[Sept 1, 1916]

ARE TRAVELLING EXPENSES TO COUNTY APPOINTEES UNCONSTITUTIONAL?

In the Courier Journal of the 19th ult. there was printed a "Special" from Frankfort, the matter of which was, presumably supplied by President Henry S.Barker of the University of Kentucky. It recites that the privileges vested in the counties of the Commonwealth for fifty years of sending to the State University each year a certain number of students selected on competitive examination, to whom is given exemption from all fees, travelingexpenses, board and lodging for the term of years required to complete their course of study, are unconstitutional besause they violate the Bill of Rights.

In this statement fact and fiction are skillfully blended. In my brief comment I propose to state the facts regarding the law.

In 1862 the Morrill Act passed by Congress gave to each state in the Union public lands in proportion to population with which to found and endow colleges of agriculture and the mechanic arts for the education of the masses of the people in the industrial pursuits and professions of life. The allotment to Kentucky was 330,000 acres-- more than 515 square miles. This was given to the state as trustee for its people. The state in order to encourage merit and assist those who needed aid, provided in the act of 1865, which established the College, that each county should be entitled to send one properly prepared student, selected by the majority of the fiscal court each year, who should receive free tuition. The number was to be increased to three when all the land scrip had been sold.

When the A.M.College was placed on an independent basis in 1880

free tuition for county appointees formed an essential feature in the charter enacted by the Legislature.

In 1880 a tax of one half of one cent on each $100.00 was provided for the A.&.M. College by the General Assembly in order to supplement the inadequate income derived from the invested funds received from the sale of the land scrip. This occasioned great discontent in the distant counties of the state. Their representatives said,"We pay a special tax for the support of a college in Fayette County from which we derive comparatively little benefit. Free tuition is but a small return for what we pay. Geographical conditions make it virtually a Blue Grass College". The Legislature of 1893 felt and admitted the justice of this contention and in the revised charter passed that year, enacted the following: "that each county in the state in consideration of the incomes accruing to said institution under the present laws for the benefit of the Agricultural and Mechanical College be entitled to select and to send to the University each year, one or more properly prepared students as hereinafter provided for free from all charges for tuition, matriculation, room rent and , dormitory fees except board." All beneficiaries of the state who continue students for one consecutive, collegiate year or ten months, shall also be entitled to their necessary traveling expenses in going to and returning from said college. The selection of the beneficiaries shall be made by the superintendents of common schools in the respective counties upon competitive examination, on subjects prepared by the faculty of the University and transmitted to said superintendents before the first day of June of each year."

The age limit was fixed between 14 and 24 years. Preference is to be given in the selection, other things being equal, to persons who have graduated from the public schools with credit and whose means are small. It is the duty of the superintendent to make known in every school in his county, the benefits of this act, and the time and place when and where the examination will be held.

Now, note that selection and appointment with the immunities attaching thereto is a compact, a contract based on a consideration. The contracting parties are the Commonwealth, party of the first part, and the counties of the Commonwealth, individually, parties of the second part. The consideration is the incomes accruing to the state from the ½cent tax paid to the state by the counties, and paid over to the college by the state. For this consideration the counties gave their votes. For the recognition of this vested right they enacted through their representatives in the General Assembly, this statute. It is not a concession; it is a privilege and a right, on the basis of which they contracted with the Commonwealth. Abolish the rights of the counties to select and maintain county appointees, exempt from fees and entitled to traveling expenses and you abolish the ½ cent tax. They stand or fall together. The quid pro quo is made inoperative; the contract falls to the ground.

The practical working of the statute was satisfactory to all parties concerned. Traveling expenses went far towards equalizing advantages. It placed Fulton and Pike on the same footing as Fayette. It placed the College in every county in Kentucky. Fayette and Bourbon had equal privileges with Harlan and McCracken, no more. Pupils not appointees paid their tuition fees.

The operation of the statute not only cut at the root of the discontent in the remote counties, but made them loyal supporters of the University. Moreover it provided as students the best material of each county. It lifetd the appointments out of the rut of politics and religion; made them on merit only; and other things being equal, gave to deserving young men and women irrespective of social conditions, the opportunity of receiving an education. There could be no violation of the Bill of Rights when appointments were open to all-- any one within the ages of 14 and 24 can compete for the appointment. No one is excluded from the competitive contest, or included in it, by reason of politics, religion or social condition. It is open to all.

Does the Attorney General not know that his decision would empty the Military Academy at West Point and the Naval Academy at Annapolis? Their pupils are selected on competitive examination and receive tuition and maintenance from the Government . Moreover a cadet may resign the day after he graduates. If the opinion of the Attorney General proves anything, it proves too much. It annihilates the ½ cent tax and would annihilate both the Naval and Military Academy.

The legal principle of contemporaneous construction is here applicable. The immunities enjoyed by county appointees are coeval with the founding of the college fifty years ago; their legality and constitutionality have been accepted without question; the presumption is that they are constitutional.

No question, until now, has been raised as to [illegible] Legislatures have met and adjourned; inferior courts and Supreme courts have convened and sat; the Constitutional Convention has re-cast the organic law of the Commonwealth. None of these bodies, containing dozens and scores of the ablest lawyers in the state questioned it. Not a Governor from Bramlette to Stanley doubted its validity. Meanwhile it has [illegible] supplied thousands of pupils to the University. The President himself, his brother, his cousins all obtained their education through the instrumentality which he has now, with the concurrence of the Attorney General repudiated.

Until 1911 the year after President Barker's accession, the law relating to county appointees worked admirably. It removed discontent, equalized advantages, placed every county on the same footing, supplied the very best material for students, made alumni who made the reputation of the University and made this reputation through quality rather than numbers. The counties took pride in selecting and sending the best men and women; they kept their quotas as a rule, well filled. I construed the law literally, and required county superintendents to do the same.

In 1911 President Barker who had a craze for numbers, thought to exploit the system of county appointments for increasing the matriculation of the University. Without consulting the Board of Trustees, on his own initiative, he instructed the county superintendents that they might ignore the competitive examination, the cardinal feature of the law, and appoint as beneficiaries, under the act, as many as they chose to appoint. The consequence was that many constituencies appointed twice, five times and even ten times the number to which they were entitled. Under the act these illegal appointees received traveling expenses. Lodging, fuel and lights

were provided in about twenty dwelling houses rented by the University. The aggregate expenditure on bogus appointees for that year exceeded, I am told, $10,000. An expenditure wholly illegal and wholly unauthorized. But was not the limit of his sinister activity. The denominational colleges found their classes depleted. The State University took away their students in dozens, because it offered advantages which they could not supply: free tuition, lodging, traveling expenses. They complained that Judge Barkers violation of the law was emptying their class rooms. They sought and obtained the opinion of Attorney General Garnett, who interpreted the law advers to President Barkers contention. They carried their complaint to the Legislature. Judge Barker then endeavored to obtain such a modification of the law as would amount to an expost facto justification of his action. He and I argued the question before the Senate Committee of which Hon. Claude Thomas was chairman. The Commettee reported unanimously against Judge Barker's contention. The aggrieved colleges then employed counsel, Judge O'rear, to bring an injunction against the Unversity to restrain it from paying illegal appointees transportation. Judge Barker importuned Judge O'Rear to forbear action until after June 6, 1912, intimating intended compliance with the opinion of the Attorney General. After June 6th, Judge Barker proclaimed free tuition to all. Illegal appointees were still made and accepted, involving the illegal expenditure of thousands of dollars annually by the Unversity.

At meeting of the Board of Trustees, May 30th, 1916 a resolution was moved and carried " that the sedretary of the board notify all county superindendents that no traveling expenses would

henceforward be paid county appointees unless such appointments were made in exact conformity with the requirements of the statute. This last move by Judge Barker is his reply to the Resolution of the Board.

An important mis-statement of the facts is made by the correspondent of the Courier Journal. He states that free board is given to county appointees. That is not true. No appointee has ever received free board from the University. Free board is specially excepted in the statute.

Why then should the emoluments attaching to a county appointment be abolished? The law discriminates against no one. Competition is free to all. The system of selection is identical with that of the Military Academy and the Naval Academy of the United States.

It may be observed in passing that military training is a part of the education of all students of the University, and is required by the Federal Government under the organic act of 1862.

It has contemporaneous construction for a period of fifty years to support its validity. It is eminently just to the outlying counties, inasmuch as it tends to reduce the inequality between the counties of Central Kentucky and the distant counties of the Commonwealth. It supplied the best material to the University of any state in the Union. Until my resignation, not more than half of one percent of its alumni were failures-- the best record of any college in America. Why this incessant mania for meddling?

For this ill-timed action, President Barker is alone responsible.

He has no mandate from the Board. I have been compelled in this brief statement to omit many things which are germane to a compact argument. In all likelihood the question will come into the courts, and then full latitude for discussion will be possible. It may be added that though the statute exempts county appointees from all fees, the President has assessed them during the last two years, from $10 to $25 each year, over their collective and energetic protest.

A wise and liberal policy is required by the university; a policy of conciliation.

The validity of the statute has been conceded for fifty years. General Assemblies of the Commonwealth have enacted laws in conformity with its spirit, and Governors have given their assent. Copetition without discrimination has been open to all.

The immunities to which appointees are entitled are based upon a consideration-- the ₵ent tax. Abolish the immunities, the consideration disappears and the tax falls with it.

Thirty four years ago when the existence of the tax was imperriled and the life of the University hung in the balance single handed, I maintained its validity and its necessity. I hoped to see the University, at least during my brief life time, enjoy the beneficent fruits of the legislation on which it rests but if another contest is precipitated, I am ready to stand for it against all assailants. "Let us have peace."

James K Patterson

Lexington Ky,
Sept. 1 1906

[1916]

Gentlemen of the Executive Committee:

After thanking you for the privilege of addressing you upon the subject under consideration, I desire respectfully to present, in no factious spirit, the objections which, as a member of the Board, I have to the proposed consolidation of the Mechanical and Civil Engineering courses of study.

1. Each is now a self-contained course of study, doing good work under their respective organizations.

2. Each has homogeneous and compact faculties.

3. Each will do better work, if stimulated by a generous emulation.

4. The inevitable tendency will be, if the consolidation takes place, to build up and develop Mechanical Engineering at the expense of Civil Engineering. Matriculates in the former will increase relatively, while in the latter they will relatively decrease in numbers.

5. The Civil Engineering students are proud of the records made by the Alumni of the Civil Engineering College. This developes a wholesome and praiseworthy college spirit.

6. The Civil Engineering College, with its new building and equipment, is prepared to do better work now than ever before.

7. The consolidation would not and could not add to the efficiency of instruction. Rather the contrary would be the result.

8. The consolidation would not diminish the expenses of administration and instruction.

9. The faculty of the Civil Engineering College deprecate and deplore the proposed consolidation.

10. The students of the Engineering College feel deep regret that consolidation is under consideration by the Committee.

The proposed action is in direct contravention of the attitude and policy of the head of the Mechanical Engineering course of study, when Civil Engineering and Mechanical Engineering were operated under one management many years ago.

I suggest that the proper method of procedure would be that the Board of Trustees appoint a committee of its own members, with instructions to visit the Mechanical and Civil Engineering Colleges, take testimony, collect statistics and report to the Board whether efficiency and economy would be promoted by consolidation. No man is qualified to act as juror or judge in his own cause.

[1909]

The University opened with a good matriculation. The action of the last General Assembly in cutting off the Normal Department reduced the numbers materially below what would otherwise have been the enrollment. Notwithstanding the increased allotment given by the measure which changed the name of the institution from College to University, to the counties for free tuition and travelling expenses, the matriculation in the University classes fell below that of the preceding year. There was, however, an increase of 44 per cent in the Academy. This was due in some measure to the raising of the standard of admission for the University and the consequent lengthening of the course of study in the Academy from two years to three.

The relative numbers in the University classes for 1907-8 and 1908-9 thus far are as follows:-

	1907-8	1908-9
Post-graduate	29	12
Scientific	37	48
Classical	78	75
Civil Engineering	93	85
Mechanical Engineering	187	169
Mining Engineering	18	20
Education	19	28
Agriculture	18	19
Special Students	4	9
2-year Agriculture	13	19
2-year Mining		2
Rural Engineering		11
Law		~~80~~ 16
Academy	115	165
Seniors	87	73
Juniors	86	97
Sophomores	133	99
Freshmen	142	156
Total Enrollment to January 1, 1908		665
Total Enrollment to December 1, 1908		685

to State University classes adopted by the Association of State Universities, of which the State University is a member, during their late session in Washington, will require one more year in the Academy, with a corresponding addition to the instructional staff of the Academy. First class universities are insisting strongly upon more advanced preparation for University classes and the

total elimination of all condition for entrance upon Freshman work. Moreover, they adopted two years of University work, viz., the Freshman and Sophomore years, as the minimum requirement for Law and Engineering. We must meet these requirements or be content to be eliminated from the rank of a first-class University with all the discredit and disability which this implies. The standards adopted by the Universities and by the Carnegie Foundation for the Advancement of Teaching insist upon high grades for admission and honest work in University classes.

The disappearance of W. E. Smith on the 22nd of September, scarcely two weeks after the University opened its fall term, was a source of great perplexity and distress to the University. Every effort to trace him proved futile. It was clearly established by the investigations of the Faculty and of the Grand Jury of Fayette County that he was not seen on the University grounds nor in their neighborhood after leaving his boarding-house on the Versailles turnpike. Various rumors, some of them most improbable and most atrocious, were invented and circulated by the correspondents of the newspapers and published by many of the newspapers. It was not obscurely hinted that the students of the University had murdered him, and that the Faculty were more interested in shielding the students than in discovering Smith, dead or alive. Much sinister notoriety was given the institution on account of his disappearance and by the mischievous rumors to which his disappearance gave rise. Liberal rewards were offered for his discovery, but without avail. Local detectives and detectives from outside the Commonwealth were employed, byt no clew has yet been found and no trace of him, so far as we know, exists. It is gratifying to know, however, that the Grand Jury exonerated the University authorities from all responsibility for his disappearance.

Much injury has, however, been done to the reputation of the University by irresponsible and disaffected persons who eagerly seized the opportunity to disparage and calumniate the institution.

Scarcely one week after the disappearance of W. E. Smith, the faculty and students of the institution wwre surprised and grieve d to learn of the death of Prof. John H. Neville. It is scarcely possible to estimate the loss which the institution sustained thereby. A man of eminent ability, rich and ripe scholarship, thoroughly imbued with the spirit of classical culture and inspired by a genuine enthusiasm for the instruction of youth, he was not only a great scholar, but a great teacher. I have nevern known personally a man whose knowledge of the classics was more intimate than his. In addition to his classical scholarship, he was well versed in French and in German. Although possessed of a great mastery of English, he wrote and published little. This was probably due to his extreme fastidiousness of style, in which he might well be called a purist. His range of knowledge embraced a wide field of English literature of the best and noblest type. He was quite familiar with the great masters of English prose who illuminated the reign of Elizabeth, the reign of Anne and the reign of Victoria, three epochs, singularly enough, identified with the reigns of female sovereigns who made Britain illustrious in arts, in acience and in arms. Inspired by a genuine and lofty patriotism, he loved his country and he loved the men who made it great. His patriotism was large, too large to be confined within the bounds of party or partisan limitations, and though he held strong views upon past and current political principles, he was always courteous in their expression, liberal in their application and readily accorded to those who differed with him the right of every American citizen to think and act for himself. His influence upon his associate members of the faculty and upon the student body was great and always made for the best interests of the institution. Admired and respected by all, he leaves behind him the memory of a great, a good and a just man, a memory blessed evermore.

After his death, I made provisional arrangement s for

carrying on his classes. These arrangements I reported to the Executive Committee at their first meeting, and inasmuch as they involve no expense whatever to the institution and were deemed both efficient and economic, the committee recommended their continuance until the meeting of the Board of Trustees. It remains with you, gentlemen, to determine whether this provisional arrangement shall continue until the close of the present University year, or whether some competent person shall be employed to carry on the work until the next meeting of the Board of Trustees, when without doubt the Committee on Vacancies will be prepared to recommend the employment of a suitable person to do the subordinate work of the Department. In this, you will observe that I assume that Prof. Neville's First Assistant, Prof. Theodore Tolman Jones, who for years has had virtually the conduct and management of the Department of Classical instruction, who has organized its classes and supervised their work, and who is, moreover, in my estimation, the best classical scholar of his age in Kentucky, will naturally be in the line of succession for the headship of the Department. Prof. Jones is a graduate of our own institution, has taught in it for years and is, moreover, a Master of Arts of Harvard University. No man stands higher in the estimation of faculty and students than he, and him I shall recommend to the Committee on Vacancies as the natural and legitimate successor to his lamented chief.

Major General James Franklin Bell, Chief of Staff of the U. S. Army, addressed the Association of American Agricultural Colleges and Experiment Stations on the 20th of November, during their meeting in Washington. His subject was the relation of military instruction in the land grant colleges to the military strength of the Nation. He holds very strongly to the opinion that military instruction is equally obligatory with instruction in those branches of learning related to Agriculture and the Mechanic Arts, by Section 4 of the Act of Congress approved in 1862, that the War Department was ill-advised in yielding to the importunity of the Colleges the present minimum required and that it is impossible to impart any military instruction of value within the alloted time, viz., three days in the week for two years in the College or University. The several States in the Union must look to the State Colleges and Universities for trained men able to provide organization, instruction and discipline for their respective bodies of militia, and this can be done only through the military instruction provided for in the Land Grant Colleges under the Act of 1862.

I respectfully commend the whole subject of military training to this Board. We must take the necessary steps to make it attractive, thorough and effective, for the purpose for which it was designed. This I am satisfied we can by wise legislation accomplish without the intervention of the General Assembly. It would be a grave reflection upon the conduct of the affairs of the University that the Legislature should by a mandate require us to do what the organic Law of the Congress of the United States makes it our duty to do.

While in New York, I had a conference with Dr. Pritchett, the President of the Carnegie Foundation for the Advancement of T Teaching. This munificent provision made by Mr. Carnegie for retiring allowances to superannuated professors is not, he explained, to be construed as a charity, but as a well earned and merited right. It is in the nature of an endowment to the instititions which become eligible as beneficiaries of the Foundation. The Foundation, however, retains the power to determine the amount of the retiring allowance and the conditions under which it is made. The beneficiary then receives it as a right and not as a gift. A faithful Professor can thus enjoy, while yet on the educational staff of his institution, the salary earned, with the conviction that a liberal proportion of his salary will be continued after his retirement, with provision for his widow, should she survive him.

The College or University, to be eligible to membership, must

1st. Conform to the standard of admission required for College or University classes, viz., a certain number of units.

2nd. The standard of graduation must come up to the required level.

3rd. There must be a total and complete elimination of clap-trap and pretense, i.e., the work done must be honest, thorough and effective. There must be no publication on paper which is not realized on the class rooms and laboratories.

All this, it is manifest, must make for good in stimulating a desire for high standards and honest work. Hence the title "The Foundation for the Advancement of Teaching."

To this end, it wishes good High Schools established as feeders and until this be accomplished, first-class academies or preparatory departments, in connection with the Universities, to provide the necessary units for admission into College and University classes. This will, I think, require another year to be added

to our Academy.

In order to get on the "Foundation for the Advancement of Teaching", application must be made by the Board of Trustees to the Chairman of the Carnegie Foundation.

2. This application must be endorsed by the Governor of the State.

3. It must also receive the endorsement of the General Assembly in a joint resolution passed by that body.

It will be within the recollection of the members of the Board that I dwelt at some length in the report which I had the honor to submit in June of the present year upon the unsatisfactory condition of the finances of the institution. I showed that the budget, if adopted as submitted, would involve an expenditure considerably beyond the visible income of the institution, leaving a deficit at the close of the fiscal year 1908-9. On the basis of this, I made a plea for economic expenditure and deprecated the assumption of any additional burdens. I argued that the time was not opportune for the establishment of any professional courses of study, such as Law and Medicine, and that sound policy and sound finance, both alike, required that we should strengthen the existing departments of the University before making provision for the establishment of adventitious annexes which are not now in these modern days essential elements of University life. I argued, furthermore, that no additional burdens should be undertaken, unless their absolute necessity was made quite apparent.

It was not then anticipated that any constitutional question would arise likely to interfere with the income due from the State and tying up for a time the appropriations made by the General Assembly for the support and maintenance of the University. Before the session opened, it became quite apparent that the Auditor would pay over no funds, either those for general income or special appropriations for buildings, until the question of constitutionality which it raised had been passed upon by the appellate court. The constitutional question was argued in the Franklin Circuit Court and a decision favorable to the University rendered. The case has been argued and submitted in the Cou rt of Appeals and we are now anxiously awaiting their decision. Should the favorable decision which we anticipate be made, while assuring ultimate relief, it will avail little to provide the relief needed just at present. We have a building under contract and in process of construction, which when finished will cost us, besides the equipment,

fully $50,000. This building was undertaken in good faith, before there was any question involving the constitutionality of the appropriation. We are moreover paying inter est upon an indebtedness of about $100,000., incurred for the erection of buildings more than a year ago. It is now gravely hinted through the public press that in the event that a favorable decision be rendered by the Court of Appeals, involving the expenditure within two years of about $640,000. o r $650,000., that the treasury will be entirely unequal,to me et these demands and that either the appropriations due must remain unpaid until after the meeting of the ne xt General Assembly, or there must be a called session of the Legislature to provide additional revenue. All this means for the University inevitable delay and embarrassment.

The unsatisfactory relations existing between the administrative departments of the University, growing out of the ill-defined character of the initiative and authority of the President of the institution, the Comptroller and the Business Agent, require the careful consideration of the Board.

I respectfully suggest that you consider

(1). Whether the Office of Comptroller, created by the Board at its late session be not a superfluous one, involving expenditure with no adequate return, and

(2). Whether, if continued, it should not be enti rely separated and disjoined from a professorship in the University.

It is scarcely open to doubt that the duties of the Dean of any course of study are wholly incongruous with those of the office of Comptroller. They are wholly distinct and involve no necessary relationship, but in the discharge of the duties of Comptroller, opportunities for the exercise of an influence wholly incompatible with his obligations as a member of the ~~family~~ faculty are afforded and the temptation is too strong to resist using them. I may add that the University has not yet reached the point where its

wealth or its dignity require either the creation or the maintenance of supernumeraries and sinecures. Even in wealthy corporations, these are regarded as excrescences and are indicative of disease rather than of a normal condition.

Although the anticipations with which we began our first University year were somewhat disappointed by the disappearance of Smith, the death of Professor Neville, the legal complications in which the University has become involved, we have reason to congratulate ourselves upon the encouraging outlook, notwithstanding the disappointments which seemed inevitable at the outset. We have reason to believe that these misfortunes and obstacles cannot materially retard the progress of a great institution, whose momentum, gathering force during the last thirty years, is not to be arrested by the intervention of temporary obstacles, if we lay it down as a fundamental fact that we must live within our income, that we must not embark upon a policy of speculation and adventure, that while looking upward, we must still continue to retain a firm hold upon terra firma, remembering that so long as Antaeus retained his connection with mother earth, even Hercules was powerless to overcome him.

Again thanking you for your continued confidence and commending the institution to your patriotic oversight, I am

With much respect,

Your obedient servant,

Address No 2 [1907]

The Attorne y General, whose official utterances I read with pleasure, because of their purity of language and elegance of composition, holds, or seems to hold, that the change of name from "College" to "University" affects seriously, if it does not destroy, the validity of appropriations made to the University. He allows the constitutionality of appropriations made to the College, during the former period of its existence, but holds that the College, as a corporation, is dead, in consequence of the change of name and that appropriations made for the University, which takes its place, may not claim the constitutionality and sanction conceded to those made for the Agricultural & Mechanical Colle ge. I shall attempt to show that the University idea existed implicitly, if not explicitly, in the original act of Congress making provision for the establishment of the land grant colleges,

of which the Agricultural & Mechanical College of Kentucky was one; that the Agricultural & Mechanical College still exists in the University; that the continuity of the institution is unbroken and its identity unimpaired. I shall further attempt to show that the inhibition contained in articles 49 and 50 of the constitution does not apply to the appropriations made to the University by the last General Assembly; that the appropriation did not involve or imply a loan, and hence does not come within the scope of the inhibition expressed in articles 49 and 50 aforesaid.

What is known as the Morrill Act, approved July 2nd, 1862, made an appropriation of public lands to each state in the Union, in proportion to representation in Congress, the interest accruing from the proceeds of the sales of which should be appropriated by each state which might take and claim the benefit of the Act, for the endowment, support and maintenance of at least one

college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to Agriculture and the Mechanic Arts, in such manner as the Legislatures of the states may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life. The language quoted above allows the widest latitude of interpretation. Certain subjects must be included in the course of instruction provided under the Act, namely, those branche s of learning related to Agriculture and the Mechanic Arts, and military tactics. These are obligatory. Other scientific and classical studie s may be included, ad libitum.

Indefinite provisi on is thus made for expansion. The institutions thus founded may provide instruction in Agriculture and the Mechanic Arts and military tactics alone. They may go no far-

ther. They may include within an ampler range and a wider scope any other science, any other subject which may be taught, or is thought desirable to be taught. The institutions founded may remain colleges only. They may expand into universities of the largest proportions.

That the Legislature of Kentucky understood the trust in this sense is evident from Section 3 of an Act approved March 13, 1878. In order to understand the significance of this section it may be observed in passing that the Agricultural and Mechanical College, when established in 1865, was made one of the Colleges of Kentucky University, the State reserving the right to dissolve the relationship at any time. In 1878 the commission appointed by the Legislature of that year, with instructions to report upon the advisability of maintaining the connection with Kentucky University, unanimously reported in favor of a severance. A commission

was then appointed to secure a location for the Agricultural and Mechanical College. Section 3 forms a part of the Act aforesaid and contains definite and precise instructions in regard to the nature of the institution to be re-established and placed upon an independent basis. The language is as follows:

"Said commission shall ascertain the number of departments of study necessary for the effective operation of a first-class State University, such as the geographical condition of the Commonwealth, her agricultural and mineral resources, her influence and dignity require to be constituted for the education of her sons, the plan of organization, salaries of professors and instructors, plan, cost and equipment of college buildings, e xperimental farm, Mechanical department, horticultural department, laboratories, museums, and cabinets, and to report the same to the next General Assembly."

It will thus he seen that in 1878, fifteen years after the trust was accepted, the Legislature of that day had in mind the development of the original Agricultural and Mechanical College contemplated in the Act of 1862. The Agricultural and Mechanical College, pure and simple, did not meet the education wants of the

Commonwealth. An institution of University proportions and prepared to do University work was required. In 1880, when the institution was placed upon an independent footing and established in Lexington, the half-cent tax voted for its maintenance yielded an insufficient income upon which to establish a University. From that time on until 1890, the constitutionality of the tax was in doubt and not until the institution obtained formal recognition in Article 184 of the new constitution, was its maintenance by state aid placed beyond question.

Section 2 of the Act of 1880 gives to the Board of Trustees of the reorganized College the utmost latitude in regard to the scope and compass of the work for which they may provide. "Said Trustees shall have power to determine from time to time the number of departments of study or investigation which the College shall comprise, with the scope of the organic act of Congress or acts supplementary thereto donating land scrip for the endowment of

Agricultural and Mechanical Colleges; the relation which each department or group of departments shall sustain to each other and to the whole; to devise, allot and arrange the distribution of departments or groups of departments with the designation appropriate to each and to devise the means required for their effective instruction, administration and government."

Under this authority, the authorities of the College have provided those subjects related to Agriculture and the Mechanic Arts. They have expanded these far beyond the original requirements of the Morrill Act. They have added Classical and other Scientific studies. They have provided for investigation as well as instruction. They have grouped the departments established into courses of study under Deans and sub-faculties, with the designation appropriate to each. All the machinery of University work has been in operation for years and all this through a natural

process of growth, development and expansion. These institutions must grow, if they are to keep pace with the progress of the age and the requirements of society. An institution which taught today the science, the literature and the art which formed the body of the recognized knowledge and instruction of half a century ago, and taught nothing more, would be an anachronism, and the institution which shall confine its instruction fifty years hence to the body of recognized knowledge of today will be equally an anachronism then. You are not in your legislation and judicial construction devising means for embalming a corpse, but for maintaining the life and vigor and growth of a healthy and symmetrical organism. Educational institutions are like states. They grow, and when they cease to grow, they decline and perish. This is the fundamental conception of American Colleges and Universities. The common schools grow, or should grow, academies and high schools grow, colleges and universities grow, and the college and the university as they

grow and lift themselves to a higher plane, lift common schools, academies and high schools each to a higher level. The kind and character of the college and university determine the kind and character of all subsidiary and preparatory work.

The character of the University forms the index of the intelligence and moral elevation of a people. What made Scotland, with her rigorous climate and large extent of barren soil, the most intelligent and most progressive of her contemporaries? The answer is, her universities - Glasgow, St. Andrew's, Aberdeen and Edinburgh. These lifted her parochial schools and grammar schools to a higher level, during the 17th and 18th centuries, than obtained in England, France or Germany, and lifted the masses of her people far above the corresponding strata in any other part of Europe. What has made Virginia famous for one hundred years? The famous

University founded by Jefferson. What made barren New England such a power in this nation and enabled her to wield an influence for 150 years out of all proportion to area or population? I answer, Yale and Harvard.

These celebrated institutions in America have all grown. From small beginnings many of them have attained collossal proportions. The land grant colleges established under the Act of 1862 are now contesting their hitherto undisputed supremacy. They are now instead of following, forging to the front and setting the pace for higher education in America and in the world. They are surpassing them in income, outstripping them in numbers and excelling them in the excellence of their work. Think of Cornell, with an income representing at 5% a capitalized endowment of $39,000,000. the Universities of Illinois, Wisconsin and California, with incomes representing endowments of $21000,000., the Universities of Michigan and Minnesota with incomes representing $16,000,000.,

and Ohio, Missouri, Nebraska, Iowa, incomes representing endowments of $10,000,000. to $12,000,000. Twenty years ago these were relatively small institutions, doing under one name or another collegiate work only. Now they are full fledged universities, adding to collegiate work, work in original investigation and research.

If there be any law more firmly established in human consciousness than another, it is the law of continuity and the law of identity. This old earth that we inhabit has during millions of years undergone many changes. We might say that in a certain sense it has grown and developed, at any rate it has undergone transformations which have fitted it for the abode of animal and vegetable life, and for continually developing higher forms of life. But who will say that the continuity of its existence has been broken or its identity destroyed? It is the same earth which formed one of the planetary spheres at the dawn of creation when

"the morning stars sang together and all the sons of God shouted for joy." Its continuity will be maintained and its identity remain until destruction ensues and it is dissipated into the original star dust from which it was formed.

Continuity is broken and identity destroyed only through dissolution. So with an institution of learning. Like the plant, the tree, the animal, it is the subject of transformation and growth and expansion, but the continuity of its life remains, its identity is unimpaired. "First the seed, then the blade, the n the ear, then the full corn in the ear." The child becomes a boy, a lad, a man, a middle-aged man, an old man. Is the continuity of his life broken or his identity destroyed? When the girl becomes the maiden and the maiden the wife, changing her name in marriage, is the continuity of life broken or identity destroyed? Most married ladies nowadays at least would vehemently resist the assumption that marriage and change of name involves absorption and dissolution.

Sec. 4 of the Act of the last General Assembly changing the name from Agricultural and Mechanical College to that of State Unive rsity makes distinct provision for the continuance of an Agricultural Colle ge and of a College of Mechanic Arts as integral parts of the University. This is a feature common to all Universities organized under the Land Grant of 1862. They retain distinctive Colleges for Agriculture and the Mechanic Arts as integral parts of the University organization, coordinate in dignity and importance with other courses of instruction. Indeed in very many of the Land Grant Universities, they are the most notable features of University instruction. For example, Illinois, Cornell, Wisconsin, Ohio, Indiana, Missouri, Nebraska, California, Minnesota, Tennessee and West Virginia.

In the opinion addressed to the Auditor of Public Accounts the Attorney General expressed the opinion that the Agricultural College is dead. I have shown that there is a College of Agriculture and a College of Mechanic Arts. These form the nucleus of the University. The former has enlarged its sphere of operations, including much more than was comprised in the Act of 1862, agricultural and organic chemistry, origin of soils, chemical analysis of soils, soil physics, variation and improvement of plants, principles of stock breeding and stock feeding, Dairying, Entomology, analysis of fertilizers, administration of Pure Food Law. It has since 1887 incorporated the Experiment Station as one of its Departments and employs for this purpose alone a staff of more than a score of men and women. In the face of these facts and these activities, reaching out all over the Commonwealth, is the Agricultural College dead?

The primitive conception of Mechanic Arts has developed into Mechanical Engineering, Civil Engineering, Electrical Engineering, Rural Engineering and Civil Engineering. It no longer confines itself to blacksmithing and carpentry. It does not discard these, but upon Mathematics, Chemistry and Physics it builds the professional and industrial activities which form the most important factors in modern material progress. It has educated dozens and scores of men who build your railroads, span your rivers, open your mines, supply your cities with reservoirs and traction lines and lighting plants. It supplies men who devise and build your machinery, reach out in investigation and discovery, adding increment by increment to the mass of knowledge and material wealth of the State and of the nation. Are these evidences of death? Visit the University today. You will find the Agricultural College in new and enlarged quarters, with increased matriculation and increased facilities for work. Visit the various departments of Engineer-

ings in process of construction and plans under consideration for the enlargement of old ones. Enlarged equipment in physics, chemistry and engineering machinery. You will find increased matriculation pressing into these departments for technical and practical training. Are these evidences of death? Movement, activity, energy, these are not the characteristics of death but of life, intense, intelligent and triumphant, a life growing, expanding, reaching out to new conquests over matter and space and time. Dry up the springs of vitality, by withholding the sustinence which is the condition of life, and death ensues. This you may do and dissolution will follow. But this happily has not yet come to pass, and I am fain to believe that under your construction and interpretation of the statute, it never will. The Agricultural College and the College of Mechanic Arts live in the University a life vigorous, full and intense and long may they live for the glory of Kentucky and the good of her sons.

A modern state, a city, a railway corporation, a banking establishment, a municipal creation, does not lose its identity or break the continuity of its existence by the adoption of a new constitution, a change of charter or by the amendment of their article s of incorporation. All the obligations and rights attaching to the antecedent status remain unimpaired. The colonies became the United States. Charters gave place to constitutions. The Articles of Confederation under which they won their freedom gave place in 1787 to the present constitution. Did the States or the Nation lose their identity or was any break made in the continuity of their existence by these political transformations?

The County of Fincastle became the District of Kentucky, the District of Kentucky the State of Kentucky, and now all legislation, all executive action and all judicial processes run in the name of the Commonwealth of Kentucky. Is there any break in con-

tinuity or any loss of identity here? In 1824 the State of Indiana founded and endowed an institution for higher learning which it named the Indiana Seminary. It grew rapidly and in 1837 its name was changed to the Indiana College. Its continued growth warranted a still further change of name and in 1838 the Legislature changed its style and title to the Indiana State University. So I might illustrate from Harvard, Yale, Princeton, Columbia College, all these within the last forty years have changed their names from College to University. The present University of Illinois, after its establishment, changed its name to its present title. But the proposition is so plain and the argument so incontrovertible that it seems useless to pursue it further.

It seems to me that Sections 49 and 50 of the constitution are wholly inapplicable to the law making appropriations for the State University and the Normal Schools. The appropriations made

for them were believed to be quite within the Revenues. A Committee consisting of the promoters of the measure, with statistics compiled by the Auditor of Public Accounts, and the Auditor himself, waited upon his Excellency the Governor, to assure him that the appropriations were within the revenue. My information is that Auditor James told the Governor that he could take care of them. Had the belief existed that the appropriations exceeded the revenue and that these payments must be met by a loan at a stipulated rate of interest, in bonds maturing at a date set forth in the loan, and that the proposed loan exceeded $500,000., and if the General Assembly had passed an act authorizing a loan of more than $500,000., in order to meet the obligation, then the constitutionality of the loan would depend on an affirmative vote of the people. But none

not payable in a lump sum, but by installments extending over three fiscal years, a loan to provide the money was never suggested, and it is quite certain that no steps will ever be taken in that direction, either by the present General Assembly or by its successor.

It is a fundamental principle in all civilized communities that the obligations of contract entered into in good faith shall be unimpaire d. The State of Kentucky in accepting the fund provided by Congress in 1862 accepted it in good faith with all the obligations expressed and implied in accepting the trust. The Commonwealth has established the institution required. The General Assembly of 1880, with the knowledge that the large land grant had been practically wasted, imposed a tax the proceeds of which is applied for its maintenance. Since then the Federal Government has made additional gifts and the Commonwealth additional appro-

priations. Will the State now break faith with the Federal Government and with its own people by repudiating through its highest judicial authority its implied collateral and reciprocal obligations on the flimsiest of all possible pretexts, the change of name and the fiction of a loan? The State University has now under contract and under process of construction a building for Physics and Civil Engineering, on the basis and on the faith of the appropriations made to it for buildings. Must we be compelled, through failure of the State to meet its obligation, to the University, to repudiate the obligations undertaken in good faith and bring the work to a standstill? We have expanded our courses of study and added a new one, that of Law. We have enlarged our instructional force on the faith of increased revenue. Must we contract our sphere of operations, discharge our recently employed professors, with a threatened suspension at the end of the year, in order to discharge our liabilities? If you thus deal with our appropriations, what

or by preceding General Assemblies
of any appropriations made by the last General Assembly/for the Colored Normal School, the Institution for the Education of the Blind and the Institution for the Education of the Deaf and Dumb. If Articles 49 and 50 of the Constitution militate against appropriations for us, equally so do they against appropriations made for them, and not only for them but for all other purposes? The alleged inhibition is far reaching. It does not stop with us. All appropriations made contribute to swell the aggregate of which we are only a part.

The Institution which was the State College and is now the State University has been the subject of discussion and contest in the General Assembly, in the Constitutional Convention and in the Courts. It has been traversed at every step, halted and made to show its passports at every turn. Heretofore it has

emerged successful from every contest. I sincerely hope that the cause of progress which it represents and its good fortune will carry it through this crisis also. It has had the good will of the Legislature, the judiciary has by the wisdom and rectitude of its deliverances upheld and sustained the action of the General Assembly, and the Executive has given it an enlightened and sympathetic support. The College and the University have not disappointed the public expectation. Its Alumni are found everywhere loyal, capable and well equipped, confident in the assurance of educated talent and worth, and having nothing to learn from the best representatives of the best schools in America. They take prizes out of all proportion to their numbers and acquit themselves to the full measure of the most exacting requirements. They are making a name for Kentucky of which Kentucky will be proud. Let the good work go on. Give us the conditions for success and

women who issue from the halls of the University as from the College, maintain the reputation of the Commonwealth in the arts of War and in the arts of Peace. We are now in a certain sense at the parting of the ways. A favorable opinion from this Court will give the University an impulse forward which will be felt for years, an adverse opinion, a check which may require years to overcome. Progress is not always in a right line, sometimes in a curve, but it still remains a moral as well as a mathematical truth that a straight line is the shortest distance between two points and that time is saved and energy conserved by following the straight line, rather than the curve.

To the Executive Committee:

The following resolution was passed by the Board of Trustees at their meeting in June, 1907.

"Upon motion, duly seconded and carried, the following report was adopted.

> The undersigned Committee on readjustment of salaries reports and recommends that the President be paid $5000.00 per year, and that Professor Scovell, Director of the Experiment Station, be paid $4200.00 per year, and that each be charged, and that each pay, for all perquisities received by them from the College, including house rent; and that the Chairman of the Executive Committee be appointed in consultation with President Patterson and Professor Scovell to fix the value of said perquisites."

As instructed in the resolution, I called in President Patterson and Professor Scovell to consult with them as to the value of their perquisites. At the first meeting, no definite conclusions were reached, but subsequently, at the request of Professor Scovell, I fixed the value of his perquisites as follows:

He is to pay for house rent $300.00. Also, he is to pay for the butter, milk and cream which he receives from the dairy, for gas and electricity for his residence, and $15.00 per month of the wages of a man who is being used jointly by him and the Station for taking care of horses, driving for visitors, work on the farm and for Professor Scovell's own use. I requested him, however, not to make a payment for this until I had come to an agreement with President Patterson also. Subsequently, Professor Scovell asked me to release him and requested me to allow him to pay for same, and he has paid, so he informs me, for his perquisites for the year July 1, 1907 to July 1, 1908, as follows;

For house rent	$300.00	
" butter, milk and cream	106.52	
" gas and electricity	105.11	
" Murphy Davis. wages	159.37	
		$671.00

As it was the evident intention of the Board, by increasing Professor Scovell's salary $600.00 to have the perquisites covered by that amount, I endeavored to fix their value as nearly that sum as possible.

Respectfully submitted.

D. F. Frazee.

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Respectfully submitted,

D. F. Frazee.

Upon motion duly seconded and carried, the action of Mr. Frazee in the above matter was approved and a discussion arose as to the amount of perquisites should be paid for by the President for the same period. Whereupon, upon motion of Mr. Clay, seconded by Mr. Nichols, it was moved the amount of the President's perquisites be placed as follows:

House rent	$200.00	
Pasture rent	30.00	
Electricity	36.00	
Water	9.00	
Wood-received from Campus	5.00	$280.00

and this amount shall be paid for year beginning July 1, 1907 and ending July 1, 1908, in settlement of perquisites received during that time, and that hereafter perquisites received by President Patterson and Professor Scovell shall be settled for each month.

Said motion was unanimously carried.

47-M-64

At this point, Mr. Carpenter, as Chairman, presented the Report of the Committee on Readjustment of Salaries, which is as follows:

The undersigned Committee on readjustment of Salaries reports and recommends that the President be paid $5,000. per year, and that Prof. Scovell, Director of the Experiment Station, be paid $4,200. per year, and that each be charged, and that each pay for all perquisites received by them from the College, including house-rent; and that the Chairman of the Executive Committee be appointed in consultation with President Patterson and Prof. Scovell, to fix the value of said perquisites.

Signed

T. Carpenter
C. M. Clay
C. B. Nichols

47-M-64

Committee Report on Salaries & Perquisites

June, 1907

To the Executive Committee:

The following resolution was passed by the Board of Trustees at their meeting in June, 1907.

"Upon motion, duly second and carried, the following report was adopted.

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Respectfully submitted,

D. F. Frazee.

Upon motion duly seconded and carried, the action of Mr. Frazee in the above matter was approved and a discussion arose as to the amount of perquisites should be paid for by the President for the same period. Whereupon, upon motion of Mr. Clay, seconded by Mr. Nichols, it was moved the amount of the President's perquisites be placed as follows:

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and this amount shall be paid for year beginning July 1, 1907 and ending July 1, 1908, in settlement of perquisites received during that time, and that hereafter perquisites received by President Patterson and Professor Scovell shall be settled for each month.

Said motion was unanimously carried.

[March, 1908]

The State College of Kentucky, which is about to be transformed by the General Assembly now sitting at Frankfort into a State University, is now in the twenty-ninth year of its independent existence. During that period it has grown from comparatively small beginnings to its present enlarged proportions. Twenty-nine years ago its matriculation was comparatively small, its faculty consisted of seven or eight members; the catalogue of the present year will contain the names of over eleven hundred matriculates, a large proportion of whom are doing collegiate work. Twenty-nine years ago the preparatory students out-numbered those in the college proper four or five to one; now the numbers are exactly reversed. For many years it has been doing work of a high character in science, pure and applied, in classics, in pedagogy, and in engineering. The graduating class of 1880 contained four only; that of 1907 contained 72 who obtained the bachelor's degree and 11 who obtained the master's degree. The class of this year numbers for both degrees nearly one hundred.

The aim of the College from the beginning has been to do work of a high character, and to bring it up to the level of the best colleges and universities founded, as it is, under the Act of Congress of 1862. As a result of this, its graduates have uniformly taken high rank and among all its Alumni, numbering nearly 650, there has been less than one percent of failures. Of the three appointees to the University of Oxford from Kentucky under the will of Mr. Cecil Rhodes, two have gone from the State College. Some have distinguished themselves as teachers and occupied positions of prominence in some of the first colleges and universities of the nation; some are scientists, occupying positions of responsibility and receiving high compensation for their services; others are civil, mechanical, electrical and mining engineers, whose annual compensation runs away up into the thousands. A State College Club exists in New York, with a membership of eighty or ninety persons, all of whom

are in the front rank in their several professions and vocations. A State College Club of forty or fifty exists in Chicago, whose members have attained like prominence and distinction. Lesser clubs exist in Cincinnati, in Jackson, Tennessee, in Cleveland and in Manila. The knowledge of the success of those who have graduated has determined a wholesome and generous ambition in each successive senior class to emulate and to surpass those who have gone before them.

The buildings of the State College are situated upon a campus containing fifty-two acres of ground given by the City of Lexington in 1878 upon which to establish the institution. These now consist of the main college building, a large and commodious structure three stories high and containing about sixteen class-rooms, a Chemical Building, Engineering Building, Agricultural Building, Normal School Building, Gymnasium, aMining Engineering Building, Science Building, astronomical observatory/and the two dormitories. Patterson Hall, the home for young women, is not situated upon the College campus but removed from it about 800 yards nearer the town. The Experiment Station Building is situated about a like distance in the opposite direction. Appropriations are now pending before the Legislature for the construction of buildings for Civil Engineering, Physics, and an extension of the building now used by the Department of Chemistry. The College owns a farm of 850 acres situated immediately outside of the city limits. This was bought in successive installments, as plots of ground in the neighborhood came into the market. It now consists of a compact, well bounded body of fertile land, the last addition to which cost $700. per acre. The Experiment Station Building and the buildings upon the College farm are among the best in the country and are admirably adapted to the purposes for which they were erected. The equipments and machinery represent a value of not less than $100,000.

the Carnegie Library,

One might suppose from this enumeration that the State College is well provided with buildings and material equipment by which education may be rendered effective. This in a sense is true, but the buildings and equipment which were adequate for purposes of instruction ten or even five years ago are now utterly inadequate to meet the constantly growing requirements. Every material extension brings new students and each successive increment of students brings with it additional necessities. Appropriations made by the Legislature today, even if all be allowed which has been asked for will provide temporary relief only.

The colleges founded under the act of Congress of 1862 owe their origin to an allotment of public lands, 30,000 acres for each representative then in Congress to each State in the Union. Kentucky, under this allotment, received 330,000 acres. The purpose of this gift of land as expressed in the Act, was to found and endow at least one college in each state in the Union wherein should be taught those branches of learning related to Agriculture and the mechanic arts, without excluding classics and including military tactics. The organization of the colleges and universities founded under this legislation, commonly known as the Morrill Act, of 1862, was left largely to the discretion of the states and territories accepting the trust, a wide discretionary margin being left to them. Most of the states accepting the trust, instead of founding agricultural and mechanical colleges, only founded universities, of which agriculture and mechanics were special features. Almost all of them included a wider range of scientific studies than those related immediately to agriculture and the mechanic arts. They included within the scope of their organization liberal courses in classics and in modern languages, in philosophy, history, sociology, literature and art. These extended courses of instruction necessarily required larger incomes than accrued from

the sale of the land scrip givn by Congress. The older and wealthier states, through their Legislatures, set the pace for liberal endowments, and upon these foundations, sustained partly by income from the public lands and partly by legislative appropriation, such magnificent institutions as Cornell University, Ohio State University, the University of Wisconsin, the University of Minnesota, the University of Missouri, the University of Nebraska, the University of Illinois, and the University of California are established, the incomes of which range from $500,000 to $1,500,000. annually.

These institutions are required to report annually to the Department of Agriculture and the Department of the Interior their condition, showing the scope and character of their work, the number of matriculates in each department of study, income and expenditure. A recent report from the Department of Agriculture shows that the estimated annual income from the land grant fund of 1862 is $12,500,558., from other land grant funds $3,988,068., Total $31,318,571. $2,432,339., other permanent funds, $13,829,945./Other assets are apparatus/ machinery $2,831,046., libraries $2,819,614., life stock $369,913., miscellaneous equipment $3,222,469., making a total of $84,185,305. The aggregate income of these institutions in 1906, exclusive of the funds received from the United States for Agricultural Experiment Stations was as follows:-

Interest on land grant funds of 1862	$758,753.
Interest on other land grant funds	106,185.
United States appropriation, under the supplementary act of 1890,	1,200,000.
Interest on endowment or regular appropriation	122,980.
State annual appropriations for current expenses	4,308,150.
State appropriations for buildings or other special purposes,	3,088,947.
Income from endowment other than federal or state grants	677,138.

Tuition fees,	993,003.
Incidental fees,	631,936.
Miscellaneous,	1,659,633.
Total,	$13,546,759.

In 1887 an act of Congress established Experiment Stations in connection with the colleges and universities established under the Act of 1862, appropriating $15,000. per annum for their maintenance. This was supplemented in 1906 by the Adams Act, providing $15,000. per annum in addition. Experiment Stations do work exclusively in the interest of agriculture, consisting largely of research work and original investigation. These Stations employ 950 persons in the work of administration, embracing every possible phase of investigation and research related to agriculture. There is a proposition now before Congress to do for engineering what has been done for agriculture, namely, to establish experiment stations in connection with engineering, in which should be employed a staff of workers whose energies should be directed mainly to original research, to discovery and invention. It will thus be seen that these colleges and universities established under the Act of 1862 were intended in the main to promote industrial education, by providing a larger and wider education for the industrial classes than had ever been attempted before. The results have been seen in increased and improved production in agriculture, in mechanical, manufacturing and commercial activity. It is believed, and rightly so, that through the instrumentality of these institutions hundreds of millions of dollars worth of wealth are added annually to the wealth of the nation.

In 1906 there were enrolled in these institutions a total of 56,919 students, 5,890 of whom were doing preparatory work before admission to collegiate lines of education, 22,823 were under-graduates in college classes, and 5,695 were special students for comparatively short periods; 517 were doing post-graduate work; 22,038 were matriculated in colleges of law and medicine,

dentistry, commerce and other allied subjects within their respective institutions.

The State College of Kentucky is one of forty-nine institutions established under the Act of 1862. For thirty years it has been growing steadily; for many years it has been doing upon a large scale university work, as well as collegiate work, although hitherto its corporate name has been that of a college only. As intimated at the beginning of this sketch, pending legislation will in all probability before the close of the legislative term transform it into a university. An institution of this kind, doing work of a high character, is much needed in Kentucky. The question is often asked what is the difference between a college and a university. Briefly it may be said that collegiate work consists mainly of giving instruction in subjects whose scope and compass is already well defined and therefore known. Instruction in Latin and Greek, in French and German, in mathematics, in logic, in history, in metaphysics, in volves for the most part little that is new and makes no draft upon either student or professor for original work. Collegiate work then concerns itself mainly with the accumulated knowledge of the last. University work, on the other hand, accepting and building upon the past, looks forward toward the future and concerns itself specially with enlarging the boundaries and the domain of human knowledge. Botany is not a finished or complete body of scientific knowledge, nor is Chemistry, nor Geology, nor Biology, nor Physics, nor anyone of those that are commonly denominated natural sciences. The investigations and researches of those who work in these several lines of investigation add from month to month and from year to year to what is already known. Theories are modified, principles re-adjusted and the contents of each brought into harmonious relations with each other. University work then is devoted largely to original investigation and research, with the object of enlarging continually

the bounds of human knowledge. Collegiate work thus forms the back-ground, so to speak, of university work, the basis upon which it rests, the point d'appui, upon which rests the leverage for further attainment.

The State College of Kentucky, if it obtains university recognition, will continue to do collegiate work and will carry on university work under improved conditions. Laboratories for original investigation and research will be provided and an increasingly large number of students who have passed through the under-graduate course will enter upon graduate courses of study, extending over a series of years and leading to advanced degrees. If within thirty years the college has grown from 200 to 1100, thirty years more should find its matriculation lists approaching four or five thousand.

The intelligence and intellectual vigor of a Commonwealth is rightly judged by the character of the university which it maintains. No one can estimate the influence which has been determined in the older states by such institutions as Harvard, Yale, Princeton, Columbia and the University of Virginia. No one can estimate the amounts of intellectual activity and of material progress in agriculture and in manufactures which are yearly determined by the great universities of Cornell, New York, Ohio, Illinois, Michigan, Iowa, Indiana, Nebraska, and California. In this onward sweep of intellectual activity and in this achievement of stupendous results, the State University of Kentucky ought to play a part worthy of its past history, its traditions, its dignity and its prestige.

Within the last half dozen years, the southern states have made rapid advances in education. Recently compiled statistics show that in West Virginia, the Carolinas, Georgia, Alabama, Mississippi, Tennessee, Arkansas, and Texas, large expenditures, and expenditures increasing from year to year, are made upon education extending

from the common school to the college and university. In most of these states large sums have been expended upon school-houses, founding and endowing normal schools, extending the scope of collegiate and university work and in providing the latter with the museums and laboratories necessary for under-graduate and post-graduate work. In some of them, State aid for common and high schools is largely supplemented by local taxation. In South Carolina, for example, a state relatively small in area, in population, in agricultural and manufacturing facilities and in realized wealth, three times as much money is expended upon higher education than in the Commonwealth of Kentucky, and yet the latter contains a population of nearly two and one-half millions, a geographical area of 40,000 square miles and with agricultural and mineral resources of unsurpassed value. The comparative data of education south of the Ohio River is by no means complimentary either to the patriotism or the intelligence of this Commonwealth. Latterly, however, an awakening has begun to take place. The public realize that however good a sytem of common schools may be, results of practically little value will accrue unless they be supplied with competent teachers, well educated and fitted for professional work. They have begun to realize, moreover, that teachers of this character cannot be had unless a good remuneration be paid for their services. The state has done probably all that it ought to do by way of taxation for the maintenance of common schools, but this does not more than half meet the necessities of public expenditure. State aid ought to be supplemented by local taxation, each school district being required to furnish as much as is received from the public treasury. When this is done, the compensation of teachers can be doubled. Men and women of ability and education and professional training can then be found to enter the profession of teaching as a life-work. Concurrent with this, there should be established in Ken

tucky a good system of high schools, reaching down to the common schools on the one hand and up to the university on the other, thus bridging over the interval between the common school and the university. The indications are that in the near future something of this sort will be done.

The State College of Kentucky, with meagre equipments, insufficient building capacity, relatively small laboratories and museums and a meagre income, has, during the last twenty years, done much to educate the young men and women of Kentucky. With larger resources and better facilities, it could have done much more. The wonder is that it has accomplished as much as it has. With the transformation of the State College into a State University, we are sanguine to believe that much greater results will be accomplished in the near future. The public will awake to a just pride in its university and will give with a more liberal hand for its maintenance. This will render possible the strengthening of existing departments of study and the addition of new ones. The beneficent results of higher education will become more apparent from year to year and as these results are brought home to the masses of the people, it is hoped that all will take a just pride in co-operating for the attainment of the end which all desire, namely, the establishment of an institution commensurate with the necessities of the Commonwealth of Kentucky. The menaand women educated within the walls of the State College have borne themselves bravely and proudly, the unanimous conviction of all being that they have nothing to learn from the graduates of the best institutions of America, when they come into competition with them. May we not hope then that the State University will immediately take rank with the best and the oldest in the country, yielding in point of material results precedence to none? May we not even hope that ere long the State University established by the General Assembly of 1908 will take the lead of all colleges and universities

south of the Ohio organized under the land grant of 1862?

[Mar. 15, 1908]

AN ACT to change the name of the Agricultural and Mechanical College of Kentucky.

WHEREAS, the Agricultural and Mechanical College of Kentucky has outgrown its original proportions and has for some years past maintained eight distinct courses of study, each extending over four years in the College proper and each leading to a degree, and

WHEREAS this diversity of education, theoretical and practical, requires that the name, title and designation of this Institution, owned, managed and administered by the State of Kentucky, should be commensurate with its character and work, therefore

BE IT ENACTED by the General Assembly of the Commonwealth of Kentucky: That the institution founded under the land-grant of 1862 by the Congress of the United States, and known hitherto under the corporate designation and title of "Agricultural and Mechanical College of Kentucky", be hereafter known ans designated as the "State University of Kentucky."

That the said State University be maintained by the Commonwealth with such endowments, incomes, buildings and equipments as shall enable it to do work such as is done in other institutions of corresponding rank, both undergraduate and postgraduate, and embracing work of instruction as well as work in original research. The State University thus established shall eliminate the lower grade of Normal School instruction within one year and all sub-Freshman work as rapidly as conditions now existing or that may be created by legislation hereafter will permit without violating any existing obligations to county appointees to said sub-Freshman classes. . Inasmuch as the State University is thus restricted from doing sub-Freshman work, a corresponding restriction is hereby imposed upon the Normal Schools established and maintained by the Commonwealth from doing collegiate or university work.

That all the acts of the General Assembly of the Commonwealth of Kentucky making provision for the support and maintenance

of the Agricultural and Mechanical College of Kentucky, heretofore enacted, viz., an act of the General Assembly approved April 9, 1878, an act of the General Assembly approved April 29, 1880, and section 184 of the Constitution of Kentucky, guaranteeing the validity of the tax levied for the benefit of the Agricultural and Mechanical College by the said act, approved April 29, 1880, and an act making an annual appropriation for the maintenance and support of the said College, which became a law March 26, 1904; and that all the acts of the Congress of the United States creating and endowing colleges under the land-grant of 1862, viz., the act providing for the establishment of colleges for the benefit of agricultural and the mechanical arts, approved July 2, 1862, the act establishing experiment stations as departments of agricultural colleges, approved March 2, 1887 the act for applying a portion of the proceeds of the public lands to the more complete endowment of the colleges established under the act of July 2, 1862, which passed the Senate June 23, 1890; the act known as the "Adams Act", further endowing Experiment Stations, passed by Congress March 16, 1906; and the act known as the"Nelson Act,"for the further endowment of Agricultural and Mechanical Colleges passed by Congress March 4, 1907, shall not be affected by this change of name, and the revenues accruing from these sources, State and Federal, shall continue to be paid over by the State and Federal authorities to the treasurer of the State University of Kentucky, for its use and maintenance, in accordance with the provisions of said acts of Congress and of the General Assembly of Kentucky.

That the requirements of the law of Congress, approved July 2, 1862, for instruction in those branches of learning relating to agriculture and the mechanic arts and to military tactics shall be carried out fully, and that those branches shall continue to be integral and indispensable courses of instruction in the State University of Kentucky, and that in addition to the other Colleges of the said University, one of the Colleges of the State University

shall be denominated the Agricultural College, and another the College of Mechanic Arts of the State University of Kentucky.

That the location of the Institution established by the act locating the Agricultural and Mechanical College of Kentucky, approved February 6, 1880, shall not be affected by this change of name.

That all acts passed by the Legislature of Kentucky and the regulations made by the Board of Trustees in pursuance thereof for the government of the Agricultural andMechanical College shall continue in effect and apply to the government of the State University of Kentucky.

[Mar, 15, 1908]

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That all the acts of the General Assembly of the Commonwealth of Kentucky making provision for the support and maintenance of the Agricultural and Mechanical College of Kentucky, heretofore enacted, viz., an act of the General Assembly approved April 9, 1878, an act of the General Assembly, approved April 29, 1880, and section 184 of the Constitution of Kentucky, guaranteeing the validity of the tax levied for the benefit of the Agricultural and Mechanical College by the said act, approved April 29, 1880, and an act making an annual appropriation for the maintenance and support of the said College, which became a law March 26, 1904; and that all the acts of the Congress of the United States creating and endowing colleges under the land-grant of 1862, viz., the act providing for the establishment of colleges for the benefit of agricultural and the mechanical arts, approved July 2, 1862, the act establishing experiment stations as departments of agricultur-

al colleges, approved March 2, 1887; the act for applying a portion of the proceeds of the public lands to the more complete endowment of the colleges established under the act of July 2, 1862, which passed the Senate June 23, 1890; the act known as the "Adams Act", further endowing Experiment Stations, passed by Congress March 16 1906; and the act known as the "Nelson Act" for the further endowment of Agricultural and Mechanical Colleges passed by Congress March 4 1907, shall not be affected by this change of name, and the revenues accruing from these sources, State and Federal, shall continue to be paid over by the State and Federal authorities to the treasurer of the State University of Kentucky, for its use and maintenance, in accordance with the provisions of said acts of Congress and of the General Assembly of Kentucky.

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That the location of the Institution established by the act locating the Agricultural and Mechanical College of Kentucky, approved February 6, 1880, shall not be affected by this change of name.

That all acts passed by the Legislature of Kentucky and the regulations made by the Board of Trustees in pursuance thereof for the government of the Agricultural and Mechanical College shall continue in effect and apply to the government of the State University of Kentucky.

47-M-64

[Mar. 16, 1908]

Pres. Patterson — Please excuse delay in sending this copy I am still in either sick. W. T. Lopp

An act for the benefit of the three State Educational institutions-----State University, Eastern Normal School and Western Normal School-----appropriating money for the purpose of grounds, erection of necessary buildings, furnishing necessary equipment, providing additional revenues for the maintenance of each of the said institutions, and amending the laws with reference thereto.

W H E R E A S: The educational interest of the State of Kentucky demands that the State University, Lexington, Kentucky, as successor to the Agricultural and Mechanical College, and each of the two State Normal Schools, be furnished with grounds, buildings and other necessary equipment, so as to enable each to do the educational work needed by the Commonwealth of Kentucky and of the rank and dignity of corresponding institutions of other States; and

W H E R E AS: The financial condition of the State is such that the necessary improvements can be made without materially impairing the revenues thereof: therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF KENTUCKY,

Art. 1. That the sum of Two-hundred Thousand Dollars, or as much as may be necessary thereof, be and the same is hereby appropriated for the benefit of the State University, Lexington, Kentucky, for the purpose of paying the outstanding indebtedness heretofore incurred for the erection of necessary buildings and equipment of same on the grounds owned by the said institution, and for the erection and equipment of

a suitable building for the department of Mining Engineering, Civil Engineering and Physics; also for the erection and equipment of a necessary addition to the Chemical Building; also for the erection and equipment of a necessary addition to the Mechanical and Electrical Engineering Building; also for the erection and equipment of a new dormitory for the accommodation of the male students of said institution.

All of said buildings shall be erected upon the grounds owned by said institution, or upon such grounds as may be acquired by purchase by the Board of Trustees of said Institution.

If, in the judgment of the said Board of Trustees, the purchase of additional grounds may be necessary for the accommodation of the new buildings herein contemplated, or for the proper conducting of said Institution, they may make such necessary purchase and pay for same out of the money herein appropraited. The title to such real estate shall be made and held by the Commonwealth of Kentucky for the use and benefit of said Institution. The said Board of Trustees is vested with a sound discretion as to the order of construction and as to the location of the improvements herein set forth, or in giving preference to such other improvements as will best promote the interests of the Institution, provided that the toatl expenditures shall not exceed the amount herein appropriated.

The said Board of Trustees shall appoint a competent architect or architects to prepare, under their direction, plans and specifications for the building aforesaid, and shall contract with responsible parties for the erection and equipment of same. All contracts under this act, for

material and labor, or for the erection of any and all buildings and improvements, and for the equipment for the same for the purposes mentioned in this act, shall be let to the lowest and best bidder, after the same is duly advertised by notice, for ten, consecutive days, in a daily newspaper published in the City of Lexington, Kentucky, having the largest circulation, or for four consecutive weeks in the weekly paper published in said City, which, in the judgment of the said Board of Trustees, has the largest circulation.

The successful bidder or bidders in each case shall enter into bond to the Commonwealth of Kentucky for the benefit of said University in a sum not less than 25% of the contract sum or price for the completion of the work in the manner and within the time set out in the contract or contracts, and manner and time shall be fully and in detail set out in said contract.

The money hereby appropriated shall be paid to the Treasurer of said University from time to time, as the improvements contemplated in this act may require, and it shall be the duty of the Auditor of Public Accounts to draw his warrant or warrants upon the Treasurer of the State in favor of the Treasurer of said University for an amount or amounts as the said Treasurer of said University may certify to him from time to time, is necessary and needed in carrying out the provisions of this act.

Said Board of Trustees shall submit to the next regular session of the General Assembly, an itemized account and statement of the expenditures made for the purpose herein named, which account and statement shall be properly certified and audited, and if any of the funds hereby appro-

priated remain unexpended after the additions and improvements to said University herein authorized have been made, the same shall be returned to the State Treasurer by the said Board of Trustees.

That the Normal Department of said University, as it now exists, be eliminated, and there be established instead thereof a Department of Education in said University with collegiate rank leading to the usual degrees in pedigogy as maintained in other similar State Institutions. That degrees of Bachelor of Arts in Education, and Bachelor of Science in Education conferred in this Department, shall, with the approval of the State Superintendent of Public Instructions, entitle the holder thereof to the privilege of teaching in the common schools and high schools of the Commonwealth without further examination, during life and good behavior. The diplomas granting degrees may be revoked for cause by the said Board of Trustees or by the State Superintendent of Public Instruction.

The Board of Trustees shall have power and authority subject to the approval of the State Superintendent of Public Instructions, to confer, under its corporate seal, upon students of said departments, the following certificates:

One, an elementary certificate upon the completion of one year's work, which shall entitle the holder thereof to teach in any public school of this State for the period of two years from the date thereof, without further examination.

Two, an intermediate certificate upon the completion of two year's work, which shall entitle the holder thereof

to teach in any public school of this State for a period of four years from the date thereof without further examination.

Three, an advanced certificate upon the completion of three year's work, which shall entitle the holder thereof to teach in any public school of this State for a period of three years from the date thereof without further examination, and if at the end of three years, a teacher holding an advanced certificate shall present to the Board of Trustees, which granted the same, satisfactory evidence of successful teaching during said period, and of good, moral character, then the advanced certificate may be extended for life and of good behavior by said Board, subject however to the approval of the State Superintendent of Public Instruction; and it shall so be endorsed by the said Board, and the holder thereof shall be entitled to teach in any public school in this State during good behavior, wothout further examination.

The official endorsement of the State Superintendent of Public Instruction shall be necessary to validate any of the said three certificates or extension thereof above named. Any certificate may be revoked for cause by said Board of Trustees, or by the State Superintendent of Public instructions.

Any County Superintendent may, for his County, revoke a certificate for cause, subject to appeal to the State Superintendent of Public Instruction.

That from and after two years from this date, all sub-freshmen work shall be eliminated as a part of the University curriculum, the same to be brought about as rapidly as conditions now existing, and that may be created by legislation hereafter, may permit, without violating any existing obligation to appointees in said sub-freshmen classes.

Art. 2. That the sum of One-hundred and Fifty-Thousand Dollars, or so much as may be necessary thereof, be and the same is hereby appropriated for the benefit of the Eastern Normal School, Richmond, Kentucky, for the erection and equipment of a suitable dormitory for the accommodation of the male students; also for theerection and equipment of an addition to the dormitory for the accommodation of the female students; also for the erection and equipment of a model school building; also for the erection and equipment of a practice School Building; also for the erection and equipment of an Administration Building; also for the erection and equipment of a central heating plant, and for the necessary repair and equipment of the present buildings of said institution.

All of the said buildings shall be erected upon the grounds owned by said institution, or upon grounds that may be acquired by purchase of the Board of Regents of said Institution.

If, in the judgment of the said Board of Regents, the purchase of additional grounds may be necessary for the accommodation of the new buildings herein contemplated, or for the proper conducting of said school, they may make such necessary purchase and pay for the same out of the money herein appropriated. The title to such real estate shall be made and held by the Commonwealth of Kentucky for the use and benefit of said school.

The said Board of Regents is vested with a sound discretion as to the order of construction, and as to the location of the improvements herein set forth, or in giving preference to such other improvements as will best promote

the interests of the school; provided the total expenditure shall not exceed the amount herein appropriated. The said Board of Regents shall appoint a competent architect or architects to prepare under their direction, plans and specifications for the buildings aforesaid, and shall contract with responsible parties for the erection and equipment of same.

All contracts under this for material and labor, or for the erection of any and all buildings and improvements and for the equipment for the same for the purpose mentioned in this act, shall be let to the lowest and best bidder, after the same is duly advertised by notice, for at least one month in a weekly or semi-weekly newspaper, published in the City of Richmond, Kentucky, which, in the judgment of the said Board of Regents has the largest circulation.

The successful bidder or bidders in each case, shall enter into bond to the Commonwealth of Kentucky for the benefit of said Normal School in a sum not less than 25% of the contract price or sum for the completion of the work in the manner and within the time set out in the contract or contracts. The manner and time shall be fully and in detail set out in said contract.

The money hereby appropriated shall be paid to the Treasurer of the said Normal School from time to time, as the improvements contemplated in this act may require, and it shall be the duty of the Auditor of Public Accounts to draw his warrant or warrants upon the Treasurer of the State in favor of the Treasurer of said Normal School for an amount or amounts as the said Treasurer of said Normal School may

certify to him from time to time, is necessary and needed in carrying out the provisions of this act.

The said Board of Regents shall submit to the next regular session of the General Assembly an itemized account and statement of the expenditures made for the purposes herein named, which account and statement shall be properly certified and audited; and if any of the funds hereby appropriated remain enexpended after the additions and improvements to said Normal School herein authorized, have been made, the same shall be returned to the State Treasurer by the said Board of Regents.

Art. 3. That the sum of One-hundred and Fifty-Thousand Dollars, or so much as may be necessary thereof, be and the same is hereby appropriated for the benefit of the Western Normal School, Bowling Green, Kentucky, for the erection and equipment of a suitable dormitory for the accommodation of male students; also for the erection and equipment of a suitable dormitory for the accommodation of female students; also for the erection and equipment of a suitable Science Hall; also for the erection and equipment of buildings for additional class rooms; also for the erection and equipment of a building for library and labratories; also for the necessary repairs and equipment of the present buildings of said Institution.

All of saif Buildings shall be erected upon the grounds owned by said Institution, or upon such grounds as may be acquired by purchase by the Board of Regents of said Institution.

If, in the judgment of the said Board of Regents, the purchase of additional grounds may be necessary for the

accommodation of the new buildings herein contemplated, or for the proper conducting of said school, they may make such necessary purchase and pay for same out of the money herein appropraited. The title to such real estate shall be made and held by the Commonwealth of Kentucky, for the use and benefit of said school. The said Board of Regents is vested with a sound discretion as to the order of construction and as to the location of the improvements herein set forth, or in giving preference to such other improvements as will best promote the interests of the school, provided that the total expenditure shall not exceed the amount herein appropriated.

The said Board of Regents shall appoint a competent architect or architects to prepare under their direction, plans and specifications for the buildings aforesaid, and shall contract with responsible parties for the erection and equipment of same. All contracts inder this, for material and labor, or for the erection of any and all buildings and improvements, and for the equipment for the same for the purposes mentioned in this act, shall be let to the lowest and best bidder after the same is duly advertised by notice, for ten consecutive days in a daily paper published in the City of Bowling Green, Kentucky, having the largest circultaion, or for four consecutive weeks in the weekly paper published in said City, which, in the judgment of the said Board of Regents, has the largest circulation. The successful bidder or bidders in each case shall enter into bond with the Commonwealth of Kentucky for the benefit of the said Normal School, in a sum not less than twenty-five per cent of the contract price or sum for the completion of the work inthe manner and within the time set out in the contract or contracts, and manner and time shall be fully

and in detail set out in said contract.

The money hereby appropraited shall be paid to the Treasurer of said Normal School, from time to time, as the improvements contemplated in the act may require; and it shall be the duty of the Auditor of Public Accounts to draw his warrant or warrants upon the Treasurer of the State in favor of the Treasurer of the said Normal School, for an amount or amounts as the said Treasurer of the said Normal School may certify to him from time to time, is necessary and needed in carrying out the provisions of this act.

The said Board of Regents shall submit to the next regular session of the General Assembly, an itemized account and statement of the expenditures made for the purpose herein named, which account and statement shall be properly certified and audited; and if any of the funds hereby appropriated remain unexpended after additions and improvements to said Normal School herein authorized have been made, the same shall be returned to the State Treasurer by the said Board of Regents.

Art. 4. That in order to provide additional income to meet the additional annual expenditures of each of said Institutions respectively, the sum of Twenty-Thousand Dollars is hereby appropriated for the current fiscal year, and for each succeeding year for the benefit of the State University and the same is directed to be paid by the Treasurer of the State to the Treasurer of the State University upon warrant or warrants issued by the Auditor of Public Accounts who is hereby directed to draw and issue said warrants for the purpose aforesaid.

That the sum of Twenty-Thousand Dollars is hereby

appropriated for the current fiscal year and for each succeeding year for the benefit of the Eastern Normal School, and the same is directed to be paid by the Treasurer of the State to the Treasurer of the Eastern Normal School upon warrant or warrants issued by the Auditor of Public Accounts, who is hereby directed to draw and issue said warrants for the purpose aforesaid.

That the sum of Thirty-thousand Dollars is hereby appropriated for the current fiscal year and for each succeeding year for the benefit of the Western Normal School, and the same is directed to be paid annually by the Treasurer of the State to the Treasurer of the Western Normal School upon warrant or warrants issued by the Auditor of Public Accounts, who is hereby directed to draw and issue said warrants for the purpose aforesaid.

W H E R E A S: The appropriation herein made for the benefit of the said three State Educational Institutions are needed immediately for the equipment of each to enable them to accommodate the students, and to give proper instructions, an emergency is hereby declared to exist, and this act shall take effect from and after its passage and approval.

47-M-64

Frank Mame

STATE OF KENTUCKY
EXECUTIVE DEPARTMENT
FRANKFORT

AUGUSTUS E. WILLSON
GOVERNOR

November 10, 1908.

Prof. James K. Patterson,

Lexington, Ky.

My dear Prof. Patterson,-

I am very sorry that I shall not be able to attend with you the meeting of the Land Grant College Association in Washington, but as I explained to you today my duties, work and engagements here seem to make it impossible. I do not know of anything that I could do to be useful in a meeting of the Association, but I had intended if I were present to urge upon the Association an earnest support of the military drill feature in these colleges. I have wished a thousand times that I had had the setting up and the discipline, system, order and lesson of obedience and command in my boyhood. The time that I gave to each of the studies was useful, but I could have given a like time to military exercises and drill with as great benefit, if not more, as I had from any one of the most important studies which I pursued. I cannot over-estimate the blessings it would have been to me, and I very earnestly hope that the Association will bring about this feature as one of the most useful things to young men in all the chances they have open to them. Here young men learn to obey; too many of them do not learn at all. By this exercise they are made erect, with soldierly bearing and action. They learn the lesson of obedience and the lesson of authority. They learn, as they can in no other way, the sense, the force, the confidence of organization. It benefits them physically, morally, mentally and practically, and it ought not to be abated through

any year of the course. A thoroughly educated mind in a generally neglected body is of very little use and is generally wasted. Nothing helps any man like an erect carriage, direct gaze and the confidence which organization and discipline give. Four years of such discipline will last a man through life, and be a blessing which will be appreciated more and more every year that he lives.

I hope General Bell will press this matter earnestly, and I hope that the young men will take a second thought about it and realize that physical strength and soldierly bearing and organization, obedience and command are among the most precious helps for success in life.

Yours truly,

Augustus E. Willson

Governor of Kentucky

CHAS. G. MUTZENBERG,
Official Copyist Court of Appeals
KENTUCKY

COURT OF APPEALS OF KENTUCKY.

Dec. 18, 1908.

To be reported.

F. P. James, Auditor, &c., Appellants,

- vs -

State University, &c., Appellees.

Same Appellants,

- vs - APPEALS FROM FRANKLIN CIRCUIT COURT.

The Board of Regents
for the Eastern Kentucky
State Normal Schools, &c., Appellees.

Same Appellants

- vs -

The Board of Regents
for theWestern Kentucky
State Normal School, &c., Appellees.

OPINION OF THE COURT BY JUDGE SETTLE.

By an act of the General Assembly of the Commonwealth of Kentucky, approved March 16th, 1908 (Acts 1908, page 22) there was appropriated to the appellee, The State University,

Lexington, Kentucky, $200,000.00, or so much thereof as might be necessary for the erection and equipment of new buildings for its use, payment of its indebtedness &c., and the further sum of $20,000.00, for "the current fiscal year and for each succeeding year"; to the appellee, Eastern Kentucky State Normal School, Richmond, Kentucky, $150,000.00, or so much thereof as might be necessary for the erection and equipment of a suitable dormitory and other buildings, and the further sum of $20,000.00 for "the current fiscal year and for each succeeding year"; to the Western Kentucky State Normal School, Bowling Green, Kentucky, $150,000.00 for like purposes, and the additional sum of $30,000.00 for "the current fiscal year and each succeeding year." The act contains a provision to the effect that one-third of each of the lump appropriations mentioned should be due and payable on December 1st, 1908; one-third July 1st, 1909, and one-third July 1st, 1910.

Each of the appellees demanded of the appellant, F. P. James, Auditor of the State, that he issue his warrants upon the State Treasurer for the payment of the annual appropriation due each for "the current fiscal year", and in addition the appellee, the State University, on September 8th, 1908, made demand upon him for the sum of $2,000.00, that amount being due the contractor upon the architect's estimate at that time on the building of Civil Engineering and Physics, in process of erection under the direction of the Board of Trustees and in accordance with the provisions of the act of

the Legislature. A like demand was made at the same time upon the Auditor by the appellee, Eastern Kentucky State Normal School for the sum of $12,00.00, that amount being then due the contractor for work done upon the Normal school buildings ; but the Auditor failed and refused to issue his warrants upon the Treasurer in favor of the appellees, or any of them for the sums demanded or any part thereof. Following the refusal of the Auditor to issue the warrants demanded of him appellees instituted these several actions against him in the court below to enforce the payment of such part of the appropriations made by the act in question as they are now entitled to, respectively, and prayed that writs of mandamus be granted to compel the issual by him of warrants upon the State Treasurer therefor.

The appellant , Auditor, filed an answer to each petition interposing several grounds of defense: 1st, That the act making the appropriations is repugnant to section 184 of the State Constitution. 2nd, That the appellee, State University, in adopting its present corporate name in lieu of its former one "Agricultural and Mechanical College", ~~in~~ and in being separated from its normal school department by the transfer of that department to the Eastern and Western State Normal Schools, as provided by the act of March 16th, 1908, lost its identity as a public corporation and State institution, and became a private corporation, which deprived it of the right to longer demand or receive financial assistance from the State; 3rd, That neither the Eastern or Western State Kentucky Normal School is

mentioned in the Constitution, nor fairly included in the provisions of section 184 of that instrument; 4th, That the appropriations made appellees by the act of March 16th, 1908, when added to the necessary running expenses of the State government and other appropriations made by the General Assembly during its 1908 session, would exceed the annual revenues of the State by more than $500,000.00, and thus create a debt against the State in contravention of sections 49 and 50 of the Constitution.

The three causes were consolidated and appellees filed demurrers to the answers. The demurrers were sustained by the circuit court to which the appellant excepted. He thereupon declined to plead further, following which the lower court entered judgment declaring each of the appellees entitled to the relief sought and directing a mandamus to issue in each of the cases against the appellant, Auditor, to compel the issual by him of his warrants on the Treasurer of the State for the amounts respectively demanded by appellees. Of that judgment appellant complains, hence this appeal.

We will consider the several matters of defense relied on by appellant in the order stated. With respect to the first contention made in the answers, we may say that the question of whether the appropriations in controversy are or not obnoxious to the provisions of section 184 of the Constitution, depends upon whether appellees are among the educational institutions for which, under the proviso of that section,

the Legislature is authorized to make appropriations without submitting the question to the voters of the State.

Section 184 of the Constitution reads as follows:

"The bond of the Commonwealth issued in favor of the Board of Education for the sum of one million three hundred and twenty seven thousand dollars shall constitute one bond of the Commonwealth in favor of the Board of Education, and this bond and the seventy-three thousand five hundred dollars of the stock in the bank of Kentucky, held by the Board of Education, and its proceeds, shall be held inviolate for the purpose of sustaining the system of common schools. The interest and dividends of said fund, together with any sum which may be produced by taxation or otherwise for the purposes of common school education, shall be appropriated to the common schools, and to no other purpose. No sum shall be raised or collected for education other than in common schools until the question of taxation is submitted to the legal voters, and the majority of the votes cast at said election shall be in favor of such taxation; Provided, The tax now imposed for educational purposes, and for the endowment and maintenance of the Agricultural and Mechanical College, shall remain until changed by law."

We understand the question under consideration to have been definitely settled by this court as to all the institutions named.

In the case of the Agricultural and Mechanical College vs. Hager, Auditor, 121 Ky., 1, the court had under consideration the constitutionality of an act of the Legislature (Acts 1904, page 288) which made an annual appropriation of $15,000.00 to the college in question. It was contended in that case, as now insisted in the instant cases, that the appropriation was forbidden by section 184 of the Constitution; but the court held that this was not true, and that as it was apparent that the college, a State institution maintained by the State by taxation and through appropriations of public funds, was in existence at the time of the adoption of the present Constitution, that the constitutional convention intended the proviso in section 184 to apply to it, therefore, the act of 1904 was valid, the Legislature having authority under section 184 of the Constitution, and by virtue of the proviso therein, to make the appropriation in question without submitting the matter to a vote of the people.

This conclusion of the court, as demonstrated by the opinion, was not only authorized by the language of section 184 of the Constitution, but was supported by the opinions of various members of the constitutional convention expressed in debate over that section, and likewise by the contemporaneous practical construction given it by all the departments

of the State government, including the Legislature, the latter having, from time to time, covering a period of many years, made appropriations, in addition to the tax of half a cent on each $100.00 in force when the present Constitution was adopted, for the maintenance of the appellee institution now known as the State University. The opinion enumerated various educational institutions of the State, in addition to the appellee State University, which were at the time of the adoption of the Constitution owned by the State and being maintained by it through appropriations of public funds raised in whole or in part by taxation, and declared that these institutions were also included by the proviso of section 184, which should be understood to read as if they had been named therein. The several institutions thus named, the opinion holds, the State was left free to continue by necessary appropriations, without submitting them to a vote of the people, till such time as the right to do so, in the language of the proviso in section 184, shall be "changed by law". All that was said in the opinion, supra, in upholding the constitutionality of the appropriation of $15,000.00 made by the act of 1904 to the Agricultural and Mechanical College, we may, with equal propriety, apply to the appropriations made to each of the appellees in these cases by the act of March 16th, 1908.

Neither the change in the name of the appellee State University or the separation from it of its Normal School department destroyed its identity as a public corporation and

State institution, as claimed by appellant.

The act changing the name of the "Agricultural and Mechanical College of Kentucky", to "State University, Lexington, Kentucky", expressly retains and preserves to the institution under the new name all the rights and privileges it had and exercised under its old name; and in order that no doubt might occur or question arise as to the status of the institution after the change of name, the act provides that it shall be maintained by the Commonwealth; that no previous act making provision for it under the old name shall be affected by the change of name; that all moneys to which the institution will be entitled from the Federal, and State governments, shall be paid to it in its present name, "State University", and that all educational or other work formerly done by the institution under the old name except what appertains to the Normal School department, shall be performed by it under the new one. Its work, plans and corporate status continue as under the old name. The institution is still officered by trustees appointed by the Governor of the State, by and with the consent of the senate; the Governor and Superintendent of Public Instruction, being ex-officio members and the former chairman of the Board. In brief the University is the creature of the State, a mere instrumentality, employed by it "to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life."

An apt suggestion contained in the brief of appellees' counsel will illustrate our meaning. Would a devise made by John Smith to his daughter, Mary Smith, become void if she should by marriage change her name to Mary Jones? Certainly not. While the devise was made to Mary Smith, manifestly it was not the name of the daughter that supplied the motive for the devise, but it was the person, the fact that she was his daughter, that he had on that account an affection for her and that she was entitled to his bounty, that moved the testator to provide for her. In becoming Mary Jones she enters upon a new and perhaps happier sphere of life, but the change of name or manner of living will not affect the devise. So, while the State institution of learning at Lexington, now called "State University" was the "Agricultural & Mechanical College" mentioned in the State constitution and in the Statutes of the State previously, and even since, enacted by the Legislature; it is nevertheless the same institution, possessing the same corporate existence, powers and privileges, and engaged in the same beneficent work, and what the State has done for it was not bacause of its name but because of its work. The new name neither adds to or detracts from the worth or mission of this temple of the arts and sciences founded by the Commonwealth, but is more readily pronounced than the old one, and more in keeping with the relation it sustains to the cause of education and a people whose pride and sympathy are enlisted in its success.

A glance at the history of the institution will suffice to show that it was designed to be conducted as and to do the work of a University. That there is a distinction between the college and the university no one can doubt. It seems to be the mission of the college "to impart to the student known facts, it deals with a body of knowledge more or less complete, which has come to the present generation as a legacy. The university on the other hand, while covering and including the college work in its under-graduate courses, seeks to add to this known body of knowledge, by original investigation and research and new discoveries in the fields of science, and thus to widen and enlarge the boundaries of human knowledge."

A university may include several colleges or departments of education, and it was for the purpose of converting the Agricultural and Mechanical College into such a University in name, and thereby give it a title that would comport with its past and future work, that the Legislature by the act of March 16th, 1908, changed its name to "State University, Lexington, Kentucky." Section 4 of the act provides: "That the requirements of the law of Congress approved July 2nd, 1862, for the instruction in these branches of learning, relating to agriculture and the mechanical arts and to military tactics, shall be carried out fully, and that these branches shall continue to be integral and indispensable courses of instruction in the State University; and that in

addition to the other colleges of said University, one of the colleges shall be denominated the Agricultural College, and another the College of Mechanical Arts of the State of University."

By the same act other departments in addition to those mentioned above, such as a department of education with collegiate rank leading to the usual degree in pedagogy; a department of law; one of medicine and perhaps others, were added to the State University, but the addition of these departments merely enlarged the work of the institution without destroying its identity as a State institution, relieving it of State control, or affecting its right to receive financial aid from the State government. The separation from the appellee, State University, of its normal school department did not affect its legal status, but merely served to transfer the normal work proper to the regular institutions created by the Legislature for the purpose of conducting it, viz: The appellees, Eastern and Western State Normal Schools, which are auxiliaries of the State University and better able to conduct that department of educational work than the State University. But this arrangement still left to the State University the collegiate department of pedagogy, for still higher training in the art of teaching than the Normal School can afford. It is patent, therefore, that the State University has yet

a department of education, which though connected with the Normal work, was not transferred to the State Normal School.

The arrangement by which the Normal School work proper is confined to the two State Normal Schools is apparently a most excellent one. The State Normal Schools constitute a part of the common school system of the State, and the object of the legislature in establishing them was to more fully carry into effect the provisions of section 183 of the State Constitution, by giving to the teachers of the Commonwealth such training in the Common school branches, science and art of teaching and in such other branches deemed necessary by the normal executive council, as will enable them to make the schools throughout the State efficient. While the State has for quite a number of years collected by taxation an annual school fund sufficient to have had good schools for the education of her youth, in point of fact much of it has practically been wasted and the schools have proved deficient. Perhaps one of the principal causes for this state of things has been the lack of a sufficient number of qualified and competent teachers. The two State normal schools should supply this long felt want and if sufficiently equipped will do so, by educating and turning out each year young men and women specially trained and skilled in the art of teaching. A certain number may be sent every year to these institutions from each county of the State free of tuition, and it was conceded in argument, that hundreds from all parts of the State are already taking advantage of the opportunities for special training afforded by these schools, in order that they may qualify themselves for the very honorable and highly useful work of teaching.

Whether, as suggested in argument, the appropriation in question were inspired by an awakening upon the part of the people of Kentucky and its legislature upon the subject of education, we need not inquire, but it is manifest that with the facilities afforded by the common schools, high schools and State University for the education of the youth of the State, and those afforded by the Normal Schools for the training of teachers, neither inspiration nor prophetic vision is required to enable those concerned for the welfare of the Commonwealth to see that the time is near at hand when much of the illiteracy that is now a curse to the State will give place to greater general intelligence, and in consequence greater respect for law and order. While it is true, as claimed by appellant, that neither of the State Normal Schools is mentioned in the Constitution of the State, we do not concede, as he further contends, that they are not included by the provisions of section 184 of that instrument. On the contrary they are, as we have already indicated, so included.

In the case of Agricultural & Mechanical College v. Hager, Auditor, supra, the opinion in enumerating the educational institutions of the State embraced in the proviso of section 184, named the State Normal School for colored persons as one of them. In commenting on that fact in the later case of Marsee vs. Hager, Auditor, 31 R. 79, which involved the construction of an act establishing a system of normal schools in the State, creating a board of regents to control them, and appropriating $50,000.00 for the benefit of the schools to be established, the Court said:-

"It was not intended by the enumeration of the various

institutions set forth therein to present an exhaustive catalogue, but only to name certain institutions as illustrating the kind of educational interests which the convention intended to place within the benefits of the proviso. It was not intended to say there were no others institutions, although they were not then in the mind of the court, for whose benefit the legislature might appropriate money from the treasury. In mentioning the state normal school for colored persons as one of the institutions for which appropriations from the treasury are permissible, it was intended to convey the idea that normal schools as a department of public education, whether for white or colored persons, are among the educational purposes introduced in the proviso of section 184. It would be a serious construction, indeed, that would establish the principle, that the legislature might appropriate money for the benefit of a normal school for colored teachers, but not for white. At the time the present Constitution was framed the normal school for white persons was carried on as a part of the Agricultural and Mechanical College, where it still in part, is conducted. What the act in question does in practical affect is to separate that school into three parts, leaving one as a department of the Agricultural and Mechanical College, at Lexington, and establishing two others at different points, in the State, one at Richmond, and the other at Bowling Green, Kentucky. There is nothing in section 184 or any other part of the Constitution, to which our attention has been directed, that militates against the power of the legislature to separate

the normal school for white persons into as many parts as may be deemed appropriate and to divide the appropriation between the different schools as may be thought proper. Certainly it will not be contended that the legislature lacks the power of making any appropriation it sees fit for the normal school as conducted under the auspices of the Agricultural College.* * * * * This is conclusive of the question at bar. Normal schools are among the institutions for which under the proviso of section 184, the legislature is authorized to make appropriations without submitting the questions to a vote of the people, and therefore, the act under consideration must be held valid."

The opinions in the cases, supra, are also conclusive of the validity of the act making the appropriations sought to be recovered in the cases before us.

It yet remains to consider the fourth and final contention of appellant, which is, that payment of the appropriations claimed would create a debt against the State of more than $500,000.00 in excess of its revenues, which would be violative of the provisions of sections 49 and 50 of the Constitution.

Sections 49 and 50 were a part of the Constitution of 1850. At that time the State was greatly in debt on account of internal improvements and the proceedings and debates of the convention which framed that instrument prove that the sections in question were adopted for the purpose of restraining the legislature from further indulgence in reckless investment of the State's money and credit in internal improvements. Looking to the contemporaneous practical construction of these two sections of the Constitution for guidance in

arriving at a solution of the questions raised by appellant's final contention, we find that the legislature has, since the adoption of the present Constitution, passed like acts to that under consideration appropriating large sums of money to such institutions as appellees, which have been approved by the Sinking Fund Commissioners and other executive boards of the State, and audited and paid by its ministerial officers, without doubt or question. The value of contemporaneous construction is well stated in Agricultural and Mechanical College v. Hager, Auditor, supra, wherein the Court, in speaking of such construction with respect to section 184 of the Constitution, said:

> "This long and unquestioned construction coming up for actual decision at least several times each year, ought to have and by the rules of the court does have great weight in resolving any doubt that the words themselves may have left as to the meaning of this section."

In Eastern Kentucky Asylum, &c. v. Bradley, 19 R., 752, the constitutionality of an act authorizing the issue and sale by the State of $500,000.00 of bonds for the funding of certain indebtedness of the State, created in part on account of the several asylums for the insane, was under consideration. The court said:

> "This is the first exercise of authority under section 49; and as the existence of a deficit sufficient in amount to warrant the exhaustion by the General Assembly of the power conferred by the Constitution has been averred, we see no good reason for denying to the General Assembly the right in this act to proceed to

the limit of its constitutional power."

Also in the case of Hager, Auditor, vs. Gast, &c., 27 R., 131, the court in respect to sections 49 and 50 of the Constitution, said:

"These provisions of the Constitution do not embrace the ordinary expenses of the government. The State may repair its blind institute, or build a road to it, to make it more accessible, or conduct its ordinary affairs without making a special levy for this purpose."

The bearing of the last decision on the question involved in these cases is apparent, for if the provisions of sections 49 and 50 of the Constitution do not embrace the ordinary expenses of the government, and the State has the right to repair its institute for the blind without a special levy, surely it has the right to make an appropriation to equip or repair its State University or State Normal Schools without making a special levy for the purpose.

It is, we think, further manifest that appropriations such as these cannot fairly be said to create an indebtedness against the Commonwealth, for they may be discontinued, reduced or changed at the pleasure of the legislature, or that body might at its next session repeal the act as to so much of the appropriations as would then remain unpaid; but these things could not be done if the appropriation were a debt.

Such was the doctrine announced in the case of Hager, Auditor, vs. The Kentucky Children's Home Society, 26 R. 1133, wherein the court, having under advisement the constitutionality of an act appropriating $15,000.00 to the Kentucky Children's Home Society, said:

"Nor does the appropriation create an indebtedness against the Commonwealth. It may be discontinued, reduced or changed at the pleasure of the legislature which would not be done if it was a debt. It is a gratuity, just as the present provisions for the support of the insane and idiots is, which may be altered both as to the amount and manner of application at the pleasure of the law making body. We find nothing in the act violative of the Constitution. Its subject is one wholly within the sound discretion of the legislature."

We may, however, concede and do concede, that under sections 49 and 50 of the Constitution the legislature has not the power to make appropriations in excess of the revenues provided by law and the cash in the treasury, whereby a deficit of more than $500,000.00 may be created. In these cases it does not appear that such a state of affairs exists because of the appropriations in dispute, as only one-third of the lump appropriations is payable in the current year. Whether, therefore, an appropriation is a debt in the meaning of sections 49 and 50 of the Constitution, must depend upon the character of the appropriation, and the manner of its payment.

The fact that the payment of all the appropriations made by the last legislature as contemplated by that body would have created a large deficit in the State Treasury at the close of the last fiscal year (June 30th, 1908), or when these actions were instituted, is not pertinent. That there may have been a large deficit at those times can be true and yet a full treasury at the time the Auditor should pay the appropriations to appellees, for the State

revenue, that is the bulk of it, is not paid into the treasury until the fall months, and this year, the last day for the payment of taxes was changed from November 1st to December 1st, thus delaying the receipt of the revenues a full month. The last Auditor's report discloses that while there was a deficit of at least $250,000.00 on June 30th, 1907, yet on December 1st of that year there was in the treasury over $1,500,000.00. No showing was made, or could be made, by the answers of what amount would be in the State treasury December 1st or will be therein when it will be necessary to pay the several amounts now demanded by appellees; and while it is doubtless true that the expenses of the State government during the fiscal year ending June 30th, 1908, have been greater than usual, as the bulk of the revenue for the year 1908 was received since the filing of appellants' answers, and much of it is yet to be collected, and as it is conceded that the revenues for 1908 will be larger than in any previous year, we will not assume that the payment of such parts of the appropriations as are now demanded by appellees, or that the payment of the remainder of the appropriations when due, will cause a deficit in the treasury or so add to the indebtedness of the State, as to violate the provisions of its Constitution.

An examination of the published acts of the session of 1908 will show that the act making the appropriations for the benefit of appellees was passed with an emergency clause, and that with the exception of a small one of $15,000.00, the appropriations to appellees were the first made by the legislature during that session; and if, as claimed by appellees, the State has paid some of the appropriations which were made at that session after those ~~of~~ to appellee were made, the question

may well be asked is it the province of the Auditor, instead of paying the appropriations in the order made by the legislature, to select and pay only such of them as he may think should be first paid, and in so doing make it impracticable to pay other appropriations antedating them, because their payment would perchance create a deficit in the revenues in excess of $500,000.00?

We do not understand that the acts of the Auditor can thus affect the Constitutionality of an act of the legislature. If, however, a deficit should exist at any time, it will be time enough for the legislature in its discretion and by virtue of the authority vested in it by section 49 of the Constitution to ~~met~~ meet such casual deficit or failure in the revenue, and to the extent of $500,000.00, contract a debt to pay the same.

The Auditor has three years to complete the payment of the lump appropriations made the appellees by the act of March 16th, 1908. Only one-third of the lump appropriation for each institution is now due, and the payment of such third is all that can be demanded by them. The amount thus claimed they are entitled to, as well as the further sum of $20,000.00 to the State University, a like sum to Eastern Kentucky State Normal School, and $30,000.00 to the Western Kentucky State Normal School, the last named sums being the annual allowance due the appellees, respectively, for the current fiscal year.

The judgment of the circuit court in each case is affirmed.

The whole Court sitting.

James Breathitt, Atty. Gen'l,
for appellants.

W. O. Davis,
McQuown & Beckham,
A. R. Burnam,
J. Morgan Chinn,
J. A. Sullivan,
for appellees.

47-M-64

[Dec. 8, 1908]
p. 28 of Min. of Bd. of Trustees

President Patterson offered the following resolution:

The Board of Trustees, in semi-annual session assembled, have heard with profound regret of the continued illness of Mr. D. F. Frazee, who has for many years been its honored President and Chairman of its Executive Committee. Recognizing his eminent ability, his integrity, his intense devotion to the interests of the University, and his long and unwearied service in its behalf, the Board of Trustees hereby desire to place on record their high estimate of his relationship to the institution, his judicial impartiality, as its presiding officer, and the inspiration communicated by contact with him to them in the up-building of this University, with which some of the best years of his life have been associated. They further desire to express their sincere sympathy with him in his affliction and to hope that a kind Providence will deal gently with him, assuage his pains, alleviate his maladies and in due time completely restore him to health and strength for duty and for usefulness. A good man, generous, just and manly, our earnest hope and wish is that he may still continue to honor the position of President of this Board, to which he has brought dignity, business capacity and an unswerving sense of duty.

[1910]

WHEREAS through the good offices of Superintendent Regenstein and the liberality of the General Board of Education, of which Dr. Wallace Buttrick is Secretary, an Inspector and Supervisor of Schools for Secondary Education in Kentucky has been appointed by the General Board;

AND WHEREAS one of the conditions attaching to the appointment is that the official so appointed shall have headquarters at one of the colleges or universities of the State, that he shall be intimately identified with the institution selected for headquarters, especially with the Department of Education, that he shall be recognized as a professor therein and as a member of the general faculty of the university or college;

AND WHEREAS the State Superintendent and the General Board of Education prefer that the headquarters of the appointee be the State University and that he be identified with the State University;

AND WHEREAS a further condition of appointment and residence is that the University or College selected for headquarters shall pay the travelling expenses of the appointee of the Board of Education, the said Board providing the salary, viz: $3,000;

THEREFORE, RESOLVED that the Board of Trustees of the State University accept with thanks the overture of the General Board of Education and agree to pay the travelling expenses of the appointee, to provide headquarters and an office for his use, elect him Professor of Secondary Education in the Department of Education, and recognize him as a member of the general faculty of the University.

RESOLVED further that the Board of Trustees of the State University thank Superintendent Regenstein for his good offices in procuring the appointment of Prof. McHenry Rhoads, late Superintendent of the city schools of Owensboro, Kentucky, to the office of Supervisor and Inspec-

tor of Secondary Schools by the General Board of Education;

AND RESOLVED further that the Board of Trustees of the State University thank Dr. Wallace Buttrick and through him the General Board of Education for the compliment of selecting the State University of Kentucky as the headquarters of the Supervisor and Inspector of Secondary Schools for the Commonwealth, and pledge their co-operation with Prof. Rhoads and the General Board of Education to realize the beneficent results contemplated by his appointment.

[1911]

I beg your attention to a few observations upon the proposed change in reference to the Academy.

1. As an equivalent for the income accruing from the half-cent tax, counties are permitted to send to the University appointees selected upon competitive examination, who receive free tuition and other immunities during the course upon which they enter.

2. Graduates of the common schools are eligible.

3. Graduates of the common schools are not, however, prepared to enter the University classes in any course of study.

4. The legislature of 1893 which passed the measure providing for beneficiaries included in the same act a mandate for the establishment of an academy or preparatory department under a compet ent principal and under the general supervision of the faculty, in order to supply to county appointees who had a common school education only the instructions and qualifications necessary to enter the Freshman Class.

5. It contemplates an academy, self-contained, efficient, not in name only, but in fact, not subordinated to or auxiliary to a Department of Education, whose function it is to prepare teachers, not a model school, whose pupils are to be exploited for the benefit of teachers, but a school with a distinctive organization and a distinctive work, namely, to prepare students for entrance into the University.

6. The public who pay the taxes have a just claim upon the University to see to it that the Academy provided by statute to do a specific work is maintained in its integrity until the high schools in the several counties in the Commonwealth can do the work intermediate between the common schools and the Freshman Class of the University.

Assuming that the Board wishes to carry out in good faith the requirements of the act, how would either economy or efficiency or the manifest intention of the statute be accomplished by the action proposed?

[1911]

Sections 11 and 14 of the Act approved May 9th, 1893, connect the Academy and the half-cent tax together as reason and consequence. The Act sanctions the previous appropriation of the money and it does this for an equivalent service, viz: The education of appointees selected upon competitive examination by the counties of the State, graduates not necessarily of the high schools, but of the common schools. The Act recognizes the fact that graduates of the common schools are unable to enter the college classes. The appointment would be of no value to the appointee unless he can avail himself of the privileges attaching thereto. Between him and the University there is an interval of four years. How then shall the appointment be made available to the graduate of the common schools? Manifestly in one way

only. The Legislature saw this clearly and provided the means, namely, an Academy under a competent principal and assistants, under the supervision of the faculty and responsible to them; not a loose aggregation of classes without cohesion or co-ordination, but a self-contained organization; not a make-shift, an evasion or a fraud, a device that "palters with us in a double sense, that keeps the word of promise to the ear and breaks it to the hope."

The Academy as it exists today is the growth of thirty years. As the College grew in efficiency, in scope, in compass, the Academy grew. Setting out from small beginnings, it has attained its present proportions and efficiency. Its courses of study have multiplied and expanded. As the University raised its standard of admission, the Academy raised its standard of admission and of completed work. It embraces now, in addition to its original subjects,

Plane and Solid Geometry, Physics, Caesar, Nepos, Virgil and Cicero in Latin, Anabasis in Greek, two years of German, and a much larger course in English and History. It provides a man or a woman with a good, self-contained education, even if they should go no farther. It has matriculated more than 4000 students, a large proportion of whom, for the last eighteen years, have been county appointees under the law. Of the total Alumni of the institution, 865, 188, or 22% were educated in the Academy; of the present Senior Class, 70 in number, 19, or 30% were educated in the Academy; of the Senior Class in Mechanical Engineering, 25 in number, 10 or 40% were educated in the Academy.

County appointees are for the most part immature in scholarship and in mental and moral development. Those who are appointed from the common schools require four years

tuition before they are ready for University classes, a period equal to that which they spend in the University. During the first period, county appointees require the closest possible attention. The most careful classification, and correlation of studies, is necessary; daily oversight, stimulus to work, reduction of absences, oversight of teachers as well as pupils - all these are indispensable. Daily visitation of all the class-rooms inspire both teachers and pupils. Monthly reports, with appropriate comment, by the Principal, must be sent to parents and guardians. All this would be impossible under the scheme of disintegration and allotment of fragments to the departments in the University. Professors and associates in the University have no time for this preparatory work and would look upon it and go through it as a drudgery. Tutors and subordinate assis-

tants would for the most part be their teachers and this too at the time when they need the best possible instruction under the best masters. The State requires you to give them bread. You offer them a stone, and instead of a fish, you would give them a scorpion. Is this your conception of your duty to the Commonwealth? The habit of study and the habit of mind which through study is formed are acquired not in the second or university period, but in the first or preparatory stage and this it is which constitutes the invaluable element in all education.

An organization symmetrical, adequate, compact, self-contained, under a competent Principal, the Legislature requires and this, if I mistake not, the Legislature will have. The State expects a real Academy, not a sham, and a pretense and a fraud. It expects good honest, efficient

instruction and supervision, well-conceived and thoroughly worked out. I framed the law. It met with general acceptance, it conciliated former opponents of the half-cent tax. My honor is involved in a faithful observance of the statute and I intend to see it done by an appeal to the Legislature and to the courts, if necessary.

The success and prestige of the Academy heretofore have been due largely to the indefatigable industry of the Principal. Until the differentiation of classes and work grew to its present proportions, he divided his time between teaching and supervision. Latterly, in consequence of the growing requirements of supervision, and his health, which for a time was impaired, he was induced, with the consent of the Board and on a reduced salary, to give up teaching altogether and devote himself exclusively to the duties of organization and classification and oversight. The results amply justified the change. It has been objected by some that the policy governing the Academy was not sufficiently elastic, that the Principal was too exacting in his examinations for admission, too exacting in his requirements for a certificate of completed work, but I have never heard that

any Alumnus who entered the University through the Academy regretted the mental and moral discipline to which he was subjected while a student therein. Its records are complete, its reports were faithfully prepared to the exact date and promptly transmitted. Its faculty held their meetings regularly, canvassed results, interviewed and exacted reformation of delinquents upon breaches of discipline, and recommended the removal of incorrigibles. There were no factions or lines of cleavage in its teaching staff.

Outside of these duties, the Principal has been loyal to the Univer sity from the beginning and has given gratuitously time and money to its up-building. He was actively instrumental in procuring the appropriation for the gymnasium and Patterson Hall. When the negotiations for the purchase of its site were likely to fall through, be-

cause of the refusal of the Board to become responsible for the brick street tax, he and I assumed the obligation and he paid it, holding the University harmless. During its efection, Judge Barker, Chairman of the Building Committee, requested him to undertake the duty of supervising its erection. He was on the ground daily and paid a man out of his own pocket as his substitute to do his work in the Academy. For this ser vice and for the expenditure amounting to hundreds of dollars in the payment of the brick street tax and of a substitute to do his work when absent from the Academy, he has never received reimbursement, nor asked for it.

The essence of my plea is the retention of the Academy in its integrity. The retention of the present Principal is not a necessary consequence. Much as I would desire to see him retained, I should het make his retention a necessary condition. If you choose to eliminate a faithful servant after thirty years' service, whose efficiency and integrity are above question, the elimination will, if I mistake not, prove a greater loss to the institution than to him.

In the eternal fitness of things, the law of compensation works with corporations as with individuals. Injustice may for a time seem to prosper, but retribution comes in the end.

"The mills of the gods grind slow,
"But they grind exceeding small.
"Though with patience stand they waiting,
"With exactness grind they all."

[Dec
June 23, 1913]
[Note Could not be if
Tues. 23rd
Either Sept. or Dec.
if it follows Oct. meeting
in bound vol. MHC
4-29-69]

At a meeting of the Executive Committee of the State University held at the President's office on Tuesday 23rd, 1913. there were present C. B. Nichols, J. N. Camden, C. B. Terrill and R. C. Stoll.

A motion was made and seconded to appropriate $1,000 for the purpose of installing and equiping a rural road labratory in the Civil Engineering department. The yeas and nays being called on the motion the vote was nnanimous in favor of the proposition.

Plans and specifications were presented for the proposed vault in which to store books, records and other valuable papers of the University. It was moved and seconded that a sum sufficeient to build the same, approximately $1,000 or $1,100 be appropriated for the purpose of building the said vault. Yea and nay vote being called the vote stood unanimously in favor of the motion.

And President Barker and the business agent were directed to have it constructed.

A motion was them made and seconded that the short mining course of 8 weeks which usually begins January 1st, will hereafter begin April 1st, each year and continue for 8 weeks, and that all students entering this course will be received on the same terms that agricultural students will be received, that is that no tuition will be charged. The motion as put was carried unanimously.

It is suggested that needed improvements should be made upon the campus for the purpose of beautifying same. And upon motion made and seconded and unanimously carried the Dear of the college of agriculture was given charge of the grounds. And the same shall be kept under his direction and control and such improvements as may be needed will be reported by him from time to time to this Committee.

It was made known that the Title Guaranty and Surety Company that now stands as securety upon the bond of Y. Alexander as Treasurer of this University had sold out its business to the American Surety Company of New York and had taken over all the obligations being carried by the Title Guaranty and Surety Company, and requested that a new bond be made for the Treasurer and signed by the American Surety Company of New York. Upon motion made and seconded and unanimously carried, the Controller was directdd to see that the proper bond was prepared and properly signed by the said Y. Alexander Treasurer with the American Surety Company of New York as securety to take the place of the bond now made by the Title Guaranty and Surety Company. Not however, releasing any responsibility of the Title Guaranty and Surety Company incurred up to the time of the execution of the new bond.

It was moved and seconded and unanimously carried that on and after January 1st next, all payments of money on University account shall be made by voucher check, the form of the said voucher check shall be made and approved by the president and business agent.

W. T. Lafferty Comptroller, and who has been holding in connection with that office the office of business agent, offered his resignation as business agent which is accepted.

Howell Davies, who is serving as auditor was elected business agent with the duties hereto perform as auditor now attached to the office of business agent, and his salary fixed at $1500 per year.

The duties as attached to each of these offices will be as follows.

COMPTROLLER.

1. It shall be the duty of the Comptroller at proper intervals to ascertain the amount due the University from the State of Kentucky, and look after the collection of same together with any and allother accounts or moneys due the University from any and all sources, and see that the same is promptly paid to the treasurer of the University. He shall see that the condition of the University account at the bank is kept up so that all accounts may be paid monthly.

2. He shall sign all checks made upon the funds of the University and Experiment Station, for all accounts which are proper charges against the funds of the University or Experiment Station.

3. He shall attend to all ordinary legal matters pertaining to the affairs of the University and Experiment Station and such other legal matters as may be directed by the President, the Executive Committee, the Board of Control or the Board of Trustees.

4. He shall give bond annually to the University in the sum of $10,000 for the faithful performance of his duties as Comptroller.

5. He shall have general supervision of buildings and a force of laborers necessary to maintain same, Ascertain and see to the making of all ordinary repairs upon buildings when such can be done within the budget allowance. Any extra needed improvements, or repairs shall be reported by him to the Executive Committee or Board of Trustees. He shall do any and all other work that he may be directed to do by the President of the University.

6. He shall be present at all meetings of the Board of Trustees and Executive Committee and perform the duties of Secretary thereto, and shall see that each member of the Board of Trustees receives a copy of the Proceedings of each meeting the Board of Trustees or the Executive Committee immediately after the close of such meeting.

BUSINESS AGENT.

The Business Agent shall have charge of the Business Office and maintain the proper system of bookkeeping for the management of its affairs. He shall examine and approve requisitions drawn on the various accounts set out in the annual budget, or such additional as may be ordered by the Executive Committee or the Board of Trustees, and shall make all purchases for the University.

He shall audit all accounts of the various departments and shall see that a proper financial statement is rendered monthly, and an annual statement at the end of the fiscal year, and have copies of each as made sent to each member of the Board of Trustees.

Upon motion made seconded and carried the following resolution was adopted.

BE IT RESOLVED by the Executive Committee of State University Lexington, Ky. as follows:

1. All articles and matters proposed to be published in any bulletin, magazine or other publication of whatsoever character published or purporting to be published by any department of the University, or by any student or students thereof shall, before publication be submitted to the dean of such department, and until expressly approved by such dean such article or matter shall not be published, and such dean shall be responsible to this Committee for all articles or matter appearing in any such publication.

2. All articles and matters proposed to be published in any bulletin, magazine or other publication of whatsoever character published or purporting to be published by the University as a whole or by the students of the University as a whole (the publication known as the "Idea" and other similar publications shall be included herein) shall before such publication be submitted to the President of the University for his approval, and unless expressly approved by him such articles or matter shall not be published.

3. A copy of this resolution shall be sent to the dean of every department of this University and to the editors of all publications in the University.

Upon motion made and carried Mr. C. B. Nichols, as Chairman of the Executive Committee of this University, is hereby authorised on behalf of the University, and under the seal of the University to execute the obligation of the University to the Trustees of the Peabody Fund, and the obligation to be informed satisfactory to the Peabody Fund Trustee. This to take place of the order made on June 4th, 1913.

The note to be executed as of date July 1st, 1912, and to be in the following form.

$40,000.00 Lexington, Ky. July 1, 1912

Five years after date the State University of Kentucky agrees and promises to pay to Younger Alexander, T. L. Edelen, and W. H. Cox, Trustees of the Peabody Fund, who have been so designated by the Board of Trustees of the State University, the sum of forty thousand dollars, with interest from date at the rate of 5% per annum which interest shall be paid annually for the use and benefit of the Educational Department of said institution.

Given under my hand for and on behalf of the University with seal of same hereto attached this the day and date above written.

State University of Kentucky

By

Chairman of ~~Board of Trustees~~ Executive Committee.

Upon motion made the Committee then adjourned.

[1913] [1916]

At a called meeting of the Executive Committee of the State University held at the President's Office on Friday July 17th, there were present Messrs. Nichols, Edelen, Stoll and Terrell.

Upon motion made, seconded and unanimously carried the Department of Zoology and Entomology is made a department of the College of Agriculture.

Upon motion made, seconded and unanimously carried the following resolutions were adopted.

BE IT RESOLVED by the Executive Committee of the Board of Trustees of State University that there be and is hereby created in the College of Agriculture the Department of Agricultural Extension Work; and the appointment by the President, upon the recommendation of the Dean, Dr. Fred Mutchler as the head of the newly made Department, with the title of Superintendent of Agricultural Extension Work, with a salary of $3600.00 per annum is ratified. Dr. Mutchler is hereby made a member of the Faculty of the University with all the rights and privileges of a full Professor; he is to be responsible to the Dean of the College of Agriculture in the same manner as the heads of the other Departments in the College of Agriculture are. And Professor Thompson R. Bryant is hereby relieved from the duties of Head of the Extension Department of the Kentucky Agricultural Experiment Station and shall perform such duties as shall be assigned him by the Dean of the College of Agriculture.

It is hereby further resolved that all the acts of the President of the University leading up to the creation and establishment of the Department of Agricultural Extension Work, and the contracts and understandings with the United States Bureau of Agriculture, under the Smith Lever Bill, are hereby ratified and approved.

Upon motion made seconded and unanimously carried, the following resolution was adopted:

It is further resolved that the School of Journalism is hereby created in the College of Arts and Sciences in the University, and Mr. Enoch Grehem is appointed head of the School with a salary of $1500.00 per year with the title of Professor of Journalism, and that he is entitled to membership in the Faculty of the University with all the rights and privileges of a Professor.

At a called meeting of the Executive Committee of

The President of the University then made his report in writing which is as follows:

" To the Executive Committee of the
Board of Trustees, State University of Kentucky.

Gentlemen:

I have the honor to report that since you last met the Summer School has commenced and we are very much pleased with the attendance and quality of the students. The Professors engaged in teaching inform me that they have never had a better class of students so far as quality is concerned. The students themselves, so far as I have learned, are very much pleased with the school and with the University.

I have, under the permission granted by the Board of Trustees, established a School of Journalism and placed Mr. Enoch Grehen at the head of it. I ask that you now formally establish a Department of Journalism as a part of the College of Arts and Sciences and ratify my appointment of Mr. Grehen, with a salary, as fixed by me, at $1500.00 per annum. Mr. Grehen to be a member of the Faculty of the University and his title to be Head of the School of Journalism.

[July 17, 1913]

I have also entered into an agreement with the Bureau of Agriculture at Washington, which establishes the farm demonstration movement in Kentucky under the Smith Lever Bill with which you are familiar. In order to consumage that I ask that you establish a Department of Farm Demonstration Work in the College of Agriculture, which shall, when established, be under the supervision and control of the Dean of the College of Agriculture just as the other Departments of that College are. On the recommendation of Dr. Kastle, Dean of the College of Agriculture, I have appointed Dr. Fred Mutchler as Superintendent of Agricultural Extension Work, with a salary of $3600.00, that being paid in equal parts by the United States Government and the College of Agriculture of the State University of Kentucky. Dr. Mutchler to be a member of the University Faculty and to report to Dr. Kastle as other heads of the Department of Agriculture do.

I have the pleasure to announce that the United States War Department has assigned Lieutenant Arthur Underwood as Commandant to the University for the coming year. I have heard so much that is favorable to Mr. Underwood that I consider that we are to be congratulated upon his being assigned to us.

Very respectfully
Henry S. Barker, President.

By unanimous vote is was decided that Maxwell Hall would not be rented for the futher use as a boarding house for girls.

It appearing that the budget provides so that $2500. may be spent for the erection of a Commons where meals may be furnished young men who are students in the University at actual cost, upon motion made, seconded, $2500. was appropriated for the purpose of erecting a Commons building. Upon the call for the yeas and nays, Messrs. Nichols, Edelen and Terrell for the Yeas and Mr. Stoll for no.

The following report was made by Prof. Miller to President Barker and having been read was adopted as reported by Professor Miller, which is as follows:

President Barker:-

Dear Sir:-

I make the following report in regard to arrangements affecting salaries for next year in accordance with the new budget allowance.

Department of German.

Instructorship at salary of $1000. per year.

Mr. Harry Cannon, A.B. State Univ. 1909 Principal High School Nicholasville one year, in Mexico studying Spanish one year, for the last two years a student of German in Germany, has been selected for this position.

Department of Physics.

The two instructorships at $750. each have been filled by the selection R.E.Bitner, B.S. from Penn. State College, and for two years lab. Assistant there: and Mr. Mervin J.Kelly, B.C.E. Univ. of Mot. 1914.

Department of English.

Prof. Dantzler, acting Head of the Department, salary raised to $1700;
Prof. E. F. Farquhar and Weaver, salaries of each raised to $1600.
Instructorship in English, salary $600. filled by selection of Reuben Taylor, A.B. State Univ. 1914.

Department of Education.

Associate Professor of Education

Department of Chemistry.

Two Instructorships. Selections not yet made to fill these vacancies.

Department of Office of College of Arts and Science.

Secretaryship at Salary of $50. per month, salary to begin first of Aug.

Miss Sue Matthews of the Class of 1914 has been selected for this position.

Very respectfully.
Arthur M. Miller.

The Meeting then adjourned.