glad Dean Cummings had examined it, because he was a stand-pat Republican, and it had been charged that Democratic and Progressive Faculty members were responsible for the speech.

It appears from this sworn testimony that President Kingsbury himself, as well as Professor Reynolds, sought to learn what professors had passed upon the speech. The testimony does not state that this was done at the direct request of the Governor; but it shows that these inquiries were made in consequence of communications received from the Governor. The affidavit also contains evidence that criticism of the speech was based partly upon political grounds, and that these criticisms were made from the standpoint of the political party to which the Governor belongs.

(2) The letter of the Governor to the Board of Regents definitely requested the Board to take disciplinary measures against any teacher in the University who might be responsible for Mr. Sevy's suggestion of more liberal appropriations for the University.* The passages of the letter referring to Faculty responsibility for the speech are here cited:

I had hoped that investigation would clear the members of the Faculty of the University of any responsibility for the utterances, which I sincerely trusted could be attributed to the inexperience and irresponsibility of the young man who thus unburdened himself. From information I have received, it appears, however, that prior to the delivery of the paper, members of the Faculty passed upon it, and subsequent to its delivery have expressed themselves as feeling that it was proper and in good taste.

It is apparent that the seeds of unbridled criticism of state officers and members of the Legislature, by officials and members of

* It is to the single sentence of the speech mentioning this matter, that the Governor's three-page letter apparently refers.

the Faculty of the University of Utah in their eagerness to secure larger and ever larger appropriations for the institution, are bearing fruit in a generation of graduates who, unacquainted with that fine feeling of gratitude and appreciation of the state's interest and generosity in their behalf—that one could hope and look for as the patrimony of higher education—fail to recognize the extent of their obligations, sneer at what has been done for them at great cost and oftentimes great sacrifice, and, with the approbation of their college professors, heap abuse on the state and her institutions—all in utter disregard of the real facts.

In the past the zeal of those who have appeared before the Legislature to urge appropriations for the University has led them to thoughtless and extravagant statements calculated to minimize in the minds of legislators the adequacy of the state's provision for the institution, and it appears that not content with crying "parsimony" around the halls of the Legislature, officials of the University have carried the propaganda to the institution itself with the result that graduates have the effrontery to indulge in unrestrained abuse of the state. This is wrong, it is a crying shame, and the responsibility lies with officials of the institution who have permitted students to enjoy the advantages of the University without impressing upon them in some measure at least their obligations and their future responsibilities. If the courses of the University come no nearer providing accurate information regarding the state than was evidenced in the valedictory address of last Wednesday, I submit it is high time a hand be taken in the affairs of the institution to the end that at least with relation to the affairs of the commonwealth of which we expect graduates of the institution to be identified, they be supplied with facts and not theories and vagaries of dreamers and demagogues. . . .

There is a growing feeling in the state that the burden [of taxation for educational purposes] is more than the people can carry, and I am fearful that this sentiment will crystallize in a general curtailment of educational appropriations. It is this fear that has prompted me to speak to you personally and impels me to address this letter to you, urging that those who are responsible in the University for the unwarranted, untrue ideas regarding the attitude the state has taken toward educational matters and institutions, be curbed in their utterances or relieved of their positions. They are a menace to the educational interests of the state.

Let me beg of the Board of Regents that they take the initiative in a movement that will have for its prime object discouragement of the rapidly growing tendency among certain of our educators to demand of the people more than the people can give to the interests of education.

This letter shows unmistakably that the Governor was much in earnest in desiring that action be taken against any members of the Faculty who had inspired Mr. Sevy's oration or had sanctioned its delivery.

(3) The Committee has received testimony from a number of sources that Prof. R. R. Lyman, a personal friend of the Governor's, made inquiries during February, 1915—while the appropriation bills were pending—to ascertain what teachers had passed favorably upon the oration. These inquiries were believed by those concerned to be made at the request and for the information of the Governor. Mr. C. W. Snow, one of the instructors dismissed on March 17, submits the following deposition:

STATE OF UTAH }
 COUNTY OF SALT LAKE } ss:

I, Charles W. Snow, being first duly sworn according to law, depose and say:

That on or about the 24th day of February, A.D., 1915, President Kingsbury of the University of Utah, summoned me to his office and informed me that he would not recommend me to the Board of Regents of the University of Utah for reappointment as instructor in the English Department of the said institution; that on or about the aforesaid date, Prof. Richard R. Lyman invited me to his office at the University, and there asked me what connection, if any, I had with the writing of the commencement address of Mr. Milton H. Sevy; that in reply to said inquiry, I informed Professor Lyman that Mr. Sevy himself wrote the address but that I went over it with him for the purpose of aiding him in rhetoric and delivery; that Prof. Lyman thereupon informed me that I had acted untactfully; that I am unable to swear positively whether the aforesaid interview with Prof. Lyman took place before or immediately after my dismissal by President Kingsbury, but I do swear positively that the said interview took place on or

about the same date as my dismissal; that I am further able to swear positively that the day after my dismissal, while reporting my dismissal to Dean Byron Cummings, Dean Cummings informed me that Prof. Lyman had been seeking to ascertain from him his (Cummings') connection, if any, with Mr. Sevy's speech.

CHARLES W. SNOW.

Subscribed and sworn to before me this 1st day of May, A.D., 1915.

A. M. CHENEY,

Notary Public.

The Committee has the following affidavit from Dean Cummings:

On the afternoon of the 23rd or 24th of February, Prof. Richard R. Lyman called me up by phone and asked if I had a copy of Milton Sevy's speech. On my stating that I had not, and asking why, he replied that he understood that I had something to do with the preparation of that speech and so he thought I probably had a copy of it. I stated that, if he cared to know, Mr. Sevy came into my office and read the speech to me before he delivered it on the commencement stage.

On Monday, March 1, at close of Faculty meeting, I asked Prof. Lyman if he had secured all the information he desired. He pleaded ignorance of what I meant and on being reminded that he had seemed specially interested in a certain speech, he said that he had had a conference with Mr. Snow that day and thought he had gotten some added information. I then asked him why he was so much interested in Sevy's speech anyway; and he replied that he was asked to get certain information and was proceeding to do so.

On the following Friday evening, March fifth, at a University party on the campus, Prof. Lyman, during the course of a conversation said that perhaps he ought to make a confession to me and proceeded to state that in conversation with the Governor a few days before, the Governor had stated that he (the Governor) had heard that Mr. Cummings knew all about Sevy's speech before it was delivered, that he could not believe it, etc., that Prof. Lyman had replied that he did not believe it but thought he could find out if he would like to know, and that he had proceeded to find out. I remarked that he had found out to his satisfaction, I hoped. He said he had, but that he was not going to tell the Governor. I

suggested that the Governor might call me up and get the facts at first hand."

Respectfully yours,
BYRON CUMMINGS.

Salt Lake City, Utah.

Subscribed and sworn to before me this ninth day of April, 1915.

R. N. FORSYTH,
Notary Public.

III. One of the members of the university Faculty who has not resigned, states that:

In February, 1915, Professor Lyman spoke to him in substance, as follows: "The Governor told me that he would like to know who the three men were who saw that (Sevy's) speech before it was delivered. He (the Governor) meant to see that these men were disciplined."

The writer of this statement explained orally that he was uncertain whether the last affirmation was a quotation from the Governor, or merely an expression of Mr. Lyman's belief as to the Governor's purposes. In a subsequent letter, the writer informs the Committee that he has been called upon by Professor Lyman (to whom a copy of the statement had been sent by the Committee), and that

Lyman denied positively that the Governor intimated such a thing. The conclusion is, therefore, that the idea of discipline was Lyman's only.

It is to be observed that the writer does not modify that part of his original statement which declares that Mr. Lyman reported the Governor to be desirous of knowing what teachers in the University had seen Mr. Sevy's speech before it was delivered. The Committee, however, is already aware, from the Governor's own letter, that he was of the opinion that some disciplinary action should be taken against these men.

Professor Lyman, on the other hand, has sent the Committee an affidavit, and subsequently a supplementary state-

ment, relating to these incidents. He states that about the middle of February he "happened to meet Governor Spry and walked with him a block or two towards his home." Their conversation fell upon University matters, and in the course of it, the commencement speech of Mr. Sevy was mentioned. Mr. Lyman expressed his disapproval of this speech. The Governor, he deposes:

Promptly explained that the expression of such sentiments on such an occasion might be overlooked when coming from a student, but that he had been told that a certain professor (giving his name) read this address before it was delivered. The Governor added that he had known this professor for many years and regarded him as a close, personal friend; he knew him to be wise and conservative, and did not believe that this professor would read such an address and then allow it to be delivered at the commencement exercises to which the state officials, who were thus severely criticized, had been invited as guests of honor. I agreed with the Governor that the teacher named had probably not read the address before it was delivered.

On the first day of March I learned where a copy of the address could be found, and about the same time I learned the names of several of the teachers who heard the address before it was delivered. I did not go to the trouble of getting a copy of it until April 9, after you had requested me to prepare this affidavit. The Governor did not ask me to get this address or the names of teachers who were connected with its preparation. I did not proffer to get this information for him; he certainly was not expecting me to secure it, and he has not asked me anything concerning it.

Dean Holman in his list of public charges and, I believe, referring to me, said "a professor has been busily engaged on behalf of certain outside interests behind the administration in ascertaining just what members of the Faculty Mr. Sevy permitted to see his speech before he delivered it; and this gentleman discovered and reported that Dean Cummings and Professor Roylance among others had seen Mr. Sevy's speech before he delivered it.

That my discoveries were those named by Mr. Holman is untrue. And what my discoveries were, no one else (except Mr. Sevy, so far as I am aware) knows to this day. That I repeated names mentioned, or any other names to any one as being in any

way connected with the preparation or delivery of this speech is likewise untrue and is without the slightest foundation in fact.

Yours very truly,
RICHARD R. LYMAN.

Subscribed and sworn to before me this 13th day of April, 1915.

A. R. EMERY.

The declaration of a witness already cited, as to remarks made by Mr. Lyman concerning the Governor's attitude towards the teachers who had approved Mr. Sevy's speech, is contradicted by Mr. Lyman in his supplementary statement. That he did in fact make the inquiries reported by Dean Cummings and Mr. Snow, and that these inquiries were made at the instance of some other person or persons, is not denied by Mr. Lyman; who this person or these persons were, he declines to state, except that he affirms that the Governor was in no way responsible for his investigations.

The Committee does not feel called upon to attempt to resolve the conflict of testimony as to Professor Lyman's alleged utterances concerning the Governor's attitude during the month of February, 1915. The evidence as a whole, however, seems to the Committee to justify certain conclusions:

(a) The Governor of the state clearly attempted to exercise an improper pressure upon the Regents and the President of the University to cause them to take some disciplinary action against the teachers who had failed to prevent Mr. Sevy from delivering a speech of which the Governor disapproved. The concluding passage of the Governor's letter to the Regents contained a veiled but unmistakable intimation that the Governor himself would adopt an unfavorable attitude towards the university appropriation bills, unless certain teachers were "curbed in their utterances or relieved of their positions." The utterances of teachers and students to which the Governor specifically referred were alleged expressions of the view that larger appropriations for the State University were desirable.

The Governor described these teachers as making exorbitant and unreasonable demands for educational appropriations. There was, however, nothing either in Mr. Sevy's speech, or in any reported utterances of the professors in question to justify this characterization of their attitude. If the Governor's reason for demanding that the Board discipline the teachers concerned was such as is specified in his letter, he was suggesting the removal of university teachers for favoring and permitting students and alumni to argue publicly in favor of more liberal appropriations for the institution, with which they were connected. If this were generally regarded in state universities as a ground for removal, it is to be feared that the faculties of nearly all such universities would be greatly depleted. The Committee, however, finds it somewhat difficult to conceive that the Governor's vehement and repeated* attacks upon the speech and the teachers who sanctioned its delivery were evoked solely by a single and incidental sentence in the speech,—a sentence which voiced no general demand for increased university appropriations, nor even a demand for any particular appropriation, and which made against the state no general charge of parsimony in the support of its educational institutions, but merely criticized a particular reason which the speaker declared had been offered for opposing a particular appropriation. It is indicated by Mr. Sevy's affidavit that the Governor's disapproval of the speech was due in part to the political tendencies which it was regarded as manifesting; and that the President of the University felt it to be a matter of some importance to ascertain that at least one of the teachers who had approved the speech was not an adherent of any political party opposed to that of the Governor.

(b) It is, then, established that the President and Regents had reason to believe that the Governor would regard conditions in the University with disapproval, and would prob-

* Governor Spry has also referred with censure to Mr. Sevy's oration in public addresses.

ably be hostile to the university appropriations bills, unless the teachers responsible for permitting the delivery of Mr. Sevy's oration were disciplined. It is also a fact that one of these teachers, the only one of subordinate rank, and the one chiefly responsible for Mr. Sevy's selection as a commencement orator—Mr. C. W. Snow, instructor in English—was among the men "relieved of their positions," and that the President's recommendation regarding him was announced while the legislature was in session and the university appropriation bills were pending. Mr. Snow states: "I urged the appointment of Mr. Sevy as speaker before Professor Lyman, the Chairman of the Faculty Committee, which was to select the speaker. I urged him because I knew he would talk on the Utah situation." The only other teacher who has been shown to have formally passed upon the speech was dean of the college, had been for many years in the service of the University, was widely known and highly esteemed in the community, and was a member of the same political party as the Governor. He was not dismissed, though he was led by the Board's action of March 17 to resign.

It is evident that there is some striking circumstantial evidence pointing to a connection between the attitude of the Governor and the dismissal of Mr. Snow. The "Public Statement" of the Board of Regents, declares that "the address of Milton H. Sevy had nothing whatsoever to do with the action taken" on March 17. The members of the Board, however, were evidently not in a position to affirm of their own knowledge as to all of the influences which had affected, or the motives which had actuated, President Kingsbury in making his recommendation against Mr. Snow. The President's own answers (above cited) to the Committee's questions concerning this incident are clearly evasive, and indicate an unwillingness to inform the Committee as to the facts of the matter. Nevertheless the Committee does not find that there is conclusive evidence establishing a connection between the Governor's demand

for action against the teachers who had approved the speech of Mr. Sevy, and the President's recommendation that one of those teachers be not reappointed.* The Committee is, however, of the opinion that the circumstances of the case are such as to make it highly desirable that an official investigation into the matter be made by some local body having the power to summon witnesses.

* There has been brought to the Committee's notice certain hear-say evidence, tending to show a direct connection between the two facts. As the Committee has been unable to secure the direct testimony of the persons immediately cognizant of the circumstances alleged, it has disregarded this evidence in reaching its conclusion.

V. THE CHARGE OF SECTARIAN INFLUENCE UPON APPOINTMENTS

It has been charged by some of the resigning Professors and by graduates of the University that sectarian religious influence, or the desire of the administration to placate a certain religious body, has been responsible for certain recent appointments, and for the demotion of a Professor long in the service of the University. This charge does not, as a rule, appear expressly among the reasons originally given by the resigning Professors for their action. But it is clear from subsequent statements that in the case of several of these teachers one of the principal motives for resignation was a belief that the President had of late been subject to increasing pressure to fill important positions in the Faculty with men selected, not primarily on grounds of scholarship and teaching ability, but because of their connection with the religious denomination to which the majority of the people of the state, and a majority of the Board of Regents, adhere—the Church of Jesus Christ of Latter Day Saints, commonly known as the Mormon Church.* It was further believed by some of the resigning Professors that the President had more than once yielded to this pressure; and that the University was in consequence losing its non-sectarian character. Though the Committee would gladly avoid dealing with an issue of this sort, it feels itself obligated, in view of the seriousness of the charge and the place that it has had in the controversy, to examine the evidence bearing upon the matter. This evidence is indirect, and, as laid before the Committee, consists in the following circumstances:

1. Mr. Perry G. Snow was in 1911 appointed Professor of Anatomy in the School of Medicine, and shortly after, Act-

* President Kingsbury is not himself a member of this body.

ing Dean of the School. He received the degree of bachelor of arts from the University of Utah in 1909. At the time of the former appointment, he was a second-year student in a medical school; and at the time of the latter appointment, he had not yet taken any degree in medicine. Mr. Snow is a member of the Mormon Church, and of a family prominent in the history of that body.

2. More closely related to the present difficulties in the University are the changes in the staff of the Department of English made by the Board of Regents in March, 1915. On this date, in accordance with a recommendation of the President previously made public, Prof. George M. Marshall was removed from the headship of the department of English (but not from his professorship), and Mr. O. J. P. Wittsoe was appointed to a professorship in English and to the headship of the department—thereby outranking also Mr. F. W. Reynolds, Professor of English. The relevant facts concerning the Professor demoted, and his successor, so far as the Committee has been able to ascertain them, are as follows:

(a) Professor Marshall, a bachelor of arts of Cornell (1887) and a master of arts of Harvard (1905), was the senior member of the Faculty (after President Kingsbury), and had been a teacher in the University for twenty-three years. He has published an edition of Dryden's "Palamon and Arcite," and articles in the tenth (American) edition of the Encyclopaedia Britannica. Mr. Marshall is not a member of the Mormon Church. There is evidence that he has frequently been criticized by individual members and officials of that church on two grounds. The first complaint was that he had not recommended Mormons for appointment in his department. Dean Holman states to the Committee that in his presence "Professor Marshall was on one occasion charged by Prof. J. H. Paul with never having employed a Mormon, and with preferring Eastern men." With regard to this complaint, Professor Marshall declares that the assertion that he never recommended Mormons is untrue; but that it is a fact that he has for the most part

sought to secure instructors, especially in English composition, from Eastern universities having a special reputation for the training which they give in this subject.

The other complaint which appears to have been made of Professor Marshall by some members of the Mormon Church has been that in courses in the history of English literature he has frequently expressed admiration of the Church of England, and that in a course on Dante he has spoken in a favorable manner of the Roman Catholic Church. With respect to the latter complaint, five recent students under Professor Marshall, in a letter to this Committee, write:

His course in Dante is especially fine, and the only criticism has been not because of lack of knowledge, but because of emphasizing the historical significance of Catholic theology.

The Committee is in possession of no evidence to indicate that Professor Marshall's references to certain religious bodies were of an improper character. The facts here mentioned are significant only in so far as they tend to show that Professor Marshall's management of the English department was viewed with disfavor by members of the Mormon denomination.

The reason officially given for Mr. Marshall's demotion was that he "had not retained the full efficiency and vigor that is expected and demanded of Professors and instructors."* The Dean of the College of Arts and Sciences, Professor Cummings, expresses the opinion that Professor Marshall was an able and efficient teacher, remarkably devoted to his work. A letter prepared by a committee of five of Professor Marshall's students states:

When the news was confirmed that Professor Marshall had been demoted on a charge of inefficiency, there was much indignation, and some of us students circulated a petition among others of his present students, containing statements of appreciation of him and his work. Two-thirds of his students in the regular

* "Public Statement," page 14.

course signed this petition, and four out of five of those studying for an M.A. degree. The majority of the students who did not sign the petition explained that though they appreciated Professor Marshall's scholarship and work, they did not want to antagonize the President of the University. . . .

We know that the charges brought against Professor Marshall are preposterous, and we hope that you will take into consideration, in summing up his case, the elements with which we are obliged to contend. Very few have criticized Professor Marshall when asked to sign the petition and these few criticisms were directed, not at all against his ability as a teacher, but rather against certain views he has expressed.

This letter is accompanied by a deposition by Mrs. Helen S. Sanford, testifying to the truth of the statements of fact contained therein. The student newspaper, *The University Chronicle*,* expresses the opinion that "Professor Marshall's department has been filled with the most progressive and up-to-date men in the Faculty.

(b) Mr. O. J. P. Widtsoe has been good enough to communicate, at the Committee's request, an outline of his professional career. In condensed form, it is as follows:

B.S. (in chemistry), Utah Agricultural College, 1897; engaged in missionary work on islands of South Pacific, 1897-1901; head of department of chemistry and physics, and teacher of English, in Latter Day Saints' High School, 1901-1903; graduate student in English, Harvard University, 1903-1905; A.M., Harvard, 1905; head of department of English, Latter Day Saints' High School, 1905-1915; Principal, 1909-1915, of the Latter Day Saints' High School, including also the business college, night school and summer school. Has taught in summer sessions at Utah Agricultural College, Brigham Young University, and University of Utah.

Publications: "The Restoration of the Gospel," (a volume of Mormon apologetics, consisting chiefly of lessons prepared for the Young Ladies' Mutual Improvement Association, 1910-1911), with an introduction by Joseph F. Smith, Jr., of the Quorum of Twelve Apostles, 1912. Editor: *The Juvenile Instructor*, a

* It should be remarked that this paper has throughout the controversy been antagonistic to President Kingsbury.

monthly magazine devoted to the interests of the Sunday Schools of the Mormon Church.

Mr. Widtsoe also holds the office of bishop in the Mormon Church. With reference to Mr. Widtsoe's appointment, the following question has been placed before President Kingsbury:

Did Dr. Kingsbury at any time receive any suggestion, direct or indirect, from any official of the Mormon Church, with respect to the appointment of Mr. Widtsoe?

Answer: No.

Richard Young, Esq., Chairman of the Executive Committee of the Board of Regents, and an official of the Mormon Church, also states that, so far as he is aware, the proposal for the demotion of Professor Marshall and for the appointment of Mr. Widtsoe came from President Kingsbury himself.* In his oral statement to the Secretary of this Association, Dr. Kingsbury, in reply to an interrogation upon this point, said that, while it was his usual custom before filling positions in the Faculty to secure from other universities suggestions and recommendations of suitable men, he had not sought such suggestions before appointing Mr. Widtsoe to the headship of the department of English.

The Committee has, of course, no means of judging of the general abilities, and the skill as teachers, of Mr. P. G. Snow and Mr. Widtsoe; it has no reason to doubt that they are of the highest character. It seems to the Committee, however, to be evident that, considering only the length of training and the professional experience of the appointees, these appointments were such as to justify the surprise which they evoked among a number of members of the Utah Faculty. The essential facts with regard to Mr. Widtsoe are that, when placed over a departmental staff of seven Professors and instructors, he had had only two years of post-graduate study in his subject; that he had never been

* Oral statement to Secretary of this Association.

a member of a college or university faculty and without experience in regular college teaching; that he had for the six years preceding his appointment been engaged in the heavy duties of school administration necessarily entailed by the principalship of a combined high school, business college, night school and summer school; and that his only publications were works of theological controversy and denominational apologetics. This preparation is not such as is at present usually expected in those appointed to headships of important departments in either colleges or universities of good standing.

These facts, however, are, in the Committee's opinion, not such as to enable it to judge of the motives of the President of the University and of the Board of Regents in making the appointments and the demotion which have been called in question.

VI. PRESENT ATTITUDE OF REGENTS TOWARD REQUESTS FOR AN INVESTIGATION

One of the gravest and most regrettable features of the situation at the University of Utah, in this Committee's opinion, is the attitude which has from the beginning been consistently maintained by the Board of Regents toward numerous petitions asking for a thorough public investigation of the recent incidents and of general university conditions. These petitions, which have come from the Faculty, the Alumni Association, the students, and a large number of citizens of the state of Utah, the Board has in all cases rejected, declaring that it alone is responsible for the management of the University, that it has no doubts as to the correctness of its past action and the rectitude of its own motives and those of the President and that it therefore cannot permit its action to be influenced by protests coming from others. This position seems to the Committee to show that the Board fails to understand, or at least to act upon, three fundamental facts: namely, that every institution of public education, and especially a state university, requires for its success the confidence and respect of the public; that there can be no sure hold upon public confidence without an unflinching readiness to face publicity in regard to all official acts and policies; and that the only effective way in which any public body can meet serious charges brought by responsible persons is by not merely permitting but demanding a searching and open inquiry into its methods.

The foregoing examination of the evidence in the possession of this Committee indicates that two or three features of the case have not yet been fully cleared up, and that so long as these incidents are not in all their aspects definitively investigated, certain suspicions with respect to conditions and administrative methods in the University are

likely, whether justly or otherwise, to continue to have currency. Nothing has done so much to strengthen the widespread feeling of distrust which has unquestionably been engendered by recent events at the University, as the attitude still held by the Board of Regents; a persistent refusal to permit the disclosure of all the facts in such cases, always gives color to the belief that there exist facts unsuited for disclosure. The Committee gathers that the persistence of the Board in its present position has aroused on the part of a large section of the local public, including many of the alumni and a majority of the students, a degree of suspicion, and even hostility, which must be a continuing detriment to the University's efficiency as an instrument of public education, and must affect disadvantageously the position and the work of teachers in the institution.

In closing, your Committee desires to recall the fact that in so far as the chief point at issue is concerned—the official grounds for the dismissal of the officers in question—the conclusions of the Committee are found in the Summary on pages 40–41 of this report.

The above findings are unanimously concurred in by the members of the Committee of Inquiry.

EDWIN R. A. SELIGMAN, *Chairman*,
Columbia University.

JOHN DEWEY,
Columbia University.

FRANK A. FETTER,
Princeton University.

JAMES P. LICHTENBERGER,
University of Pennsylvania.

ARTHUR O. LOVEJOY,
Johns Hopkins University.

ROSCOE POUND,
Harvard University.

HOWARD C. WARREN,
Princeton University.