

Upon the facts as set forth above the writer would offer the following ^{and} remarks. [Gr. 1887] 87
A. S. M.

1. It is clear that the removal of Kentucky University to Lexington required the securing, absolutely and in fee simple, from the citizens thereof, to the University, the sum of One hundred thousand dollars. As at the date of the resolution of removal (Sept 26th 1864) and for four months thereafter, no mention of the A. S. M. College had been made to the Board of Curators, this resolution and its appended condition were in no way connected with the existence of the A. S. M. College as one of the departments of Kentucky University.

2. The act establishing the A. S. M. College did not directly require for its validity the raising of any money by the citizens of Lexington; for, while in ^{its} preamble these distinct things are mentioned as "purposes", namely, (1) the location of Kentucky University at Lexington, (2) its consolidation with Transylvania, and (3) the raising of \$100,000 for a fund, etc., used in that section of the act which express the conditions of its validity; while the two former are set forth, the last is not named.

3. The act establishing the A. S. M. College did indirectly require for its validity the raising of \$100,000, absolutely and in fee simple, for the benefit of Kentucky University. For, the establishment of this College was contingent upon the consolidation of Transylvania University and Kentucky University, and this consolidation required the removal of the latter to Lexington, and this removal was dependent upon securing to Kentucky University a sum of the amount and of the character named.

4. The report of the General Agent to the Board of Curators, in June 1865, indicates that the subscription secured by him in Lexington during the three preceding months was for the ^{not solely} purpose of meeting for the purpose of providing means for the purchase of ground and the erection of buildings for the various departments of the University, the A. S. M. College being one of these departments, ^{and} also for the purpose of meeting the condition expressed in the resolution of removal, namely, to secure to the University, absolutely and in fee simple, the sum of One hundred thousand dollars. Whether both of these purposes were fully set forth to each subscriber to secure his name, the writer is unable to say.

5. The language of the notes executed by the subscribers indicates that they gave their money to Kentucky University and to no special department of the same. It also indicates that they gave it for a consideration, namely, tuition-coupons to the full amount of the notes. When, therefore, the Institution shall have redeemed all the coupons attached to any school certificate of scholarship, the transaction between the holder and the University is completed. The obligation to redeem rests upon the University. The holders of the coupons have not proposed to release her from this obligation; yet they are called upon ^{by them} to alienate a large amount of her property, purchased with the money for which these coupons were issued, while they are still held against her for redemption. Why not ask the return to each subscriber of the money which he paid, and still allow him to retain for redemption the coupons which this money purchased?

6. The view that the money subscriptions in description were for the permanent location of the W. M. College is inconsistent with that section of the act establishing this College which reserves to the General Assembly the right to modify and repeal at pleasure. In the nature of the case no guarantee of permanency could have been given to any subscriber. He made his subscription subject to the contingency of a repeal of the act. Subject to the same contingency, the University accepted the W. M. College as one of her departments. She has endeavored faithfully to carry out the obligation thus assumed. She has done this at a heavy cost, for her books show a large excess of expenditure for this College over all receipts, ^{therefore} and her present financial embarrassments are directly traceable to the existence of this department. Had the State chosen to leave the College with her she would have continued to discharge this obligation. She did ^{not} ask the State to release her therefrom. The State has chosen to exercise its undoubted right of repeal, and whatever loss this may work to any subscriber, he should be willing to bear himself, and not look to the University to relieve him from the burden.