

THE LAW AND THE FACTS IN THE CASE.

THE CHARTERS

OF

BACON COLLEGE

AND

KENTUCKY UNIVERSITY

ALSO

The Act to Consolidate Kentucky and Transylvania Universities, and
an Act Establishing the Agricultural and Mechanical College of
Kentucky as one of the Colleges of Kentucky University.

THE LEGAL STATUS OF KENTUCKY UNIVERSITY,

With a Brief Criticism of Regent Bowman's Management.

ADDENDA

Reviewing Regent Bowman's Statements and Figures as found in the
"Majority Address."

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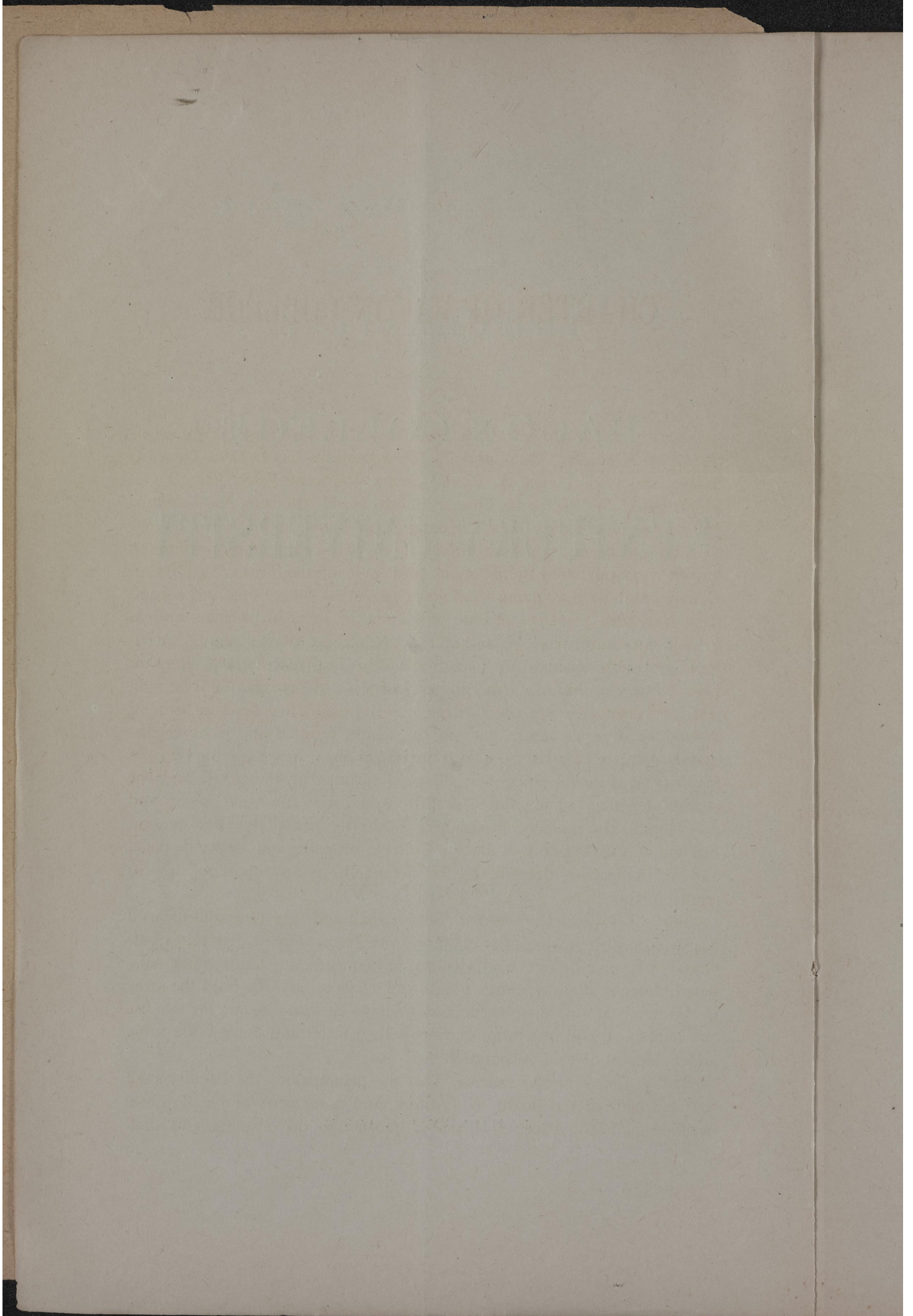
THE LEGAL STATUS OF KENTUCKY UNIVERSITY,

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ADDENDA

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JANUARY 1st, 1874.



CHARTER OF BACON COLLEGE.

SECTION 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That John T. Johnson, John Curd, John Duncan, Samuel Nuckols, James H. Davis, Henry Johnson, P. S. Fall, T. C. Flournoy, G. W. Williams, Thomas Smith, H. M. Bledsoe, Asa Runyon, John Bowman, Samuel Hatch, George L. Nuckols, and James Challen, shall be and are hereby constituted a body politic and corporate, to be known and designated by the name and style of the Trustees of Bacon College, and by that name shall have perpetual succession, and a common seal, with power to change and alter the same at pleasure, and as a body corporate, shall be authorized to exercise all the powers, privileges and rights, which are exercised by the Trustees of the College at Danville in this State, but the property of said corporation shall be subject to taxation, except the College buildings and five acres of ground around or near the same, and on the death, resignation, or other disqualification of any of the said Trustees, or their successors in office, a majority of those in office, may fill such vacancy or vacancies, and the person or persons so appointed shall be vested with the same powers and privileges as those named in this act, and by the name, style and denomination of the Trustees of Bacon College, may sue and be sued, plead and be impleaded, defend and be defended, in any court of law or equity in this State.

SEC. 2. *Be it further enacted,* That it shall and may be lawful for said Trustees, and their successors in office, in their corporate capacity, to purchase, or receive by donation, demise, or bequeath, any lands, tenements, hereditaments, moneys, rents, goods and chattles, and to hold the same in the name aforesaid, to them and their successors forever, for the use and benefit of said institution, and to sell, transfer and convey the same under the seal of said corporation.

SEC. 3. *Be it further enacted,* That the principal of the Faculty shall be Chairman of the Board of Trustees, and a majority of the Trustees in office shall at all times constitute a quorum to do business, and shall

have power to meet at such times and places as they may select for the transaction of business; and may make such laws, rules and ordinances, necessary for the proper government for said institution, as shall not be repugnant to the Constitution and laws of the United States or of this State; the said Trustees shall have power to select and appoint such officers, teachers, tutors, and professors, for the management of said institution as they may think necessary; to fix their salaries, and prescribe their duties, to fix and prescribe the terms upon which the students may be admitted, and for any misconduct in any officer, teacher, tutor, or professor, to dismiss such person from office and to appoint another or others in their stead.

SEC. 4. *Be it further enacted*, That the said Trustees shall keep a record of their proceedings, and, if necessary, appoint a clerk to record the same, and to prescribe his duties; it shall be the duty of the Chairman of the Trustees to have recorded in the office of the county court, where said institution is located, the names of the Trustees thereof, and the names of such as may hereafter be appointed.

SEC. 5. *Be it further enacted*, That the real and personal estate acquired by this corporation, shall at no time exceed the yearly rent or value of ten thousand dollars.

SEC. 6. *Be it further enacted*, That the funds raised for endowing any of the professorships, shall never be encroached upon, and the funds raised shall not be diverted from the objects contemplated: *Provided*, however, that the interest of any of the funds, when not needed for the special object for which they were raised, may be appropriated as said Trustees may direct.

SEC. 7. *Be it further enacted*, That full power is reserved to the General Assembly to repeal or modify privileges herein granted.

APPROVED FEB. 23d, 1837.

CHARTER OF KENTUCKY UNIVERSITY.

WHEREAS, an Institution of learning, known and called by the name of Bacon College, was founded by certain members of the body of "Disciples of Christ," denominated Christians, and was chartered by the Legislature of Kentucky in the year 1836; and whereas, said Institution, after a series of unsuccessful efforts for its permanent endowment and establishment, suspended its regular collegiate operation; and whereas, in view of the educational wants of the said body of Christians in Kentucky, and of their wishes for the permanent success of said Institution, known and expressed at various times, a plan for its full endowment and re-organization has been presented and prosecuted by John B. Bowman, of Mercer county, Kentucky, which has resulted thus far in the raising of \$150,000 of Endowment Fund; and whereas, it is desired to establish a first-class University upon a more modern, American, and Christian basis; and to carry out such design it is necessary to amend and extend the provisions of the Charter of said Institution; therefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That said Institution known and called by the name of Bacon College, and located at Harrodsburg, in the county of Mercer, and State of Kentucky, shall be, from and after the passage of this act, known and called by the name of Kentucky University.

§ 2. *And be it further enacted,* That John B. Bowman, James Taylor, John Aug. Williams, Ben. C. Allin, A. G. Kyle, A. H. Bowman, J. A. Dearborn, D. W. Thompson, A. G. Vivion, P. B. Thompson, Wm. A. Cooke, G. D. Runyon, A. Gallatin Talbott, P. B. Mason, C. T. Worthington, G. W. Givens, James C. Stone, A. G. Herndon, R. C. Graves, Wm. Morton, Joseph Wasson, John Curd, W. W. McKenney, W. L. Williams, John Allen Gano, John I. Rogers, Zachery F. Smith, Robert C. Rice, Theodore S. Bell, and Enos Campbell, shall be, and they and their successors in office are hereby constituted, a body politic and corporate, to be known by the name of the Curators of Kentucky University, and by that name shall have perpetual succession and existence,

and a common seal, which seal they may change and alter at pleasure ; and by the aforesaid name, and in their corporate capacity, may sue and be sued, plead and be impleaded, contract and be contracted with, answer and be answered, in all courts of law and equity. And the same, in their corporate name, are hereby invested with the legal right to all the property and estate, real and personal, as well as all the rights and claims heretofore vested in the Trustees of the said Bacon College ; and may, in said corporate name, sue for and recover the same in as full and ample manner as the said Trustees of Bacon College could have done prior to this act.

§ 3. For the purpose of promoting the cause of education in all its branches, and extending the sphere of science and Christian morality, the Curators aforesaid, and their successors, shall have power, from time to time, to establish and endow fully, in said University, any departments and professorships which they may deem necessary to carry out the aforesaid objects. They and their successors shall furthermore have full power, in their corporate capacity, to hold by gift, grant, devise, demise, or otherwise, any lands, tenements, hereditaments, moneys, rents, goods, chattels, or interests of any kind whatever, which may be given, granted, demised, devised to, or purchased by them, for the use and benefit of said University ; also, may sell, lease, rent, and dispose of the same, or any part thereof, in any way whatsoever they may adjudge most useful to the interests of said University.

§ 4. They shall also have full power to select and employ any officers and agents they shall deem proper ; also, such president, professors, instructors, and tutors, as they may, from time to time, consider necessary ; also, to make, ordain, establish, and execute, or cause to be executed, all such by-laws, rules, and ordinances, not inconsistent with the constitution and laws of the United States or of this State, as they may think necessary for the welfare of said Institution, for their own government, the good government of the professors, instructors, tutors, agents, officers, and students of the same, and generally to do all acts necessary and proper to promote the welfare and prosperity of said University.

§ 5. The permanent officers of the Board of Curators shall consist of a President, Secretary, Treasurer, and Executive Committee, all of whom shall be annually elected by the Curators from their own number, except the Treasurer, who may be elected out of the Board.

§ 6. The Secretary of the Board shall keep a fair and correct record of all the proceedings of the Board, in a good and substantial book, which record shall be signed by the President and Secretary before the adjournment of each meeting, and shall at any time be subject to the

inspection and examination of any member of the Board, or any donor of the Institution. He shall file away and carefully preserve all such documents and papers pertaining to his office and to the Institution as may come into his hands, which shall upon his death, resignation, or removal from office, be delivered up to the Board, and he shall perform such other duties as the Curators may prescribe.

§ 7. The Treasurer, before he enters upon the duties of his office shall enter into a bond with ample security, in the penalty of one hundred thousand dollars, for the faithful discharge of the duties of his office. He shall take charge of all the funds of the Institution; he shall pay over all money that may come into his hands upon the order of the Board, indorsed by the President thereof; he shall pay out no money except upon such order of the Board; he shall render a true account current of the state of his office to the Board of Curators at its annual meeting, which account must be accompanied by the certificate of the Executive Committee, signed by each member thereof, and stating that it has been examined, and that it is correct, after which it shall then be published; and no person shall be eligible to re-election as Treasurer until such report is made, examined, and approved by the Board of Curators. He shall, furthermore, when his term of service expires, or he shall resign his office, or be removed therefrom, deliver up to the Executive Committee, or their order, all the books and papers pertaining to his office, and in each and every particular account for and pay over all money or other thing of value which may come into his hands as Treasurer. He shall also permit his books to be examined at any and all times by the Executive Committee, or any donor of the Institution. The bond of the Treasurer shall be placed in the hands of the Secretary of the Board, and shall be renewed upon a re-election to the office, which bond shall be made payable to the Curators of said University.

§ 8. For the ownership and control of said University, at least two thirds of the Board of Curators shall always be members of the Christian Church in Kentucky. At no time shall any member of the Faculty be a member of the Board.

§ 9. An annual meeting of the Board of Curators shall be held during the commencement week of the University, at which time they shall cause to be published a general account of the condition of the Institution. A meeting shall be called at any other time by the President of the Board, at the suggestion of any three members thereof, or of the President of the University. Nine members shall constitute a quorum for ordinary business, one of whom shall be President *pro tem.*, in the absence of the President of the Board, and less than a quorum shall have

the power of adjourning from day to day, or to any future day, until a quorum shall be had.

§ 10. A majority of all the Curators shall have power to remove a Curator from office for any cause they may deem sufficient, and shall have power also to define the qualifications of a Curator; and whenever any Curator shall absent himself from two successive annual meetings of the Board, without assigning a sufficient reason therefor, his seat shall be declared thereby vacant, and the Board shall at its next meeting proceed to the election of a new Curator to fill such vacancy. All vacancies by death, resignation, or removal from office, or otherwise, shall be filled by a quorum.

§ 11. No less than a majority of the whole Board shall have power to appoint the President, professors, instructors, tutors, and all other officers and agents, to fix their compensation, or increase or diminish the same, to remove the same from office for sufficient cause, and to fill all vacancies in the same, whether by death, resignation, removal, or otherwise: *Provided*, a vacancy may be filled by a quorum until a meeting of said majority shall be held.

§ 12. The Curators, upon the recommendation of the President and Faculty of the University, shall have power to grant such literary honors as are usually granted by the best colleges and universities in the United States, and such other honors as the Board and the Faculty may think necessary, and in testimony thereof, to give suitable certificates or diplomas, under the seal of the corporation; and every such diploma shall entitle its possessor to all the immunities and privileges which by any law or usage are allowed to the possessors of diplomas granted by any college or university in the United States.

§ 13. All the provisions of the charter of Bacon College, heretofore enacted, which are in conflict with the provisions of this act, are hereby annulled and repealed.

§ 14. All lands, money, or other property, which may, by donation, devise, deed of gift, or otherwise, be contributed to said University, shall be strictly applied according to the instructions given by the donor or testator; and all money thus donated as a permanent endowment fund shall be *principal*, and shall be, as the same accrues, invested in good, safe, profitable, and permanent stocks, which shall remain forever intact, and the amount whereof is to be in no respect or in any manner whatever diminished, subject, however, as necessity may demand, to investment and reinvestment in such stocks. The proceeds of such stocks, either in the form of dividend, or interest, or rents, shall be a fund in the hands of

the Treasurer, subject to the order of the Board of Curators, and shall be used as the Board may direct, for the purposes of the University.

§ 15. For maintaining and carrying out effectually the discipline of said University, *be it further enacted*, that if, by any person, money be lent or advanced, or anything sold, or let to hire, on credit, to or for the use of any student or pupil under twenty-one years of age, at the said University, without the previous permission, in writing, of his parents or guardian, or the authorized officers of said Institution, nothing shall be recovered therefor by action of debt, and there shall moreover be forfeited to the Institution twenty dollars and the amount or value of such money or other thing. Where such selling, letting, lending, or advancing is by an agent, such forfeiture shall be by his principal, unless the principal shall, within ten days after he has knowledge or information of the selling, letting, lending, or advancing, give notice, in writing, to the President, or other head of the Institution, that it was done without his knowledge or consent, in which case the forfeiture shall be by the agent.

§ 16. If any person so violate the last above-named section of this act, as to be liable to the forfeiture thereby declared, he shall moreover be fined not less than fifty nor more than three hundred dollars, and, upon conviction, he shall be bound by the court in a sum not less than five hundred dollars, with at least two sufficient securities, to be of good behavior for one year; and any subsequent violation of the section aforesaid shall be held to be a forfeiture of the recognizance.

§ 17. It shall be the duty of the judge of the Mercer Circuit Court to give the fifteenth and sixteenth sections of this act in charge to the grand jury at each and every term of said court, and the penalties imposed in the above-named sections for a violation or violations of any of the provisions thereof, shall be recovered by indictment found by the grand jury; one half of the aforesaid penalty to go to the attorney of the Commonwealth.

§ 18. That if the President, or any agent, or the Treasurer, or any other officer of the Board of Curators of the University, without the authority of the Board, properly given and entered of record, as before directed, appropriate any of the funds of the Institution to his own use, or that of any other person, or shall willfully fail to make correct entries, or shall knowingly make false entries upon the books of the Institution, with the intent to cheat or defraud the same, or any contributor to the funds thereof, or to hide or conceal any improper appropriation of said funds, the person so offending shall be deemed guilty of felony, and shall,

upon conviction thereof, be sentenced to confinement in the jail or penitentiary of the State for a period of not less than one or more than twenty years.

§ 19. The Board of Curators of Kentucky University shall consist of not less than thirty members, a majority of whom shall at all times reside out of the county of Mercer; and in any county of this State where the sum of fifteen thousand dollars may be subscribed to the endowment fund of the University, there shall be a representation of at least one member in the Board.

§ 20. This act to take effect from and after the date of its passage.

APPROVED JAN. 15th, 1858.

AN ACT ESTABLISHING THE AGRICULTURAL AND MECHANICAL COLLEGE OF KENTUCKY AS ONE OF THE COLLEGES OF KENTUCKY UNIVERSITY.

WHEREAS, The Curators of the Kentucky University propose to locate their University in Fayette county, in or near the city of Lexington, and said Curators and the Trustees of Transylvania University propose to consolidate the two Universities, and all the funds and property of each, into one corporation, under the name of the Kentucky University; and it appearing that said Curators have a cash endowment of two hundred thousand dollars, yielding an annual income of about twelve thousand dollars, and that there are cash funds of Transylvania University, to be united with them, of fifty-nine thousand dollars, yielding an annual income of over three thousand five hundred dollars, besides the grounds, buildings, library, apparatus, and other property of Transylvania University, of the value and cost exceeding one hundred thousand dollars; and said institution, when so consolidated, proposes to raise an additional one hundred thousand dollars to purchase a farm and erect all the necessary buildings and improvements to carry on the operations of an Agricultural and Mechanical College, and connect therewith a model or experimental farm, with industrial pursuits, to enable such pupils as choose to do so to sustain themselves, in whole or in part, while acquiring their education; and further propose, that the State of Kentucky shall establish the Agricultural and Mechanical College of Kentucky as

one of the Colleges of Kentucky University thus consolidated; and endow the same with the income of the fund which shall arise from the sale of land scrip granted to Kentucky by the Congress of the United States for the purpose of establishing said college; and, upon the State of Kentucky so establishing and endowing said college, the Curators of Kentucky University will furnish, in reasonable time, all the necessary lands, buildings, apparatus, &c., for such college, and proceed at once to organize said college, and put the same in operation in accordance with this act and the act of Congress, and subject to the visitorial control of the State of Kentucky, in its organization and general management, and with the sole control, by the State, of its said fund; in keeping the principal of the same perpetually secure; now, therefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be, and is hereby, established the Agricultural and Mechanical College of Kentucky, located in the county of Fayette, in or near the city of Lexington, which shall be a College of Kentucky University.

§ 2. *Be it further enacted*, That the leading object in said College shall be to teach such branches of learning as are related to agriculture and the mechanical arts, including military tactics, without excluding other scientific and classical studies, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life.

§ 3. *Be it further enacted*, That to effect the said leading object of said college, that there shall be established therein the competent number of professorships for teaching the sciences related to agriculture and the mechanical arts, including military tactics, which professorships shall be filled by able and competent professors, aided by such assistants, tutors, and other instructors, as shall, from time to time, be necessary; and, as a part of said college, there shall be conducted an experimental or model farm, with the usual accessories thereto, and of size proportioned to the number of students; and on said farm and in the mechanical arts there shall be provided to the students opportunities for industrial pursuits, at stated times, whereby agriculture and the mechanical arts may be practically learned, and the student enabled to earn his support while being educated, in whole or in part, by his labor and industry.

§ 4. *Be it further enacted*, That in the appointment of professors, instructors, and other officers and assistants of said College, and in prescribing the studies and exercises thereof, and in every part of the management and government thereof, no partiality or preference shall be shown to one sect or religious denomination over another; nor shall

anything sectarian be taught therein; and persons engaged in the conducting, governing, managing, and controlling said College and its studies and exercises, in all its parts, are hereby constituted officers and agents of the whole Commonwealth, in faithfully and impartially carrying out the provisions of this act for the common good, irrespective of sects or parties, political or religious.

§ 5. *Be it further enacted*, That the Curators of Kentucky University shall organize said Agricultural and Mechanical College by establishing the proper professorships and officers, with the salaries and compensation thereof, and filling the same, from time to time, by their appointments, provide the necessary grounds, buildings, and improvements, and conduct, carry on, and manage the said College, as provided in this act; and said Curators, to aid them in conducting said College and defraying the expenses thereof, shall receive all the income of the fund which shall arise from the sale of the land scrip granted to the State of Kentucky by the act of Congress, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanical arts," approved July 2, 1862; and which income shall be appropriated by said Curators to the payment of the salaries of the professors, and other officers and employes of said College, and other expenses of conducting the same, and the farm and industrial pursuits incidental thereto, and to no other purpose whatever: *Provided*, That a majority of the professors of said College shall not at any one time belong to the same ecclesiastical denomination.

§ 6. *Be it further enacted*, That the Governor, with the advice and consent of the Senate, shall appoint six visitors of said College, who shall constitute the Board of Visitors thereof, and appoint one of their number chairman of the Board; and said Board shall have, at all times, full power to inspect and examine into all the details of the managing and conducting of said College, and to see that all the provisions of this act are carried into effect, according to their true meaning and intent; and it shall be the duty of said Board to point out to the Curators of Kentucky University all defects or departures from the provisions of this act, in conducting and managing of said college, and suggest the proper mode of correcting them, and said Curators shall proceed to correct them; and it shall be further the duty of said Board of Visitors to report to every biennial meeting of the General Assembly the condition and management of said College; and if, at any time, it shall appear to the General Assembly that the Curators have persisted in not carrying the provisions of this act into effect, according to their true objects and spirit, and in disregarding the requirements of the Board of Visitors, it

shall be lawful to deprive, either temporarily or permanently, said College of the endowment of the income of the fund aforesaid. The Visitors shall hold their office for two years, and until their successors are appointed. Vacancies in said Board, by death, resignation, or expiration of term of office, during the recess of the General Assembly, shall be filled by the Governor until the end of the next succeeding session.

§ 7. *Be it further enacted*, That as soon as the said College is organized for the reception and proper instruction of pupils, the Curators shall make known the same to the Governor and President of the Board of Education; and thereupon each representative district of the State shall be entitled to send to said College, free of charge for tuition, one properly prepared pupil for each member said district is entitled to elect to the General Assembly; and when the whole of said land scrip shall be sold and invested, each district shall be entitled to send three of such properly prepared pupils to said College for each member the district is authorized to elect. Said pupils shall have the right of receiving, free of charge for tuition, the benefit of any instruction given in any of the Colleges or classes of the University, except those of law and medicine. The pupils shall be selected by the majority of the justices of the peace of said districts.

§ 8. *Be it further enacted*, That the provisions of this act shall not go into effect until Transylvania University and Kentucky University shall be consolidated into one corporation, under the name of the Kentucky University, and the funds, property, &c., of Transylvania University shall be vested in the Curators of Kentucky University, as successors of the Trustees of Transylvania; nor until the Curators of Kentucky University shall, by resolution, assent to all the provisions of this act, and accept this act as part of its charter. A copy of said resolution, and of the action of the Trustees of Transylvania University, and the Curators of the Kentucky University, in accepting said consolidation, shall be laid before the Governor; whereupon he shall, by writing, signed by him, and under the seal of the State, authorize the Curators of the Kentucky University to organize the Agricultural and Mechanical College of Kentucky in pursuance of this act.

§ 9. The General Assembly reserves the right to modify and repeal, at pleasure, so much of this act as refers to the establishment of the Agricultural and Mechanical College.

APPROVED FEB. 22D, 1865.

KENTUCKY UNIVERSITY AND TRANSYLVANIA UNIVERSITY.

AN ACT TO CONSOLIDATE KENTUCKY UNIVERSITY AND TRANSYLVANIA UNIVERSITY.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Kentucky University and Transylvania University shall be consolidated into one University and one corporate body, by the name of Kentucky University.

§ 2. That the Curators of Kentucky University shall have all the rights and powers of the Trustees of Transylvania University, in regard to all the funds and property of Transylvania University, which by this act shall pass to Kentucky University, and be bound by the trusts and conditions to which said Trustees were subject.

§ 3. That except so far as relates to the funds and property of Transylvania University, the charter of Kentucky University, as herein changed, shall be the charter of the consolidated University.

§ 4. That Kentucky University shall be located in Fayette county, in or near the city of Lexington; and in said county shall be located all its colleges. It is expressly declared, however, that said Kentucky University is bound to refund to the citizens of Mercer county the full nominal value of all unpaid coupons subscribed and paid by them to the endowment of said University, which may be claimed by them, and also refund to said citizens all of the Bacon College scholarships subscribed and paid in full by any citizen of said county, and which may be claimed by them.

§ 5. That if hereafter, for any cause, the location of Kentucky University shall be changed from Fayette county, then and in that event the consolidation shall cease, and the Trustees of Transylvania University resume their separate corporate existence, and shall be entitled to receive and take into their possession all the funds and property which belonged to Transylvania University at the time of consolidation; and it shall be the duty of the Curators to surrender to said Trustees all said property, and the principal of all the funds which came into their possession belonging to Transylvania University at the time of consolidation.

§ 6. That the consolidation herein provided shall not go into effect until a majority of the Trustees of Transylvania University, and a majority of the Curators of Kentucky University, shall each assent to the provisions of this act, by resolutions recorded on the respective journals of their proceedings.

§ 7. This act shall take effect from its passage.

H. TAYLOR,

Speaker of the House of Representatives.

R. T. JACOB,

Speaker of the Senate.

APPROVED FEBRUARY 28TH, 1865.

THOMAS E. BRAMLETTE, *Governor of Kentucky.*

LEGAL STATUS OF KENTUCKY UNIVERSITY.

As many members of the Legislature, as well as others, have expressed a desire to have, in a condensed form, information as to the legal status of Kentucky University, and the amendments proposed to be made to the charter, together with reasons for the same, it is deemed proper to give as above all the acts of the Legislature on this subject, to be followed as below with a brief explanation of the alterations desired, accompanied with a simple statement of the grounds on which they are sought.

In the first place, let it be distinctly understood that no amendments are proposed save only such as are considered indispensable to give effect to the charter or to carry into effect its plain provisions. The best method perhaps of presenting what ought to be said on the subject is to give clear and explicit answers to the questions that have been or may be propounded.

1. Who founded and established Kentucky University?

Answer: It was originally "founded by certain members of the body of the Disciples of Christ denominated Christians," under the name of Bacon College.

We take the following extracts from the "Minority Address" to the Christian Churches of Kentucky and the donors of Kentucky University, which explains fully enough for our present purpose the early history of Kentucky University.

THE CHRISTIAN CHURCH'S RIGHT TO PETITION.

As your right to petition the Board of Curators, or to exercise any influence and control over them in the management of the University has been denied, we propose at the outset to establish beyond question that you are *the real owners* of Kentucky University, and have *the right to control it* through the Board of Curators, who are merely your trustees to administer a sacred trust committed to their hands, and that you not

only have the right to demand to be heard, but also the right to require that your demands and wishes be respected.

HISTORY AND LEGAL STATUS OF THE UNIVERSITY.

There has been and still is in the minds of the public and, as we think, in the minds of certain Curators also, a grave misunderstanding as to the true history and legal status of Kentucky University. You will therefore pardon us for discussing this subject at some length to satisfy and inform you and the public, and if need be to strengthen and confirm you in your determination to control your own property.

As early as 1836 the Christian Church of Kentucky established a College at Georgetown, Kentucky, which was chartered by the Legislature under the name of Bacon College, and was subsequently removed to Harrodsburg. Bacon College passed through many trials, and with varying fortune, was kept alive by the brotherhood, but was never fully endowed.

In 1854 Hon. A. G. Talbott, of Boyle County, Kentucky, under the authority of the Trustees of Bacon College, prosecuted a plan for its endowment, and in a short time secured about \$50,000 of subscription on the condition of \$100,000 being raised. He states that he "had no doubt that in three months more he would have obtained the full amount of \$100,000," but he suspended his efforts on account of a severe drouth and the financial distress which resulted.

John B. Bowman was fully advised of the action, plan, and operations of Mr. Talbott, and was himself a subscriber on his list. In 1855 Mr. Bowman conceived the plan of fully endowing the College by appeals to the brotherhood of Kentucky and those who sympathized with them in their long-cherished plan and desire to found an institution of learning. He succeeded in securing subscriptions to the amount of about \$150,000, and then application was made to the Legislature of Kentucky to *amend and extend* the charter of Bacon College. In January, 1858, the present charter was adopted as *an amendment* to the charter of Bacon College, and the name was changed to Kentucky University. That this may be made manifest to all, we quote a portion of the preamble to the charter of Kentucky University, which is entitled "An Act to amend the charter of Bacon College." (See Session Acts of 1857-8, page 182.)

WHAT THE CHARTER SAYS.

"WHEREAS, an institution of learning, known and called by the name of Bacon College, was founded by certain members of the body of the

'Disciples of Christ,' denominated Christians, and was chartered by the Legislature of Kentucky in 1836; and whereas, in view of the educational wants of said body of Christians in Kentucky, and of their wishes for the permanent success of said institution, known and expressed at various times, a plan for its permanent endowment and organization has been presented and prosecuted by J. B. Bowman, which has resulted thus far in raising \$150,000 of endowment fund; and whereas, it is desired to establish a first-class university upon a more modern, American, and Christian basis; and to carry out such design it is necessary to amend and extend the provisions of the charter of said institution; therefore,

"SECTION 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That said Institution, known and called by the name of Bacon College, and located at Harrodsburg, in the county of Mercer and State of Kentucky, shall be, from and after the passage of this act, known and called by the name of Kentucky University."

By the second section thirty persons were named as incorporators, under the style of "the Curators of Kentucky University," and were in their corporate name invested with the legal title to "all the property and estate, real and personal, as well as all the rights and claims hitherto vested in the trustees of Bacon College."

It will thus be seen that Kentucky University is but Bacon College under a *new name*, with enlarged powers for doing good, and established as recited in the preamble, "in view of the educational wants of said body of Christians in Kentucky, and of their wishes for the permanent success of said institution (Bacon College) known and expressed at various times." These, it is distinctly stated, were the reasons that influenced J. B. Bowman to solicit and the donors to contribute the \$150,000 that had at that time been subscribed to the endowment fund. "The wants and wishes of the Christian Church of Kentucky for the permanent success of their college, known and expressed at various times," stimulated Mr. Bowman to make the appeal to them, and induced them to give so liberally to the enterprise. Mr. Bowman admits that he wrote this preamble himself, and it will not be questioned that he stated the *true reasons* that influenced him *to solicit* and the donors *to contribute*.

2. On whom is conferred the legal power to hold the property and to manage the affairs of the University?

Answer: On a Board of Curators who were incorporated for that special purpose. (See Secs. 2 and 3 of the Act of 1858, page 6.) They are thus appointed the legal guardians to hold *in trust*, not as owners, the University property. The term Curator is the civil law term for

trustee, and has precisely the same legal import. Hence the Curators were called Trustees under the charter of Bacon College. Curator is a Latin word (from *curo* "to take care of,") designating one who has the care of another's interest as "a manager or superintendent."

It is apparent, from the preamble and the first and second sections of the charter, that the Kentucky University was and is of right the property of the Christian Church in Kentucky; but most fortunately for the Church and the University, in this her hour of peril, the matter is not left to mere inference from the recitals in the preamble, but is made *fixed, definite, and certain* by positive enactment in the body of the charter itself. The eighth section is as follows:

"*For the ownership and control of said University at least two thirds of the Board of Curators shall always be members of the Christian Church in Kentucky.*"

3. Why does the charter of the University provide that "at least two thirds of the Board of Curators shall always be members of the Christian Church in Kentucky?"

Answer: It is "for the ownership and control of said University," inasmuch as it "was founded by certain members of the body of the Disciples of Christ, denominated Christians," and was more amply endowed "in view of the educational wants of the said body of Christians in Kentucky." Compare the eighth section of the charter with the preamble. Ownership lies back of all legal enactment, being based on equitable grounds; and the charter recognizing this previously-existing right as inherent in "the Christian Church in Kentucky," has vested *the legal guardianship* of the institution, as all that it can vest, in a Board of Curators constituted as above described, that its management and control might be in harmony with the wishes and rights of its real owners. It is not ownership, but only the legal title to secure its protection, that law either does or can confer; otherwise the property of one man might be transferred to another without a *quid pro quo* and a contract between the parties, and law would thus become a robber instead of a protector. Yet if this may be considered absurd, we would add to it what is both absurd and contradictory were we to suppose that law, in simply creating a number of trustees, converts them into owners of the property which they hold in trust for others.

4. What rights have the donors under the charter, and what relation do they sustain to the University?

Answer: The term donor is relative. The donors of property are donors of that property *to* some person or persons associated together in a body. They do not merely intrust it to the keeping of others, but

give it away into the possession of others who themselves may intrust it to the guardianship of trustees. Accordingly it is perfectly absurd to speak of trustees as "holding property in trust for donors." In the case under consideration both persons within the Christian Church in Kentucky and friends of the Church outside *donated to the Church* certain funds for the establishment and endowment of the University. Accordingly the donors, *as such*, even those within the Church, are not the owners of the Institution. Both donors and all others within the Church have rightfully a voice in the government of the University, simply because they are members of the body of the Disciples of Christ, to which the Institution belongs. As to the real-estate and building-fund donated for local reasons to secure the removal of the University to Lexington, it became simply a part of the property of the Institution as already endowed and in operation under its charter. It is absurd and preposterous in the highest degree to suppose that any donation of the kind can change the import of the charter, or alter the character and design of the University. The same is true of the Transylvania endowment-fund and real-estate, which have become a part of the endowment and property of the University, to continue such as long as this Institution remains at Lexington—given as a bonus to bring it there.

But the donors, though not the owners of the University, have certain rights which are defined in the charter. Their donations must be "strictly applied according to the instructions" given by them. (See section 14, page 9.) And "in any county of this state where the sum of fifteen thousand dollars may be subscribed to the endowment fund of the University, there shall be a representation of at least one member in the Board." (See section 19, page 10.)

5. What position have the Curators heretofore taken as to the ownership of the University and the right to control it, and as to their relation to the Christian Church in Kentucky?

Answer: From the founding of the University up to a recent period, they have uniformly recognized the rights of the Church. As evidence of this a few extracts will be given from their records. The following paragraph is taken from the first address of the Board of Curators, which was issued in 1858 and signed by J. B. Bowman and other Curators:

"We desire to call your attention to the history, aims, and objects of this Institution. The brethren of the Christian Church of Kentucky, now numbering some 50,000, and embracing we may say without boasting a large share of the wealth, intelligence, and piety of the state, in view of their position and responsibilities, and the broad field of culture lying

before them in the Mississippi Valley, have been endeavoring for some years to establish in their midst a first-class Institution of Learning."

The following extract is from an address by J. B. Bowman, in 1862: "This, by your noble liberality, is *your* Institution, and you can with becoming pride turn to it in these dark days as one of the few enterprises among a *great brotherhood* resting on a sure basis."

From the annual report of the Executive Committee made in 1863 the following paragraph is extracted: "Something should be done to bring our entire brotherhood, and especially our Kentucky brotherhood, into closer and fuller sympathy with the University; to make them think more about it; to talk more about it; pray more earnestly and constantly for its success and its prosperity; and, in a word, to make them feel and realize that *the Institution is their own*, and that *we are but their servants*."

Again; the following sentence is taken from a "Historical Sketch of Kentucky University," published by the authority of Regent Bowen, in a pamphlet styled "The Charter, Statutes, and Laws of Kentucky University," 1866 (page 35.)

"His (John B. Bowman's) simple appeal to them was: Brethren, you have failed to build up a College; now let us establish a great University." Many other passages of like import could be here quoted from this pamphlet, but enough are given to show that Regent Bowman and the Curators, at least as late as 1866, considered the Institution as belonging to the Christian Church.

In the face of these clear declarations, made officially, as to the ownership of Kentucky University and the relation of the Board of Curators to the Kentucky Christian brotherhood, these same Curators now stultify themselves by denying that they are the "appointed agents" or the "ministerial servants" of the Church; and in a recent called meeting of the Board they utterly disregarded the expressed will of nearly two hundred Christian congregations in this state!

6. Have the Curators in their management of the University and administration of its affairs violated the charter in any of its provisions?

Answer: They have deliberately and persistently disregarded many of the plain provisions of the charter, and have been guilty of both a *non-user* and a *misuser* of the duties imposed on them by law. The following are instances:

The charter provides in express terms for a President of the University. The Board have utterly neglected to elect one, though the Charter refers to the President in five different sections. Literary honor and degrees can only be conferred on a recommendation of the President and Faculty of the University; yet this express provision is nullified and

made of no effect, through the neglect and refusal of the Board of Curators to elect such officer.

Again: Under the simple authority given "to *select and employ* any officers and agents they shall deem proper" in addition to the officers created by the charter, they have assumed the power to *create* the office of Regent, and to place the Regent over all the officers and faculties of the University. The Regent, who holds his office by virtue merely of a by-law, is vested with all the powers and duties of President of the University, except to teach, and this in direct violation of the charter.

Again: The seventh section of the charter provides that the Treasurer "shall pay over all money that may come into his hands upon the order of the Board indorsed by the President thereof," and "shall pay out no money except upon such order of the Board." Now this important provision of the charter is totally disregarded, and by a by-law this salutary check on the treasury is completely nullified, and the Executive Committee, of which the Treasurer himself is Chairman, is authorized to appropriate and direct the payment of money by the Treasurer. Most if not all the money paid out for years past has been paid out in disregard of this plain provision of the charter.

Again: The whole duty imposed by the charter on the Executive Committee is to audit the account of the Treasurer and to watch over and guard the treasury. Every member of the Committee is required to certify to the correctness of the account of the Treasurer. Yet in direct violation of the spirit and intent of the charter and of all business propriety, the Treasurer is not only a member but Chairman of the Executive Committee. He is thus Chairman of the very Committee that was created by the charter to be a check upon him. "An illustration of the practical operation of this unnatural and revolting condition of affairs occurred at the regular annual meeting of the Board in June last. There is about \$48,627.80 of money belonging to the University that is not invested in stocks, but is authorized to be loaned to individuals. The Treasurer in his annual account failed to state to whom this money had been loaned by him, or on what security, though the charter expressly requires him to render 'a true account current of the state of his office to the Board of Curators at its annual meeting.' He was called on by one of the Curators to state the persons to whom this large amount of money was loaned and on what security. He wholly neglected to give the information desired, and the next morning the excuse was given that the Executive Committee (of which the Treasurer was himself Chairman) had examined the matter and were satisfied. And so the Board adjourned without this information being given, and is up to this hour in entire

ignorance of the individual or individuals to whom and the security on which the money was loaned." (See *Minority Report*.)

Again: By the by-laws the Executive Committee is vested during the recess of the Board with all the powers that the full Board possesses. The Curators by resolution have affirmed that the Executive Committee can appoint and remove professors and do acts that even a quorum of the Board itself are forbidden by the charter to do. They are vested by the by-laws with full legislative and executive powers during the recess of the Board. The practical effect of these several misusers of power by the Board has been to invest the Regent and Treasurer and Chairman of the Executive Committee with all the powers of the corporation. As matters now stand, John B. Bowman sustains the same relation to the University that the Governor of Kentucky would to the state if, beside being Governor, he had the power to enact and repeal laws during the recess of the Legislature, and at the same time should be auditor and treasurer of the state!

Again: The Board has assumed the power to create new Curators without limit. The charter provides that there shall never be less than thirty Curators, but gives no power to *increase* the number. It only authorizes the Board to fill vacancies that occur by death, resignation, removal, or otherwise. (See sec. 10, last clause.) Since 1867 they have increased the number to forty-one, thus creating eleven new Curators, and absolutely nullifying the 19th section of the charter, which gives the donors a representation in the Board. Accordingly when R. M. Gano was elected a Curator at the request of the donors of Bourbon County, two other persons from among the special friends of the Regent were at the same time elected, that the complexion of the Board might continue the same.

8. What amendments to the charter are asked of the Legislature in order to correct these abuses?

Answer: Only two are desired. First: That the Treasurer shall not be a member of the Executive Committee, which is specially charged by the charter with the duty of auditing the Treasurer's account. Second: That the self-perpetuating power of the Board, and the unlimited power claimed and exercised by the Board of creating new Curators, be taken away, and that the Curators be elected by delegates appointed for that purpose by the congregations of "the body of the Disciples of Christ" in Kentucky to whom the University belongs, and by the living donors in the proportion fixed by the charter, the election to be once in every five years. By their power of self-perpetuation, the Board of Curators have been emboldened to place themselves in antagonism with those for whom they

are appointed to act as agents ; and we have the anomaly of a representative body made absolutely independent of the body represented ! Is this in harmony with the spirit and organization of free, democratic institutions ? What should we think if the Legislature of Kentucky could perpetuate itself and proceed in its acts of legislation in utter disregard of the will and the rights of the people of this state ? It is as clear as sunlight that the mode of electing the Curators of Kentucky University should be such as to render them amenable to the owners of the Institution, even if no fault could be found with the present or past administration of University affairs.

The amendments asked are clearly right and just in themselves, and we think no fair-minded man can object to them, as they will simply make the charter more effective in placing the legal control of the University in the hands of the Christian Church and donors, where the power should evidently belong.

Regent Bowman, though excluded, still claims to belong to the Christian Church and to be working for her interests. This being so, he can not rightly object to the amendments we ask, for he should be willing to have all the guards possible thrown around the Institution, nor should he be afraid of his brethren or donors, for they all know him thoroughly, and he with his friends will surely have justice done them in any new election for Curators that may take place.

ADDENDA.

THE RIGHTS OF MONEY.

CERTAIN partisans of Mr. Bowman have been very industrious of late in the effort to show that but a small part of the funds of Kentucky University have been given by members of the Christian Church, and that therefore the institution does not belong to the Christian Church in Kentucky. We will show before we get through that if their premises were granted their conclusion would not follow; but first we propose to show that their premises are incorrectly stated.

In order to determine how much of the money is to be credited to the Christian Church, we must count not merely that which was given by members of the Church, but also that which was given by men whose wives or children or other near relatives were members, and who were moved to give on their account. We must also count the donations of all whose preferences were for the Christian Church, and who were moved in giving by a desire to promote the growth and prosperity of the Church.

Again: it is granted on all hands that the money which was raised while the institution was yet in Harrodsburg was and is the undisputed property of the Church, and that it may be used without embarrassment in its interest: for while that money was being raised J. B. Bowman and J. A. Williams and the Board were all constantly proclaiming themselves the servants of the brotherhood, and the institution the property of the brotherhood. The subscriptions here referred to amount, according to the Regent's last report as Treasurer published in a *part* of the catalogues of 1873, to \$203,200. As \$14,024.98 of this amount have been refunded to citizens of Mercer County we deduct this sum, and there remains \$189,175.02.

The amount of individual subscriptions which have been secured since the removal to Lexington is stated by the Regent in the same report as \$185,012.16. Somewhat more than \$100,000 of this was raised in and about Lexington, and about \$50,000 we believe in Bourbon County; \$25,000 is credited to Mr. Yost and \$5,000 to R. M. Bishop. Now the

latter two sums were given by *members* of the Christian Church. Of the \$100,000 secured in Lexington and vicinity we are confident that \$50,000 should be placed to the credit of the Christian Church, according to the rule above given; of the amount raised in Bourbon County certainly not less than \$35,000 should be credited in the same direction. Adding together now the donations of Messrs. Yost and Bishop, and the sums to be credited to the Church in Lexington and in Bourbon County, we have an aggregate of \$125,000 out of the \$185,000, leaving only \$60,000 contributed by persons who were not partial to the Christian Church. If now we add to this \$125,000 the \$189,175.02 which the institution brought with it from Harrodsburg, we have \$314,175 of individual subscriptions which must thus be credited, against \$60,000 which may not be, showing that the Church and its friends have contributed more than *five sixths* of all the money obtained from individual subscriptions.

This calculation, be it remembered, is based on the figures given by the Regent himself in his last report as Treasurer.

Passing now from the premises to the conclusion of the argument which we are considering, we remark that the ownership of the University is to be known, not by considering the sources whence the money came, but solely by considering the terms of the charter under which the institution existed when the money was given. It has been proved again and again in the columns of different papers, until it is now conceded by all fair-minded men that the charter fixes the ownership of all except the Agricultural College in the Christian Church of Kentucky. This being the case, every man who gave money intelligently, voluntarily and knowingly placed his money forever under the control of the Christian Church.

As regards the Transylvania property, it belongs to the owners of the original Kentucky University by as clear a title as does any other property of the institution. The institution is of course bound by all the conditions on which the funds of Transylvania were originally donated; but this is no less true in regard to all the other property which she possesses. She is also bound by contract in order to retain the Transylvania property to remain in Fayette County; but as long as she does remain the property is hers. This property was given on the sole condition of the removal of the University from Harrodsburg to Lexington, and of its remaining permanently in Lexington or its vicinity. The proposed Presbyterian Central University has recently received a large amount of property in Richmond, Ky., on the sole condition of locating in that town. As well question her ownership of that property as to

question the ownership of the Transylvania property by Kentucky University. Our own institution at Indianapolis, the Northwestern Christian University, has recently received twenty acres of land and \$150,000 in money on the sole condition of removing the site of the institution to the suburban village called Irvington. Who will be found to question her ownership of the property thus acquired? As well call it in question as to question the present ownership of the Transylvania grounds, buildings, and funds.

Out of the individual donations mentioned above as having been secured since the removal of the University to Lexington, the real-estate of Ashland and Woodland has been purchased and the deeds to these lands have been made *in fee simple* to the Board of Curators of Kentucky University. The money, as we have proved above, was the property of the University, and the lands which were purchased with that money have been made the property of the University by the formality of a warrantee deed; and therefore it is the property in *fee simple* of those who own the University.

In reference to these lands there is a very general misapprehension in the public mind. It is commonly supposed that they were purchased for the Agricultural College alone, and that the money was contributed by the donors with that College alone in view. The fact is that the subscription notes which were given by the citizens of Lexington and vicinity declare on their face that the money was to be used in purchasing grounds and erecting buildings for the *various* colleges of Kentucky University; and it has been the cherished purpose of the Regent to locate the College of Arts and the College of the Bible on these lands in close proximity to the Agricultural College. Both of these Colleges have a claim on those lands by the *declared purpose of the donors themselves*—a purpose declared *on the face of their subscription notes*; and that clause of the charter which requires donations to be appropriated to the purposes for which they were given demands that the claims of these two colleges shall not be disregarded in the management of Ashland and Woodland.

We have now seen that all the real-estate endowment of Kentucky University, with the exception of the \$165,000 of state money which still remains in the state treasury, is the property of those who own the University, and not of those who gave it; and we need add but a few words to show that the various sources whence the property was obtained affect not in the slightest degree the right of the Christian Church to control it in such a way as her own interests may require, provided only that she violates none of the trusts attached to the various funds. We can do this best by citing a few parallel cases.

There is a large and splendid convent building in Maysville, to the erection of which it is said that Protestants gave more than half the money; but what Protestant expects a voice in the control of that school, or expects it to be any less a Catholic school because he gave his money to it? If one such should be found the priest would laugh at him for his folly. Again, the citizens of Paris, very many of them members of the Christian Church, recently offered the Presbyterian University a large sum of money to locate their University in that place, and similar parties in Richmond have secured to their town the location by a more liberal offer; but who in either of those places expected or expects the college to be any the less Presbyterian on account of those donations? Finally, in the establishment and upbuilding of Georgetown College many persons in Scott County who were members of various Churches made liberal donations; but which one of them has since complained because it is a Baptist College and is used to promote the interests of the Baptist Church? In all these instances, as in that of Kentucky University, the donors who were not religiously interested gave their money either to gratify their personal friends or to promote the business prosperity of the community, or to promote education in general; and all regarded their money as gone from their own control when it was given. What denominational college in the land has not received aid from men of other denominations and of no denomination, for reasons like these? and when before now was the cry ever heard that this fact diminishes aught from the denominational character of the Institution?

Let the Christian Church have rights as well as other Churches, and let none of her enemies be permitted successfully to raise an unjust standard of judgment against her.

OWNERSHIP OF KENTUCKY UNIVERSITY.

We now propose to analyze the calculation found in the "Majority Address" furnished we suppose by the Regent himself and adopted by Jno. Aug. Williams and the other members of the majority of the Committee. We copy it in full:

"STATEMENT OF ENDOWMENT FUND.

1. <i>Grassy Spring Church</i> , the only congregation of Christians in the state that ever subscribed a cent, made their gift forty years ago to old Bacon College amounting to,	500 00
2. The old Bacon College Trustees,	9,000 00
3. Surplus Bank dividend,	2,000 00
4. Transylvania Trustees,	65,500 00
5. Agricultural fund,	165,000 00
6. R. M. Bishop to Bible College,	5,000 00
7. Individual members of the <i>Christian Church in Kentucky</i> ,	121,570 00
8. Individuals in Kentucky not members of the Christian Church,	65,030 00
Total endowment subscribed,	\$433,700 00

STATEMENT OF REAL-ESTATE AND BUILDING FUND.

1. Subscriptions by individual members of Christian Church in Kentucky,	70,575 00
2. Subscriptions by individuals, not members,	114,437 16
3. United States, for Medical College,	22,000 00
4. Value of Transylvania real-estate,	100,000 00
Total real-estate and building fund,	307,012 16
Total endowment fund from Christians actually paid in,	101,842 69
Total endowment from other sources,	279,410 84
	\$381,253 53

Now from the figures it seems that while our Kentucky brethren have subscribed:

To real-estate fund,	70,575 00
To endowment fund paid in,	101,842 69
Making in all,	\$172,417 69

Other parties have been donors:

To the real-estate fund,	236,437 16
To the endowment fund,	279,410 84
Making in all,	\$515,848 00

Now if we must be governed at all times by the instructions of donors in all matters of legislation connected with the internal management of the University, shall we obtain the voice of those donors who have given this large amount of \$515,848, or confine the right of instruction and control *exclusively* to those Christians only who gave the smaller amount of \$172,417? This may be to your minds a new question."

This calculation is deceptive from beginning to end. We enumerate the following specifications:

1. Under the heading "Statement of the Endowment Fund," the total endowment subscribed is set down at \$433,700.00. But the fifth item included in this is the Agricultural College fund of \$165,000.00 which belongs to the state, which is all kept in the state treasury, and which is not to be considered at all when we are discussing the question of ownership. It is admitted on all hands that this fund belongs to the state, and the question of ownership concerns the other property exclusively. To make a fair calculation, therefore, this fund must be omitted from the account, and the real amount in dispute is \$433,700 less \$165,000 or \$268,700.

2. Of the items which make up this amount the first is the \$500 given by the Grassy Spring Church, which is here counted separately from the donations of the Christian Church, because it was not given by *individual members* of the Church! No comment is needed here.

3. The second item is \$9,000 received from "The old Bacon College Trustees," an institution which was unquestionably the property of the Church, yet its funds are put down in this calculation as if it came from some other source than the Christian Church in Kentucky! Surely Mr. Bowman and Mr. Williams must have thought that they were dealing with simpletons when they made these figures.

4. The third item is "Surplus Bank Dividends," also put down as not of the Church, as though dividends gained by the Church's money in bank are not hers.

5. The fourth item is the Transylvania Endowment, set down as if it were a donation from the Transylvania Trustees, when really it is money acquired by the University as a condition of its removal to Lexington, and is as certainly the property of those who owned the University when the contract was made as any other property which they have acquired by business transactions.

6. The sixth item, though a donation of \$5,000 from a member of the Church and a donation expressly to the Bible College is not credited as ours, because it was not given by a member of the Church *in Kentucky!*

7. The eighth item, \$65,030, credited to individuals not members of the Christian Church, was given, every dollar of it, while the institution was yet at Harrodsburg and was known by everybody as a strictly denominational institution; for the Regent asserts in his last report as Treasurer that all of the individual subscriptions to the endowment fund were made before the removal to Lexington. This money therefore is ours by gift, and our right to use it as we please is unembarrassed.

8. Notwithstanding these simple and obvious facts which show that every dollar of the endowment fund, apart from that of the State College, is unquestionably ours, we are credited in this most unaccountable financial statement with only the seventh item, \$121,570, subscribed by "individual members of the *Christian Church in Kentucky*."

9. Not content with thus trying to cut us down to the small sum of \$121,570, the Regent and his brother-in-law make a heavy deduction from even this amount when they come to foot up their figures in the third and fourth general divisions of the above calculation. In two places they put down the "total endowment fund from *Christians actually paid in*" as \$101,842.69. What has become of the other \$20,000? Did the Regent lose \$20,000 by bad notes out of \$121,000 of subscriptions? If so, were all those notes on irresponsible men, or were some of them notes that were to be used for their effect in getting subscriptions but not to be paid except at the option of the parties giving them? Surely an explanation is needed at this point.

10. In the "Statement of the real-estate and building fund" the value of the Transylvania real estate estimated at \$100,000, is put to the credit of parties outside of the Church, although it was acquired, as was the endowment fund of that defunct institution by the removal from Harrodsburg to Lexington, and is ours by force of a business transaction legalized by legislative enactment.

11. The United States is credited with \$22,000 as though it were a donation from the Federal Government when in reality this sum was paid in consideration of the use of the Transylvania buildings by the government during the war, one of which, the medical college, was burned down while occupied by government soldiers. It is money acquired for rents, and is in no sense a donation.

12. The \$114,437.16 credited to individuals not members of the Church was given, at least one half of it we believe, by men whose families are connected with the Church, or whose religious preferences, are for the Church; and the other half by men who knew, unless deceived by the Regent, that they were putting their money under the control of the Church, and whose notes declared that they were giving to the "*various colleges*" of the University. Moreover the real estate which was purchased with this money has been deeded in *fee simple* to the University, and not a square foot of it belongs to the state of Kentucky or any other party. We unhesitatingly declare therefore that the entire real-estate of the University is the property of the Christian Church, Ashland and Woodland being hers by a *fee simple* title, and Transylvania hers for occupation and use to the end of time.

13. It must be observed that in stating the *individual* donations to the real-estate and building fund the Regent credits a certain amount to "members of the Christian Church *in Kentucky*," and a certain other amount to "individuals *not members*." Now Mr. Yost, the Pennsylvanian, whom the Regent proclaimed several years ago as a donor of \$25,000 and to whose liberality the people have supposed themselves indebted for the machine-shop at Ashland, belongs to neither of these classes. He is not one of the "*individuals not members*," neither is he a member of the Church *in Kentucky*. He was at the time of his donation a member of Christian Church in Pennsylvania. Why is this \$25,000 left out of the account altogether? Was it because if stated at all it would of necessity have been credited to the Christian Church. We can see no other reason.

These specifications are sufficient to show that the above calculation is deceptive in the extreme. Be it remembered also that the figures are all given on estimates made by the Regent himself whose memory is not by any means infallible in regard to the Church membership of the hundreds of donors from whom he has obtained subscriptions in the course of eighteen years.

Let the brethren and the disinterested public consider these facts and figures fairly, and they will appreciate correctly both the rights of the Christian Church and the enormity of the wrong which has been long contemplated, but is just now proclaimed, of attempting to deprive her of the control of her University, on the plea that it is not her own. When Mr. Bowman found himself excluded from the Christian Church and defeated in his attempt to build up a schismatical party into a strong congregation, he knew that it was vain for him to appeal any longer to that Church for donations; and from that hour he has been endeavoring to rid the institution of its denominational character, so that he might more effectually appeal to men of other Churches and of no Church to make liberal donations. Of course every such donation, if any such had been obtained, would have been employed as additional proof of the secular character of the Institution, and would have emboldened the Regent to still further repudiate a Church which has repudiated him. In the good providence of God it is well that he has been brought to a halt in his mad career, and that there is now to be a better understanding of affairs before any further steps shall be taken.

Below we give an accurate statement of the number of students in attendance at the University, during its respective sessions since its location in Lexington, Kentucky.

These statistics show that the University is rapidly going down. If asked for a reason for this decline, the answer is simple: the Christian Church that owns the institution having lost confidence in its management refuses to support it. Since this Church refuses to support it, from what quarter can support be expected?

Session of 1865-6.		Session of 1870-71.	
College of Arts	225	College of Arts	216
“ Bible	37	“ A. and M.	212
“ Law	13	“ Bible	122
Academy	63	“ Law	28
		Commercial College	102
Total	338	Total	680
Session of 1866-7.		Session of 1871-72.	
College of Arts	124	College of Arts	173
“ A. and M.	190	“ A. and M.	217
“ Bible	49	“ Bible	104
“ Law	25	“ Law	26
Academy	114	Commercial College	67
Total	502	Total	587
Session of 1867-8.		Duplication of names.....	8
College of Arts	163	Total	579
“ A. and M.	220	Session of 1872-73.	
“ Bible	71	College of Arts	134
“ Law	26	“ A. and M.	181
Commercial College	58	“ Bible	88
Academy	112	“ Law	26
Total	650	Commercial College	148
Session of 1868-9.		Total	577
College of Arts	168	Duplication	19
“ A. and M.	283	Total	558
“ Bible	108	Session of 1873-74.	
“ Law	31	NOW IN ATTENDANCE.	
Commercial College	91	College of Arts	about 80
Academy	86	“ A. and M.	about 100
Total	767	“ Bible	35
Session of 1869-70.		“ Law	8
College of Arts	192	Commercial College	35
“ A. and M.	300	Medical College	00
“ Bible	114	Total	253
“ Law	27		
Commercial College	108		
Academy	78		
Total	819		
Duplication	47		
Total	772		

