

Professors Seek To Make Political Control Over The U. of K. Impossible

A 'declaration of independence' would give trustees more power

By ALLAN M. TROUT, Courier-Journal Frankfort Bureau

FRANKFORT, Ky., June 16.—The University of Kentucky ought to be freed forever from the power of political control by the Governor, a group of professors on the campus has declared.

The professors do not claim that Governors in the past have exercised absolute political control. But they say the power is in the law, ready to be exercised by any Governor with the will to do it.

They have recommended 10 actions which, if enacted into law, would transfer legal control from official Frankfort to the board of trustees of the university.

This "declaration of independence" is by the University of Kentucky chapter of the American Association of University Professors.

It is one of the boldest steps ever taken in public higher education in Kentucky. It embodies advanced conceptions of academic and fiscal control in a State-supported university.

A subcommittee of faculty leaders spent seven months preparing the report. The 1952 Legislature will be asked to make the 10 changes which the report recommends and documents.

Dr. Howard W. Beers was chairman of the general committee making the report.

Dr. James W. Martin was chairman of the subcommittee which drafted it. Others on the subcommittee were Lyle R. Daw-

son, Leonard Meece, Don Cash Seaton, Elvis J. Stahr, E. G. Trimble and Richard L. Tuthill.

Pamphlets containing the recommendations are to be distributed after the primary August 4. The issues they present probably will be discussed widely in Kentucky politics.

Broadly speaking, the professors advocate this ultimate division of power between official Frankfort and the board of trustees:

For the State:

1. Continued financial support of the university, with the right to audit expenditures and to advise upon fiscal procedures.

2. Continued power of the Governor to appoint the board, but under drastic changes proposed in the present law.

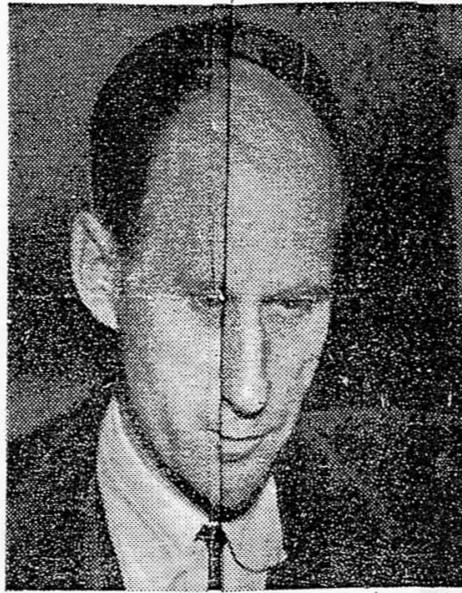
3. Continued power of the Governor to remove board members for cause, but with new provisions that charges must be written, and the member given specific rights of hearing and appeal.

For the board:

1. Unrestricted freedom to set qualifications and classify positions for faculty members.

2. Unrestricted freedom to employ, promote and retire faculty members, with the unquestioned right to set their salaries at every step of the process.

3. Unrestricted freedom to take its budget



Dr. Howard W. Beers
Heads root committee

needs directly to the General Assembly, with the right to be heard by the Appropriation Committees of House and Senate.

4. Release from law making the university a division of the State Department of Education.

5. Release from law giving the Building Commission sole power to control future capital outlay on the campus.

Finally, the professors recommended that these statutory changes be frozen into basic law by an amendment to the State Constitution.

Drastic changes in the appointment and tenure of U. K. trustees are urged by the professors

HALF of the changes proposed by the U. of K. professors deal with appointment and tenure of the board of trustees. The report advocates this kind of a board:

1. Fifteen voting members, to be composed of the Governor as chairman and 14 persons appointed by him. The terms would be for nine years, staggered to prevent the appointment of a majority during the four-year term of any Governor.

2. Two nonvoting members from the teaching staff, to be appointed by the Governor from a list nominated by the faculty. Their terms, also staggered, would be for two years.

3. Of the 14 appointed members, three would be from the Alumni Association. The other 11 would be from the public-at-large, but equitably representative of all the basic economic interests in Kentucky.

4. No member could be removed for cause except upon written charges, with the added right of a hearing, then of appeal to the courts.

The changes proposed here strike deep. There are 15 voting members of the present board, but the Governor can appoint 12 of them during his four-year term. And agriculture is predominant on the present board, with four members guaranteed from that basic economy.

Under present law, the term of board members is four years. Thus 12 terms on a 15-member board now expire within four years.

The three other terms expire every four years, too, for they are filled by elected State officials who serve on the board by virtue of office.

These are the Governor, the State superintendent of public instruction and the commissioner of agriculture.

Of his 12 appointed members, the Governor now must name three from the State Board of Agriculture. Counting the commissioner, this gives agriculture a specified membership of four.

Three members now must be appointed from the Alumni Association. This provision, the professors want to keep.

Board Term Reduced

Of his 12 appointed members, therefore, the Governor now is left with discretion in only six from the public-at-large. But no two can be from the same county, and the total of 12 must be balanced evenly between the Democratic and Republican Parties.

The 1948 Legislature reduced the terms of board members from six to four years. The legal ground was that Section 93 of the Constitution limits public officials outside the judicial branch to four years.

But the professors submit that board members are not public officers. They cite KRS 164.150, which states: "No member of the board of trustees shall be held to be a public officer by reason of his membership on the board."

Thus they conclude that nine-year terms are within the law.

The 1948 Legislature also modified the Governor's right, since 1934, to oust his appointees for reasons sufficient to him. Removed from this arbitrary power were trustees of the university and regents of the four State colleges.

Three other proposed changes are rooted to the Salary Act of the 1950 Legislature. These three points are:

1. That the university be erased as a division of the Department of Education.

2. That the board of trustees be given the right to set qualifications and classify positions for faculty members.

3. That the board be given the right to employ, promote and retire teachers, and to set salaries at all steps of the process.

But, first, what was the 1950 Salary Act? In 1949, the people amended the State Constitution to allow public salaries higher than \$5,000 a year. The 1950 Legislature, therefore, had to set by law a new scale of salaries for officials in the three branches of the State Government.

The bill was written by Robert K. Cullen,



President H. L. Donovan
His salary is frozen by law

then chief of the Statutes Revision Commission, now a commissioner of the Court Appeals. He gathered into the bill, for retirement, all the sections of isolated law relating to salaries under the old limit of \$5,000 a year.

A Startling Picture

When these old bits of law were pulled together, the picture they made startled the leaders of higher public education in Kentucky.

Dr. H. L. Donovan, president of the university, and a supporting committee from the four State colleges came in protest from Frankfort on March 8, 1950.

They obtained an audience with Earle Clements, then Governor, and his leaders in the House and Senate. The conference compressed here in fictional dialogue for illustrative purposes only:

Donovan: This salary bill makes the State colleges and university divisions in the Department of Education.

Clements: That has been the law since 1934. You have not been hurt by it.

Donovan: The salary bill gives your Division of Personnel in the Department of Finance the right to set qualifications in academic positions for faculty members.

Clements: That has been the law since 1936. We have not tried to exercise it. Instead, your board of trustees has exercised it without interference from us.

Donovan: The salary bill gives your Division of Personnel the right to fix salary ranges for the jobs they classify, including faculty positions.

Clements: That has been the law since 1936. We have not tried to exercise it. Instead, your board of trustees has exercised it without interference from us.

Donovan: The Division of Personnel is under the political control of you or any other Governor. We feel your power to veto qualifications, positions and salaries amounts to political control of academic life at our institutions.

Clements: I have exercised no political control over your academic life. And, so far as I am advised, none of my predecessors have.

Protesters Satisfied

And there the conference ended. Dr. Donovan's group stated they were satisfied it was not the intent of the bill to take from them the powers they now exercise. And Governor Clements advised his leaders to amend the bill twice, then pass it.

That was done. In these two amendments may be seen how the university fares as a division of the Department of Education.

This might seem to be a mere quirk of the law, making no great difference one way or the other. But it is of prime importance.

The 1950 Salary Act set the salary of the head of the Department of Education at \$8,500 a year. The act picked up another old law saying that a subordinate cannot draw a salary closer than \$500 a year to what the head of the department draws.

Thus Dr. Donovan, at a salary of \$12,000 a year as president of the university, faced reduction to \$8,000 a year as a division head in a department where the top was \$8,500 a year.

So the bill was amended twice. The first change froze Dr. Donovan's salary until January 1, 1952. The second allowed the university to pay him, after that date, \$4,000 a year from other sources to supplement his \$8,000 from State sources.

But the issues fanned by the 1950 Salary Act refused to lie down and keep quiet. Nine months later, the Southern Association of Colleges and Secondary Schools viewed them "with grave concern." The association declared its recognition of the university and four State colleges "is in jeopardy."

And 11 months later, the American Association of Colleges for Teacher Education confessed a "serious question of the retention on the accredited list of the colleges affected."

Freedom for U. K. to take its budget requests to the Assembly is sought

THE two remaining points raised by the U. K. professors lie against a single background here in Frankfort. They are:

1. That the university be allowed to take its budget requests directly to the General Assembly, and there to be heard by the appropriation committees.

2. That the university be freed from the Building Commission's sole control of future plant expansion on the campus.

Since the Reorganization Act of 1936, it has been the Governor's duty to recommend a budget to the General Assembly. The professors say the university is willing to continue to give the Governor all the pertinent budget data he needs from the campus. But they want, also, to give it to the General Assembly.

Rubber-Stamp Staff

Here is the situation: In theory, the Legislature is supposed to take the Governor's recommended budget as a recommendation only. But in practice, the Legislature enacts it into law without question. Seldom is so much as a dime disturbed by the legislative branch in the multimillion-dollar budget prepared by the executive branch weeks before the session opens.

In late years, therefore, it has been more or less of a time-wasting mockery for any public agency to take its requests directly to the Legislature. To be granted, these requests must be cleared through the Governor's office before the session convenes.

This point underlines less of the Governor's dictation than it does of the Legislature's willingness to be dictated to.

Governor Holds Power

The Building Commission is a creation of the 1948 Legislature, designed to centralize all State building in one authority. For example, the 1950 session gave the commission \$15,000,000 in a lump, but left to the commission's discretion how it shall be spent.

The Governor has a balance of power on the commission. Two of the five members are his own appointees, hence may be expected to vote with him on close questions. Members are the Governor, his commissioners of finance and revenue, the lieutenant governor and the attorney general.



This Could Happen to U. K. Under Existing Laws

The professors see in this setup the Governor's unquestioned power to hurt the university two ways:

First, he can use capital outlay as a weapon to bend the university to his political will. Second, he actually can penalize the university by spending its share elsewhere.

In lieu of this control by the Governor, they want capital outlay for the campus

returned to discretion of the General Assembly. And they want to plead the cause of plant expansion directly to the legislators, instead of to the Building Commission.

THE PROFESSORS tied a whipcracker to the tail end of their recommendations. But, to appreciate its sting, we first must look to the background.

Athletic control on the campus is vested

in the University of Kentucky Athletic Association. It is nonprofit, and was incorporated on November 23, 1945.

This association is wholly independent of the State. To it come cash receipts from games and donations from alumni. It is audited annually by commercial accountants. Tickets are audited annually by the United States Bureau of Internal Revenue.

Salary Law Ignored

The association hires coaches without regard for salary scales at the university, or limits imposed on public salaries by Kentucky law.

It contributes \$91,000 a year to the university, which, in turn, applies the gift to servicing bond issues on Memorial Coliseum and the football stadium.

The articles of incorporation prescribe an 11-member board. It is composed of the president of the university and 10 members appointed by him to one-year terms, as follows: Five from the teaching and administrative staff on the campus, one student, one trustee, one from the Alumni Association and two from the public-at-large.

And now the professors crack their whip: "There is one activity at the university," they report, "which is recognized throughout the state and nation as being outstandingly successful."

A Pointed Question

"This is the athletic program, centering around football and basketball.

"It so happens that the athletic program is the only major university activity operated in the general manner which these recommendations envision as the best manner for operating the university as a whole.

"We do not disapprove of athletics. On the contrary, we submit their management by a politically independent, incorporated board has worked so well as to prove our case.

"We ask only this: Should football be treated as more important to the future of Kentucky than agriculture, science, law, pharmacy, teacher training, engineering, and the liberal arts?"

"We refuse to believe that our political leaders will answer 'yes.'"