

that the money was for the purchase of land
for a model farm and the location of the
Agr. & Mech. College, ^{as required by the Legislature} and he reported to
the Gen. Assembly at the time the compliance of our
citizens with this ^{positive} requisition of the Legislature ^{was not}
^{respectfully} These Citizens ^{have said long} petitioned the Curators of Ky. ⁱⁿ Univ.
in July /79, that ^{an equitable portion} of this
estate, purchased with their donations, should be
offered to the State for the use of the A. & M. College when it
was separated from the Univ.; and were refused with very
scanty courtesy by them, in a legal technicality; that
body, in open session, refusing to acknowledge what they
denominated a moral obligation, and some of them claiming
every thing they held in trust as property belonging
to and to be applied first to the interest and sup-
port of their special church.

In the Report of the ^{official} Com. of the Gen. Ass. on the Agr.
& Mech. College, it is stated that "the title to the
property vested in Kent. Univ. is subject to the
claim of donors in case of the severance
of the Agr. & Mech. Col. from Kent. University."

The Report of the ^{late} Committee of the
Legislature of Kentucky, on the Agricultural
and Mechanical College, refers to certain
^{delicate} questions which would arise in case that
College was removed from its connection with
Kentucky University, "touching the rights
of various parties in interest."

These questions have never as yet
been agitated or adjusted. They ^{concern} ~~refer~~
not only the ^{some of the} ~~legals of~~ Transylvania University, over
which the State has supreme and special control,
but also ^{some of the} property of the State Agr. & Mech. Col.,
now in ^{the} possession of the Curators of Kentucky
University.

To begin with the latter; "the legis-
lature (10th Feb. 1866) appropriated \$20,000 to set

the College

in operation, &c, reserving the right to reimburse itself out of the interest arising from the land scrip," &c.

Now, according to the ^{official} reports accepted by the Board of Curators of Kentucky University, and published by that Board, about \$11,000 of this money was used for buildings on the real estate of ^{the} University purchased "for the use of the Agricultural and Mechanical College and the other Colleges of the University." (See Report of And. State Ch. ^{to B. Curators Ky U.} July 14, 1878, p. 20, &c).

As the Act of Congress, donating the land scrip for the Agr. & Mech. College, prohibits the use of any part of the interest or income ^{from} of the sale of the land scrip for building purposes, the State cannot reimburse itself in this manner, and its only remedy, - in consequence of this misapplication of this \$11,000, to buildings, instead of the current ^{of the College} expenses, as required by the Act of Congress, is to have recourse to the ^{the} University or ~~the~~ real estate in which this sum is invested; more so -

the Curators of
-pecially as the University were named, by the Act of the Legislature establishing "the Agricultural and Mechanical Colleges of Kentucky University," to furnish the buildings as well as the land, for the uses of that College.

Again, that Act of the Legislature of Ky required that these lands, &c, should be provided by these Curators, for the special uses of the Agricultural & Mechanical College, as a condition precedent to its location in Kentucky University, and our citizens gave the money to meet that indispensable condition.

W. Bowman, the ^{accrued} agent of the Curators, ^{who} made obtained the subscriptions of our citizens, made that condition his special plea ^{to them}; and although the notes which he took from these donors specified that their gifts were "for the purchase of grounds and erection of buildings for the various departments of Kentucky University," yet these donors were made to understand by W. Bowman,

if having previously
+ it had already been decided by the Curators that the Ky. U. should be removed to Ky. in accordance with the Honors' Union.

for the purchase of the estate and the erection of
buildings for the Agr. & Mech. Col. in accord-
ance with the act of the Legislature, as well
as for the other Colleges of this Univ.^y "
^{These descriptions were frequently published by them.}
Thus the Board has acknowledged the
conditions under which our citizens gave
their money to endow this state institution
and complied with the instructions of the
donors ^{as to} the purchase of the real estate
for the use of this college, knowing that
the State reserved ultimate control over it,
and the funds raised to endow it according
to the Act of the Legislature could not
in accordance with equity or with the
terms of the charter of Ky. Univ. be per-
verted to other purposes than the endow-
ment of this College, except with the
consent of the donors. ^{and} the donors have asked
that it may still be used for this College.
Funds of Ky. Univ. were also used in the
purchase of the real estate of Ashland & Woodland.
These funds are required to be kept inviolate and
the State is the ultimate owner of the whole property
of this institution. I will not now enter into
details on this part of the subject.)

one important
but, ~~the~~ question is, - how best to recover,
for the Adm. Col., ~~the~~^{an} equitable portion
of this property which was donated ^{to this}
State institution by our citizens, ^{under the requisition of the Legislature} and ^{which}
now held by a close corporation in the
avowed interests of a ~~self~~^{religious} denomination.
The donors ought not to be required to do
this, - ^{What} they gave ^{on the requisition of the Legislature} to the State ^{and} ^{was given} ^{in 1817} ^{and} ^{this}
State should assert ^{her rights} ^(and the rights of her colleges) ^{as this}
she had the power ^{to do} ^{for these reasons,}
as will appear from the facts; that ^{1st}
- the Charter of M. U., having been ^{passed}
since the general law was enacted reserving
to the State the right to alter and amend
all charters, - can be amended in
such a manner as may be necessary;
or even repealed unless certain conditions are complied with,
especially ^{the whole of the property is now in the hands of the State}
and ^{the} ¹⁴ ^{that} Section of their charter, which requires
that all donations shall be strictly applied ac-
-cording to the instructions given by the donor, &
The notes given by these donors, ^{to the Adm. Col.} specified that
the real estate ^{to be purchased with their donations} was to be for the various departments,
of the Univ. ^{but the} ^{donations} were obtained especially under the
requisition of the State that at least \$200,000
should be put in land, &c, for this Adm. Col.

^{and this college got into}
Col. and most of these donors would not have
given for any other common purposes of
the Ky. Univ. ^(add 22.) ^{all these donors must be of the Col. of Ky. U.}
^{never abandoned its right to the use of their donations?}
^{But the donors who contributed to its establishment}
They have really been defrauded - their
trust has been violated, and by a sharp
practice a denomin. college now holds for
its special uses, what was given for the
general, unsectarian education of the
youth of the public at large in the State
^{As M. College}
Besides this real estate many other dona-
tions were made ^{for the use of} ^{As M.} especially to ^{the College};
especially ^{such as} books ^{herbarium} and collections in
natural history ^{many} some by the U. S.
some by the Smithsonian Inst. some
by individuals.

These are of ^{but little} use ^{to the} ^{present Ky. U.} ^{so-called} but are
of great importance to the A. & M.
Col. as means of instruction in those
branches of knowledge pertaining to
Agriculture and the industrial pur-
suits generally; and should be restored
to it, for the purposes for which they
were donated; and the State ^{Legislature is the proper} ^{as} ^{sup}

to require this restoration.

When the State removed the A. & M.
Col. from Ky. U. ^{as she had the reserved right to do at any time} ^{discretion}
^{for an extremely poor} ^{the State}
theological squabbles which marred its
prosperity; ^{the right to which she reserved when these}
^{donations were made}
She did not surely abandon finally
all the ^{title and interest} ^{she had in the property of that college};
^{giving under that reserved condition} ^{of arbitrary removal}
The Board of Curators of Ky. Univ. have
themselves at various times, in ^{official} publications of
their officers, sanctioned and ordered to be
printed by them, acknowledged the right
of the A. & M. Col. in the property ^{purchased} with
the donations of our citizens; for example;

In the annual Report of the Treasurer of
the Ky. U. pub^d by order of the Board in 1871, it is
stated, - p. 12, under the head of the "App^d & Mech^d
Col. fund" - "At the time we accepted it" (the
A. & M. Col.) "at the hands of the Legislature, as
one of the Colleges of Ky. Univ. and agreed to raise
\$100,000 for the purchase of grounds and erection
of buildings for its use ^{and further}
under the head of "Real Estate & Building
Fund" - "This is a fund which I secured

(2.a.)

The purchase of the magnificent estate of Ashland and Woodland, and the erection of a special building on it, for mechanical instruction, by the Regent of the University, would have had no significance, if they were not designed for the Agri. & Mech. Col. as was proclaimed at the time to the donors who gave the funds to purchase the land and erect the building.

Board of Trustees.

More decidedly yet did the Legislature assert its supreme control and guardianship over the Trustees ^{and trusts} of this public institution when in 1818 they, without petition, removed the whole ~~Board~~ ^{the} of Trustees of Trans. Univ. and appointed an entirely new Board of thirteen public spirited and enlightened citizens. Because of sectarian and political dissensions in the Board injurious to the public interests, a ^{select} committee of the Legislature was appointed to visit the institution and report on its condition and wants, and in 1839 (see Act to incorporate Transylv. Univ. & Approve Feb 20. 1839) a state Board of Overseers, consisting of the Governor & Lieut. Gov. the Speaker of the House and Superintendent of Public Instruction, & officer with one person from each Congressl. district in Ky. (except that of Leg.) was constituted to watch over its interests and report to the Legislature, and the Governor was authorized to appoint three trustees ^{of the University}, &c. &c.

These facts and laws yet exist, although some of them have been dormant, and it is yet the duty of the Genl. Assemb. of Ky.

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In relation to the Transylvania Univ. property, in the possession of the Curators of Kent. Univ.

According ⁱⁿ to the report of the Committee of the Board of Curators of Ky. Univ. made by its Chairman And. Steele and ^{adopted} accepted by said Board at their meeting July 14th. 1878 and published; the following erroneous statement is made (p. 4) v. 3; - "the funds and property of Transylvania Univ. were acquired by contract as a bonus for the removal of the institution" (v. 3; Ky. Univ) "to Lexington"; - whereas the facts are, that ~~the~~ the "Act" of the Genl. Ass. of Ky. "to consolidate Ky. Univ. ^{with} Trans. Univ." approved Feb 28. 1865, provides that ^{except} "so far as relates to the funds and property of Trans. Univ." "the charter of ^{Kent.} ~~Trans.~~ Univ. as herein changed, shall be the charter of the consolidated University"; and while it provides "that the Ky. Univ. and all its colleges shall be located in or near the city of Lexington", and that, in case the location of Ky. Univ. shall be changed from Fayette county "this consolidation shall cease, and the Trustees of Trans. Univ. shall resume their separate existence,"

it also makes the important provision (in Sect 2) "that the Curators of Ky. Univ. shall be bound by all the trusts and conditions to which the Trustees of Trans^a Univ. are subject."

The history of this venerable institution, Trans. Univ. - our first public school ^{and its charters} - ~~shall~~ ^{show} what some of these trusts and conditions are; - to specify in part; - Chartered by the State of Va, in ¹⁷⁸⁰ and endowed with escheated land, "for the purposes of a Public School or Seminary of Learning, for the then County of Kentucky; it received an ^{additional} ~~more~~ endowment of lands, and a more detailed ^{of incorporation} charter from that mother state in ¹⁷⁸³; subsequently receiving another endowment from her in the shape of Land surveyors fees in the district of Kent. for this great public purpose.

In this second charter ^{of 1783} are contained the following important clauses; which have remained unchanged up to the present day, and which are yet binding on the Curators of Ky. Univ. as conditions of the trusts ^{and property} of Trans^a Univ. now in their hands; to wit; in Sect. 8. "Provided always that no land

or other property that may hereafter be vested in said Trustees (of Trans^a Univ.) as an inalienable endowment to said Seminary, shall ever be sold or otherwise transferred from the special purpose to which it was applied by the donors."

Sect 12. "Provided always, and be it further enacted, that said Trustees shall at all times be accountable for their Transactions touching any matter or thing relating to said Seminary, in such manner as the Legislature may direct."

The ^{organic} laws of the State of Virg^a governing the Trans^a Seminary, became those of Trans^a Univ. in 1798, and have been preserved, down to the present time, in all the vicissitudes of that State University, and the special control reserved to the Legislature, in Sec 8. above quoted, has been exerted more than once in the interests of public non-sectarian education; as for example;

On Nov. 21st 1795, the Genl. Assemb. of Ky suspended the Trustees of Trans^a Sem. in the execution of their trusts; and on Dec. 28th next following, gave to the District Court of Kentucky the power to control the proceedings of the said

ment, for the rents and damages to the Medical College and other Transylvanian property during the war."

"The amount I received & entered up to the Real Estate and Building Fund and Apparatus fund" (of Ky. Univ.) "subject to the approval of the Board" *
(See Stille's Report p. 20 - he says \$22,000 to R.E. & B. fund & \$20,000 to apparatus fund)

"As to the disposition of the money, a portion of which was temporarily used in completing the last payment on Ashland, which fell due before the subscriptions for the purpose matured," &c &c

This money has never been redeemed ^{for Trans. U.} from its investment in the Ashland property, which is now ostensibly claimed as belonging to Kentucky University proper.

It is proper, however, to state, that of this \$25,000, one-half was claimed and recovered from the University by the City of Lexington which obtained a judgment for \$12,000; but the nett balance, which would be \$13,000, is the property of Transylvania Univ.;

* And the Board did approve. * It appears to have been permanently invested.

to watch over and preserve this important interest of the State; our first public school; our only State University.

All the funds and property of Trans. Univ., then, are held in trust, by the present Curators of Ky. Univ., subject to all the ~~the~~ conditions attached to them by their donors, ^{and to those of the Charter of Trans. U.} ^{and their control & possession of these funds} and subject also to the will and pleasure of the Genl. Assemb. of Ky.; for, as already stated although the Charter of Trans. Univ. cannot be ^{for} the Act of Consolidation of Trans. Univ. with Ky. Univ. of 1865, may be amended or repealed at the will of the Legislature.

If then these Curators have failed in any manner to carry out their compact with the State in the administration of the trusts of Transylvania it is the duty of the Legislature to correct the malfeasance, in the interest of public education. Some of these trusts, as especially the original donations ~~those~~ of the States of Virginia and Kentucky and the endowments by the City and citizens of Lexington, and ^{others} elsewhere, were for general and public educa.

tion; without regard to sect or party.

Some of them were ^{made} for special purposes; as for example to endow a medical College and a College of Law &c.

Not a single donation, in the whole history of this public institution, was ever avowedly made for the support of any religious purpose, of any sect or denomination.

Nor could the State administer or control any sectarian or denominational endowment ^{or} in any manner connect the Commonwealth with any peculiar religious interests. Tolerant to all sects it can control or be controlled by none. These being the ^{undoubted} facts it is an important question: Have the present Curators ^{of Ky. Univ.} faithfully ^{administered} these trusts in the general public interest, ^{to the people} and in accordance with the laws and contracts governing them? —

The ^{published} Report of the Treasurer of Ky. Univ. made in 1871, as well as the Report of the Committee ^{appointed in 1876} of which And. Steele is chair,

approved by the B. of Curators July 14th 1878, above quoted, both seem to show that this has not been ^{fully} done by them.

It appears on record that the funds of Transylv.^a Univ. handed over to the Curators of Ky. Univ. in 1868, amounted to \$65,500; but it also appears, from the report of the above named Committee (on p. 7. of their printed Rep^t) that "in the 28th of April, 1868," the Treasurer of Ky. Univ. "had sold six Bourbon County Bonds, that had been turned over by Trans.^a Univ." and that "no portion of the amount received for these bonds had ever been invested in any other bonds or stocks."

Another misappropriation of a larger amount of funds belonging to Trans.^a Univ., appears, both in the Treasurer's Rep^t of 1871 and the Rep^t of the aforesaid Committee.

Quoting from the former report (the hear^{ing} p. 14.) we give ^{the facts} in the language of the Treasurer (sanctioned and published by the Board) as follows:

"During the past winter, after a long and persistent effort, I succeeded in securing the sum of \$25,000 from the United States govern-

of a Board of Curators made up of a large number of ministers of their denomination, their effective struggle to detach from the University the State Agr. & Mech. Col., while they still retained the special endowments made for ^{the} ~~the~~ ^{establishment} ~~and abandonment~~ ^{with} ~~their discouragement~~ of the Law and Medical Colleges, have all tended greatly to withdraw ^{or reject} public confidence and support; ^{having already} and have ~~virtually~~ reduced what was once the proud promise of a Great University ^{State} ^{into mere talk} ^{its bear the name} ^{that} ^{worthy} of the great State of Kentucky; to a denominational College, of only local influence, except in its theological department.

The property of Transylvania Univ. never can be and never has been justly employed or used for sectarian or denominational purposes. The tenure of all its trusts forbids it. The Constitution of Ky. provides that "no man shall be compelled to maintain any ministry against his consent", while it gives liberty of conscience ^{and equal rights} to all.

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^{It} ~~but~~ does not appear that it has been in any ^{manner} recognized or set aside as such by the Board, ^{as it was their duty to do} it being the fact that the rents and damages to the Medical College and other Transylvania property, for which the \$25,000 were paid by the United States, accrued before this Univ. was consolidated with Kent. Univ.

Moreover, many donations or endowments were made to Trans. Univ. for special purposes, by the State, the City of Lexington, the Transylvania Institute and by individuals.

Thus, early in the present century the State ^{of Ky} and the City of Lexington gave each \$5,000, for the purchase of Books ^{apparatus} for a Medical College in Transylvania University.

In 1839 the City of Lexington gave a large sum for the same ^{special} purpose, as well as for the endowment of a Law College ^{in accordance with the Act of 1839 in incorporating Trans. Institute} and The Medical ^{also} Professors for many years contr-

largely for the annual renewal and enlargement of the Medical Library and Apparatus and Museum.

These books, ^{anatomical and medical museum, &c.} and Apparatus, ~~now~~ ^{used for} in the possession of the Carators of the U. are no longer ~~applied to the special purposes~~ ^{to} they were applied by the donors, in accordance with Sub 8 of the Charter of 1783, and the Legislature alone has power to determine their future application for the public benefit, with ^{or without} the consent of the City of Lexington and of other donors if obtainable.

When the Consolidation of Trans.^a Univ. with Ky. Univ. was effected, in 1865, it was on the essential pledges, given by publication and orally, that the consolidated University should be conducted on a broad and liberal plan, for public education; that it was to be a real university, free from party or sectarian control or bias.

Except on this plan, which alone could fully secure ^{good} the public confidence, or

justify the Trustees of Transylv.^a Univ. in the transfer of their public trusts, they never would have consented to the consolidation; nor could they honestly do so without a violation of those trusts. ^{How} the public pledges, given so frequently and decidedly in the early years of the Ky. Univ. have ~~in~~ ^{initially} ^{originally} been carried out, the public is in ^{great} ~~some~~ measure already able to judge.

The claim of a special ownership of the Ky. Univ. by a zealous religious ~~sect~~ ^{denomination} (S. 6.) has been numerous and bitter attacks which have been made at ^{Ky. Univ.} ^{which under a liberal management} ~~by~~ ^{by} leading ecclesiastics of ^{the} ~~that~~ denomination, ^{in the belief of which} ^{they} ~~have~~ ^{claimed the} ~~greatly~~ ^{exclusive ownership and control} injured the institution and marred the beneficial uses of the Transylvania and other ~~public~~ ^{property} placed in it for public, unsectarian educational ^{purposes} and finally the efforts of these energetic men to ~~conduct~~ ^{conduct} the Ky. Univ. in interests of their church, or as ^{late} ~~announced~~ by the Chairman of the Executive Committee of ^{Ky. Univ.} ~~as~~ "a support to the Church and an ornament to the State".

Their ~~final~~ success in getting full control and in the appointment of the church of wh. shown by vol. 1 of C. 71. July 1875 sec 5.6)

(5.6)

the exclusive nature of which is shown by
the published resolutions of a Comm^{ee} of 21,
appoint^d by the Educat^l Conventⁿ of the Christⁿ
Churches ^{in Ky}, ^{of wh. J. B. Grubb was chairman} adopted at their meeting in Louisville
June 24th/75, and espec^{ly} in the foll^y extract;
— and believing that the Christⁿ Church in Ky.
is the owner and ought to control said Univ. in
all its departments, except the A.M. Col, subject
only to the limitat^{ns} of the charter, i.e. — meaning
of course the Charter of Ky. Univ. proper.
And because the Comm^{ee}, as they stated, recognized
the fact "that all the people of the State had
rights in the A.M. Col." — they also resolv^d
then and there, that it had better be severed
from Ky. Univ. : — thus making the
first move in the disintegration of this
once flourishing Univ^y, ^{by recommending the} and toward
the removal of this College — because
its beneficial uses were for all the people
and not for a single denomination

(See Apostolic Times July 1st 1875)
A declaration directly apposed to the

liberal plan, for wide popular education, proposed to the public and to the Trustees of Trans^a. Univ.?, at the time of its organisation and that of its consolidation with the latter institution and with the Ag^l & Mech^l Col. of Ky.

which offered certain ^{privilege} ~~advantages~~ ^(C. A.) to Leg^{on} ^{of the Subsc^r} ^{by her of \$60,000.}
Instead of \$60,000 which the City of
Lexington was required to give to Trans. Univ.
according to the provisions of this Act of Feb. 1839,
she ^{generously} donated \$70,000 according to the con-
ditions of the contract therein ^{indicated} stated, &
appears on Record in the C. C. office of
Fayette Co. - Deed Book 17 p 42 -
in which the special purposes for
which this money was given, under these
conditions, are fully stated, as follows:
To Morrison College \$20,000
to the Law College for a Library 5,000
to the Medical College for
a building & Apparatus Library } 45,000
and anatomical Museum.

Of this sum about \$15,000 were spent
by the writer ^{in Europe} in the purchase
of Apparatus, Books, & other means
of instruction ^{at the Medical} ^{These articles, being mus^{es} & copies} ^{of med Dept etc.}
of the Ky. Univ. ^{and} ^{almost useless} for the special purposes
of a Medical College not now in existence,
and which ^{which is} could be made of great utility
in the State A. M. Col. (over)

The Medical College building erected
with the remaining \$30,000 and an
additional sum furnished by the Medical
professors having been destroyed by fire in
1862 ^{while in possession of the U. S. Govt.} the city of Lex^{ington} received \$12,000
which had been paid by that government for
its destruction as well as the materials
and the lot on which it stood, which
lot had also been paid for ^{mostly} by the
medical professors and their friends
and not by the city.

So that the interest of the City of
Lexington ^{and of the State} in the property of the Late
Medical College of Pennsylvania
is now concentrated in the Library
Museum and apparatus which
formerly belonged to that now
defunct department.

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If the Curators of Ky. Univ. have failed to apply all the trusts of Trans^a in ^{strict} accordance with Sect. 8 of the Charter of 1783, and the Act of Feb 1839 ^{as} they are amenable to the Genl. Assent. of Ky.

When in 1823, the late Col. Jas. Morrison ^{and his wife} gave about \$70,000 to Trans^a Univ. for the express purposes of endowing a professorship and to build an edifice to be called the Morrison College, and his executor, the late distinguished Henry Clay, was able also to purchase ^{out of his ordinary estate} the ample grounds on which that building stands; the avowed object of the benefactor was to promote the interests of learning and science, under the management of the trustees of a ^{that State} public institution, ^{Trans^a Univ.} When in 1839, the ^{citizens} members, incorporated as the Transylvania Institute, contributed to this University the sum of ^{about} \$25,000 and built the present brick dormitory, with the avowed special object of "maintaining and supporting Morrison College" and ^{the City of Lexington gave \$70,000 to the Univ.} their endowments were trusts which could not be justly applied

ought to the purposes for which they were given
not to the support of any ^{particular} church, or the propo-
-gation of any ^{special} theology.

If then, as is the fact, these grounds
buildings, &c. are occupied and used
for the purposes of a special theological
school; although that school may
be under the charge of a separate
board of trustees and although its
professors may be partly paid by
outside ^{special} donations, and it may be called
a "Bible College" only and said by
its supporters not to be sectarian,
in their sense of the word; it
appears that the endowment for
"public education" and especially
"for the promotion of learning and
science" ^{in the professions of medicine and law} in the usual acception
of those terms, ^{or for actual instruction in the professions of medicine and law} are not applied strictly
to the ^{special} purpose for which ^{they} were
given.

The people of all the other
^{or in the language of the Court, 21. "All the people of this State."}
denominations, who have helped

to endow this State Institution have a
right to request the Genl. Assembly
to ^{require} ~~see~~ that there be in its management
no tendency to unite Church with
State at the expense of their liberality,
or to pervert from their specified uses
the property given ^{in trust} by her liberal citizens,
for public beneficial purposes.