

Minutes of the Meeting of the Executive Committee of the Board of Trustees, University of Kentucky, March 30, 1943.

The Executive Committee of the Board of Trustees of the University of Kentucky met in the President's Office at 10:30 a.m., Tuesday, March 30, 1943. The following members were present: Judge Richard C. Stoll, H. S. Cleveland, R. P. Hobson, and H. D. Palmore. President H. L. Donovan and Comptroller Frank D. Peterson were also present.

A. Approval of Minutes.

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1. Upon motion duly made and seconded, the minutes of the Executive Committee of November 14, 1942, and the minutes of the called meetings of the Executive Committee of December 12, 1942, and January 28, 1943, were approved as published.

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B. Report of Comptroller.

Comptroller Frank D. Peterson submitted financial report for the period ending February 28, 1943. He stated that in his opinion it is safe to predict that the combined income of the University for the current fiscal year will equal the budget estimate, thus making it possible to operate the fiscal year with a balanced budget. He further stated that there were questions relative to some of the auxiliary enterprises and activities being able to continue on a self-supporting basis and suggested that a more detailed financial analysis of these agencies would be furnished the Board at the April meeting.

The Executive Committee spent considerable time examining the report, manifesting interest.

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2. Upon motion duly made and seconded, the report was ordered received and approved and filed with the records of the minutes of the Executive Committee.

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C. Investment of Haggin Fund

The Executive Committee, in examining the Comptroller's report, recognized that a rather large free balance exists in the Haggin Fund, at this time. The question was raised as to whether or not part of these funds should be invested and, upon motion made, seconded and unanimously carried, the Executive Committee ordered the Comptroller to invest \$50,000 in Government negotiable bonds.

D. Dormant Funds.

The Comptroller reported dormant funds on deposit in the First National Bank and Trust Company amounting to \$44,90. On motion made, seconded and unanimously passed, the Board directed that these receipts be credited to the University College Collection account.

E. A Memorandum of Agreement Made between the United States of America War Production Board in the Office for Emergency Management, Executive Office of the President, and the University of Kentucky.

President Donovan presented the following correspondence to the Executive Committee:

March 11, 1943

President H. L. Donovan
University of Kentucky

Dear President Donovan:

I transmit herewith a copy of negotiated contract with the United States of America War Production Board for an experimental investigation in connection with the behavior of Ferritic Steels at low temperatures. The work is to be done under the supervision of the College of Engineering. The letter of intent has already been received and the work is in progress.

This contract has been examined and approved by Dean Graham, College of Engineering, and Francis T. McGuire, who will be in direct charge of the work. I recommend that the Executive Committee approve the contract.

Yours very truly

(Signed) Frank D. Peterson
Comptroller

WAR PRODUCTION BOARD
Washington, D. C.

February 24, 1943

Mr. Frank D. Peterson
Controller
University of Kentucky
Lexington, Kentucky

Dear Mr. Peterson:

Enclosed are an original and two copies of a proposed contract with the University of Kentucky for research work, in connection with the behavior of ferritic steels at low temperatures.

If this contract meets with your approval, sign and return all copies to this office for acceptance by the government, after which a copy will be forwarded for your files.

Very truly yours,

(Signed) F. R. Cawley
Chief, Management
Services Branch

Enclosures

Contract No.

Negotiated Contract

MEMORANDUM OF AGREEMENT made this day of 194 ,
effective as of the 3d day of February 1943, between
THE UNITED STATES OF AMERICA (hereinafter called "the
Government"), War Production Board in the Office for
Emergency Management, Executive Office of the President,
represented by the Contracting Officer executing this
contract, and University of Kentucky. (hereinafter called
"the Contractor").

WHEREAS, the Contractor conducts and maintains an
experimental testing and research laboratory or labora-
tories, and the Government desires that the Contractor
conduct studies and experimental investigations as herein-
after specified; and

WHEREAS, the Contracting Officer recognizes that
the activities contemplated hereunder require that a
substantial part of the materials, supplies, and other

articles to be acquired for use in the work hereunder be either consumed during the course of the activities or incorporated into equipment or other articles to be constructed hereunder; and

WHEREAS, the parties intend that the Contractor shall perform the work hereunder for the Government without gain or loss to the Contractor;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1. (a) The Contractor shall, with the utmost secrecy and dispatch and in accordance with the instructions of the Contracting Officer or his authorized representative, supply the necessary personnel and facilities for and conduct studies and experimental investigations in connection with the behavior of Ferritic Steels at low temperatures.

(b) The Contractor shall proceed with the work hereunder until but not beyond December 2, 1943, except as otherwise authorized in writing by the Contracting Officer.

(c) The Contractor shall permit the Contracting Officer and his authorized representative to visit and inspect the work hereunder at all reasonable times, shall report the progress of such work from time to time as requested by the Contracting Officer or his authorized representative, and shall furnish a complete final report of its findings and conclusions upon completion of such work.

(d) The Contractor may procure materials, supplies, apparatus and equipment for use in the work required hereunder by contracts with others, but the Contractor shall not enter into subcontracts involving research or development work of the kind contemplated by this contract without obtaining the approval of the Contracting Officer or his authorized representative. The determination of whether or not a subcontract involves research or development work within the meaning of this paragraph shall be made by the Contracting Officer or his authorized representative. Subcontracts involving such research or development work shall be in a form approved by the Contracting Officer.

(e) The Contractor shall obtain the approval of the Contracting Officer or his authorized representative before altering or constructing buildings, or leasing or otherwise acquiring any real property for use in the work required hereunder and for which reimbursement will be claimed hereunder.

(f) The Government may furnish materials, supplies, apparatus, equipment or other articles for use in the performance of the work required hereunder, and such property shall be used by the Contractor only as directed by the Contracting Officer or his authorized representative.

ARTICLE 2. (a) The Government shall reimburse the Contractor, upon the submission of certified public vouchers approved by the Contracting Officer or his authorized representative, for the actual cost to the Contractor of performance of its undertakings hereunder in an amount not exceeding - forty-seven thousand five hundred dollars (\$47,500.00). The Contractor may submit such vouchers at monthly intervals for actual costs incurred and not previously reimbursed, except that the final reimbursement payment shall not be made until receipt of (i) the final report required by ARTICLE 1 (c), (ii) the lists of articles required by ARTICLE 3, and (iii) the disclosure and designation required by ARTICLE 5 (b).

(b) Notwithstanding the provisions of ARTICLE 1 (b), when and if actual costs in such maximum amount shall have been incurred or obligated hereunder, the Contractor shall not be required to incur or obligate further actual costs hereunder unless and until the Contracting Officer shall first agree in writing to reimburse the Contractor for such further actual costs.

(c) All vouchers submitted shall indicate, with respect to each class of items listed by the Contractor thereon, the particular subparagraph of paragraph (d), below, under which reimbursement is claimed, shall be itemized as required by the Contracting Officer, and shall be supported by the appropriate substantiating documents required by the Contracting Officer or his authorized representative such as original itemized receipted invoices, original itemized receipted bills, original signed payrolls, receipts from employees, or certified true copies thereof.

(d) "Actual cost" as used herein includes only the following:

(i) Expenditures by the Contractor for the salaries and wages of its employees directly engaged in the work required hereunder, plus Federal and State Social Security taxes payable by the employer with reference to such salaries and wages;

(ii) Expenditures by the Contractor for such materials, supplies, apparatus, equipment and other articles (including processing, alteration, and testing thereof, and rental of apparatus and equipment from others) as are necessary for performance of the work required hereunder;

(iii) An allowance for overhead costs in an amount not exceeding fifty per cent (50%) of the total salaries and wages reimbursable under subparagraphs (d) (i) and (d) (x) of this Article 2;

(iv) Expenditures by the Contractor necessary solely for performance of the work required hereunder for long distance telephone calls, telegrams, cablegrams, radio-grams, postage, freight, express, and drayage;

(v) Expenditures by the Contractor necessary for performance of the work required hereunder for the actual traveling expenses of persons directly engaged in such work, plus the actual subsistence expenses of such persons incurred during periods of travel or, at the Contractor's option, an allowance, not exceeding six dollars (\$6.00) per person for each calendar day (midnight to midnight) during a period of travel (or, for fractional parts of a calendar day, $\frac{1}{2}$ of such amount for each 6-hour period or fraction thereof), in lieu of the actual subsistence expenses of such persons; Provided, That expenses for travel hereunder by motor vehicle other than common carrier shall be reimbursed on a mileage basis at a rate not exceeding five cents (5¢) per mile per vehicle, in lieu of the actual expenses of such travel;

(vi) Expenditures by the Contractor for premiums on insurance approved by the Contracting Officer or his authorized representative as part of the actual cost of the work required hereunder;

(vii) Expenditures by the Contractor for the leasing of real property or the construction or alteration of buildings;

(viii) Expenditures by the Contractor representing reimbursement to subcontractors under ARTICLE 1 (d);

(ix) Expenditures by the Contractor, approved by the Contracting Officer or his authorized representative, incurred under ARTICLE 3 and the ARTICLE 15 hereof;

(x) Expenditures by the Contractor to reimburse other employers for the salaries of employees released for and directly engaged in the work required hereunder but whose salaries are not reimbursed under subparagraph (i) hereof, plus Federal and State Social Security taxes payable by the employers, and reimbursed by the Contractor, on such salaries;

(xi) Expenditures by the Contractor not otherwise reimbursed which may be specially determined by the Contracting Officer or his authorized representative and specifically certified by him in writing to constitute part of the actual cost of the work required hereunder.

ARTICLE 3. Upon the completion of the work required under ARTICLE 1 (a), unless the Contracting Officer and the Contractor shall otherwise agree in writing, the Contractor shall:

(i) Furnish to the Contracting Officer or his authorized representative within thirty (30) days lists, itemized and substantiated as required by the Contracting Officer or his authorized representative, of all materials, supplies, apparatus, equipment, or other property, real or personal, in which the Government has any interest hereunder which (a) have been delivered by the Contractor to third persons, or (b) have not been expended or delivered hereunder;

(ii) Deliver at the Government's expense all such articles of personal property which have not been expended or delivered when and where directed by the Contracting Officer or his authorized representative; and

(iii) Promptly advise the Contracting Officer or his authorized representative whether it elects to have any buildings constructed hereunder demolished or any buildings altered hereunder substantially restored to the condition prior to such alteration; if it elects such demolition or restoration, the Government shall reimburse it for the cost of such demolition or restoration; if it elects to retain the benefit of such constructions and alterations, it shall return to the Government a sum in consideration therefor determined by the Contracting Officer to be fair and proper.

ARTICLE 4. (a) The Contractor shall be responsible to the Government, over and above the amount compensated by insurance, for the loss of or damage to materials, supplies, apparatus, equipment, and any other property, real or personal, in which the Government has any interest hereunder, only if and so far as attributable to the negligence of an official of the Contractor in hiring or retaining employees or otherwise acting in his official capacity; Provided, That the Contractor shall

(i) Furnish to the Contracting Officer promptly upon the execution hereof an itemized list of all existing insurance policies which cover any of the risks involved in the work hereunder, and its suggestions in writing as to additional insurance policies necessary to protect the Government and the Contractor, and

(ii) Maintain insurance in such forms and amounts and for such periods of time as the Contracting Officer may approve or require.

ARTICLE 5. (a) The Contractor hereby grants to the Government of the United States an irrevocable option to purchase a non-exclusive license or licenses, subject to the payment of royalties, to make, have made, and use, for military, naval, and national defense purposes, and to sell in accordance with law, material, and to use processes, under all United States patents and applications for patents owned or controlled by the Contractor covering inventions heretofore developed and actually or constructively reduced to practice and concerned with the subject matter of this contract. Any such license shall be granted upon reasonable terms subject to negotiation at the time the Government may desire to exercise its option hereunder.

(b) The Contractor agrees to and does hereby, in consideration of the premises and in consideration of payments to be made by the Government under this contract, grant unto the Government a non-exclusive, irrevocable, royalty-free license, to make, have made, and to sell or otherwise dispose of in accordance with law, material, and to use processes, under all inventions made in carrying out the work contemplated by this contract, including all inventions [exclusive of inventions covered by subparagraph (a)] which for the first time were actually or constructively reduced to practice as a result of the work contemplated by this contract, whether patented or unpatented. The Contractor agrees to make to the Government, prior to the final settlement under this contract, a complete disclosure of all inventions made in carrying out the work contemplated by this contract and to designate in writing which of the said inventions have been or will be covered by applications for patents filed or caused to be filed by the Contractor. The Contractor shall have the right, upon notification by the Government, to elect whether it or the Government shall file applications for patents on inventions in addition to those designated by the Contractor as aforesaid.

(c) As to all such inventions that are not covered by applications for patents as specified in subparagraph (b) the Contractor agrees that the Government shall have the right, at the Government's expense, to file, prosecute, and act upon applications for patents thereon, and the Contractor shall secure the execution of the necessary papers and do all things requisite to protect the Government's interest in prosecuting such applications to a final issue. When an application for patent is filed by the Government as aforesaid, all right, title, and interest in and under the patent shall be assigned to the Government by the Contractor except that the Contractor may retain a non-exclusive license non-transferable except to an assignee of the entire business to which said license is appurtenant.

(d) The Contractor covenants that it has not entered into and will not enter into any arrangement to evade the intent of this Article for the Government to obtain without further payment a non-exclusive license to patents, applications for patents and inventions as called for in subparagraph (b) above.

(e) It is agreed that the execution of this contract shall not constitute a waiver of any rights the Government may have under patents or applications for patents.

ARTICLE 6. During the continuance of the present unlimited National Emergency, the Contractor shall not disclose any information concerning this contract or obtained as a result of the work hereunder to any person, except employees assigned to such work, without the written consent of the Contracting Officer. Subsequent to the termination of such Emergency, disclosure of such information shall be governed by the applicable laws and regulations governing the disclosure of classified information.

ARTICLE 7. The Contractor shall immediately submit a confidential report to the Contracting Officer or his authorized representative whenever for any cause it has reason to believe that there is an active danger of espionage or sabotage affecting any of the work hereunder.

ARTICLE 8. The Contractor shall not employ any alien or permit any alien to have access to the plans, specifications, or work hereunder without the written consent of the Contracting Officer as to each such alien.

ARTICLE 9. The Contractor, whenever requested by the Contracting Officer or his authorized representative, shall report to the Contracting Officer the citizenship, country of birth, or alien status of any or all of its employees at the site of, or having access to, any of the work hereunder.

ARTICLE 10. The Contractor shall not employ or continue to employ on, and shall exclude from the site of, any of the work hereunder any person or persons designated by the Contracting Officer or his authorized representative for cause as undesirable to have access to such work,

ARTICLE 11. The Contractor warrants that it has not employed any person to solicit or secure this contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Contracting Officer or his authorized representative the right to annul the contract, or, in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage or contingent fee. This warranty shall not apply to commissions payable by the Contractor upon contracts of sale secured or made through bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business,

ARTICLE 12. The Contractor shall not discriminate against any worker under this contract because of race, creed, color or national origin.

ARTICLE 13. No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ARTICLE 14. The term "Contracting Officer" as used herein includes the duly authorized successor of the Contracting Officer and any person authorized to perform the functions of the Contracting Officer hereunder. The term "authorized representative" refers to any person designated as such by the Contracting Officer. For the purposes of this contract the National Academy of Sciences is hereby designated as the authorized representative of the Contracting Officer.

ARTICLE 15. The Contracting Officer or his authorized representative may at any time advance the date specified in ARTICLE 1 (b) by giving the Contractor thirty (30) days' notice in writing that the work hereunder shall terminate at a specified earlier date, and thereupon such work shall terminate on such earlier date. Upon receipt of such notice the Contractor shall exercise all reasonable diligence to obtain the cancellation of any and all outstanding commitments running beyond such earlier date which it may have made by reason of work hereunder, but the Government shall indemnify the Contractor against any loss upon outstanding commitments which it is unable to cancel; Provided, That in no event shall the maximum amount payable under this ARTICLE exceed the maximum amount specified in ARTICLE 2, less any amounts paid or payable to the Contractor under said ARTICLE 2 prior to such notice.

IN WITNESS WHEREOF, the Government and the Contractor have caused this contract to be signed and sealed, intending to be legally bound thereby.

THE UNITED STATES OF AMERICA
WAR PRODUCTION BOARD

Witnesses:

_____ By _____
Contracting Officer

UNIVERSITY OF KENTUCKY (SEAL)

_____ By (Signed) Richard C. Stoll
Chairman, Executive
Committee

It was explained to the Executive Committee that this contract represented a project worth about \$47,500, same being the cost of material to be used, labor, and overhead expenses.

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3. Upon motion duly made, seconded and unanimously passed, the contract was approved and the Chairman of the Executive Committee was authorized to sign same on behalf of the University of Kentucky.

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F. Liability and Theft Insurance.

President Donovan presented the following letter from Comptroller Peterson requesting a University policy for carrying liability and theft insurance on University trucks:

March 22, 1943

President H. L. Donovan
University of Kentucky;

Dear President Donovan:

When you came here the University as a whole was not carrying liability and theft insurance on trucks. There was an exception in the case of two one-half ton Dodge trucks operated by the Experiment Station. Fire insurance is carried, by the University through the State Fire and Tornado Insurance Fund, on all trucks.

It is contrary to the policy of the State to carry liability insurance and it seems to be contrary to the policy of the Board of Trustees. However, in view of the fact that I cannot find in the Minutes an established policy, I am asking to be advised as to whether or not existing policies for liability and theft on University of Kentucky trucks shall be renewed.

Sincerely,

(Signed) Frank D. Peterson
Comptroller.

After some discussion on this question, it was moved and seconded that the Comptroller be directed to investigate the cost of liability and theft insurance for all of the trucks of the University, including the Experiment Station, and report to the Board of Trustees at their meeting on April 6.

G. Accident to Russell Reynolds.

President Donovan submitted the following letter relative to an accident to Russell Reynolds, carpenter in the Division of Maintenance and Operations. After discussion, the Committee took the following action:

March 26, 1943

President H. L. Donovan
University of Kentucky

In Re: Accident of Russell Reynolds,
Carpenter, December 9, 1942,
at 4:15 p.m.

Dear President Donovan:

Mr. Russell Reynolds was using the circular saw and, in attempting to throw a stick off the board, the stick caught on the saw and pulled his hand into the machine. Three fingers were nearly cut off of the left hand at the second joint. He was taken to the Good Samaritan Hospital where the fingers were amputated and treatment given. Mr. E. B. Farris accompanied Mr. Reynolds to the hospital and talked to Dr. Allen E. Grimes, Staff Physician at the Good Samaritan Hospital.

The Good Samaritan Hospital rendered a bill for \$22.45, for hospital room and care, operating room fees, medicine and dressings. Dr. Gladys Smithwick submitted a bill for administering anesthesia of \$10.00. Dr. A. E. Grimes submitted his bill for amputation of three fingers and seven office visits and dressings amounting to \$100.00.

Mr. Reynolds has been employed with the University since March 8, 1942.

Yours very truly

(Signed) Frank D. Peterson
Comptroller.

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4. Upon motion, duly made, seconded and passed the Executive Committee authorized the payment of the hospital bill submitted by the Good Samaritan Hospital for \$22.45; the bill for surgery submitted by Dr. Allen E. Grimes for \$100.00; and the bill for anesthesia submitted by Dr. Gladys Smithwick for \$10.00; and the Committee ordered that it is the express understanding that action on this claim is without commitment as to requests for payment of medical and other bills incurred in cases of injury to employees and that the Committee does not establish a precedent and does not admit negligence or liability in paying these hospital and doctors' bills.

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H. Ration Bank Account Approved.

The following letter and resolution were presented to the Executive Committee:

March 15, 1943

President H. L. Donovan
University of Kentucky

Dear President Donovan:

I am submitting Resolution which should be presented to the Executive Committee to legalize the establishment of a ration bank account.

Respectfully submitted

(Signed) Frank D. Peterson
Comptroller.

Resolution

RESOLVED, that a ration bank account, or accounts, as defined in General Ration Order No. 3, be opened and maintained in the name of this Corporation with First National Bank and Trust Company, Lexington, Kentucky, which bank shall act as an agency of and under the direction and supervision of the Office of Price Administration and shall be responsible

only to the Office of Price Administration; that any of the following officers or employees of this Corporation, the Comptroller and such employees as he may designate is/are hereby authorized, on behalf of this Corporation, and in its name; To sign ration checks, as defined in said Order; to endorse ration checks, or other ration evidences, owned, or held by this Corporation, for deposit in said account; and

FURTHER RESOLVED, that the Secretary or Assistant Secretary shall certify to said Bank and the Office of Price Administration the names of such officers and employees at present, and shall from time to time hereafter, as changes in the personnel are made, immediately certify such changes to the bank and the Office of Price Administration; and

FURTHER RESOLVED, that First National Bank and Trust Company, Lexington, Kentucky, be and it hereby is authorized to receive and honor all ration checks signed in accordance with the foregoing resolution, and such certification by the Secretary or Assistant Secretary; and

FURTHER RESOLVED, that the foregoing resolution shall remain in full force and effect until written notice of their amendment or rescission shall have been received by said Bank, and

FURTHER RESOLVED, that the foregoing authorization and resolutions shall apply to any and all ration bank accounts which this Corporation now is or may at any future time be required or authorized by the Office of Price Administration to open or maintain, without further authorization from this Board of Directors; and

FURTHER RESOLVED, that the Secretary or Assistant Secretary be, and he is hereby authorized and directed to certify to said First National Bank and Trust Company, Lexington, Kentucky, and to the Office of Price Administration the foregoing resolution and that the provisions thereof are in conformity with the Charter and By-Laws of this Corporation.

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5. Upon motion, duly made, seconded and unanimously carried, the resolution was passed and the Secretary was authorized to transmit to the First National Bank and Trust Company an attested copy.

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I. Additional Allotment for Library Science Research Project.

On recommendation of the President, the Executive Committee approved an additional allotment from the Haggin Fund of \$60.00 to Miss Laura Martin, of the Department of Library Science, for the completion of Magazine Research project carried on under her direction.

J. Pershing Rifles Investment.

President Donovan submitted the following letter from Colonel B.E. Brewer, PMS&T:

March 22, 1943

Dr. H. L. Donovan, President,
University of Kentucky.

Dear Doctor Donovan:

I am inclosing herewith the following listed United States Savings Bonds purchased by the Pershing Rifles Company for a memorial fund for members of that organization after the war:

	<u>Value</u>
C 544479 F	\$100.00
C 544480 F	100.00
C 544481 F	100.00
C 544482 F	<u>100.00</u>
Total	\$400.00

I should appreciate it very much if a record of these bonds and the purpose for which they were purchased could be made in the minutes of the next meeting of the Board of Trustees and then have the bonds turned over to the Comptroller of the University for safekeeping until such time as the company is reorganized and requires the funds for the purpose stated.

Very truly yours,

(Signed) B. E. Brewer
Col., Inf.,
PMS&T.

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6. Upon motion duly made, seconded and carried, the Comptroller was authorized to receive bonds, record same in Investment Ledger, and to keep safe, bonds in the lock box of the University, under the custody of the Comptroller.

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K. Agreement with Miss Billy Jackson for Course in Light Horse Husbandry.

The following contract was presented, read by the Board, and, upon motion duly made, the contract was ordered approved for the period March 24 to June 5, 1943.

An agreement between the Animal Husbandry Department, University of Kentucky, and Miss Billy Jackson.

Miss Billy Jackson agrees to furnish her skilled services as professional riding instructor for as many hours in the Spring Quarter, 1943, March 24 to June 5, as may be required for the purpose of aiding in the instruction of students enrolled in A.I.5, Light Horse Husbandry. For the above services, Miss Jackson agrees to accept, and the University to pay, \$1.00 per hour, the number of hours to be decided upon by the Head of the Animal Husbandry Department, depending on the number of students enrolled in the course.

Miss Jackson agrees to furnish at least six well-mannered and properly gaited saddle horses for use of the students in A. I. 5 during the period March 24-June 5, inclusive. These horses are to be stabled at Barn 33, Lexington Trotting Track, Lexington, Kentucky, and are to be available for use during the periods agreed upon by Miss Jackson and the Head of the Animal Husbandry Department for a total of at least four hours per week. All necessary equipment will be furnished by Miss Jackson. For the use of the horses, Miss Jackson agrees to accept and the University agrees to pay, \$1.00 per hour per horse. It is further understood that Miss Jackson has completed arrangements for use of the Tattersalls' sales barn for riding during inclement weather.

Miss Jackson agrees to release the University of Kentucky of all responsibility for any accident or damage to herself, her horses, or her equipment which may occur

while the above agreement is in force. She also agrees to assume all responsibility for any damage to property of Lexington Trotting Track which may occur through the various activities called for in this agreement, but does not agree to assume any responsibility for accidents occurring to students.

(Signed) Thomas P. Cooper, Dean
College of Agriculture,
University of Kentucky

(Signed) Billy Jackson

L. Change of Occupation for Dr. T. P. Polk.

President Donovan submitted the following correspondence relative to Change of Occupation for Dr. T. P. Polk with recommendation that the request be granted:

March 24, 1943

Dean Thomas P. Cooper
Experiment Station

Dear Dean Cooper:

As you know, I was injured in an automobile accident, while in the discharge of duties as extension veterinarian, July 18, 1942. Recovery has been slow but rather complete except for the injury to my left hip. I am still on crutches, therefore I cannot effectively carry on the field work that is required of an extension veterinarian. There is a very great need for field work in the extension veterinary service. I am deeply interested in the work and appreciate that it should, especially at this time, be carried on with the greatest activity.

I have given considerable thought to what is involved and realize that if the field work in veterinary extension is to continue as it should be it will be necessary to employ additional help. Because of my inability to do field work I have come to the conclusion that I should ask for a change in employment and allowance as provided by the rules of the Board of Trustees of the University of Kentucky for staff members on attaining the age of 70. I will be 68 years of age November 25, 1943, and was appointed to my present position January 10, 1921. I am, therefore, applying for a change in employment as of July 1, 1943, and respectfully request that the basis of allowance be estimated as of January 10,

1944, thus giving me 23 years of service. I shall hope to continue to take care of office work in connection with veterinary extension and shall be available for interviews and consultations with county agents and livestock owners who may come in for discussion of livestock disease problems. I will also supervise educational work with young farm men and women and release seasonable information to them. This information is now going to about 5000 enrolled under this project. Whatever arrangement, with the approval of the President and Board of Trustees, you may be able to make for me, including change of employment and allowance, will be greatly appreciated. I shall never lose interest in veterinary extension work and shall ever be ready to render such service as my physical condition and abilities permit.

Very truly yours,

(Signed) T. P. Polk
Extension Veterinarian

March 23, 1943

Dean Thomas P. Cooper
Experiment Station

My dear Dean Cooper:

I have talked with Dr. Polk about his physical condition and about extension veterinarian service. He was pretty badly injured at the time of the automobile accident July 1942. His general physical condition seems to be pretty good, however, the injury to his hip was apparently very severe as he is still on crutches. He will never be able to drive an automobile and probably will never be able to do active and effective field work, even was he to ride with someone else. He certainly is in no condition to travel by bus or train.

I would recommend that Dr. Polk be given a change in employment on the same basis as those members of the staff who have reached the age of 70. Dr. Polk will be 68 years of age on his next birthday, which is November, 1943. He will have been with the University 23 years on January 10, 1943.

I see no reason why Dr. Polk should not continue to do the office work that he formerly did in connection with the extension service, also do consultation work with livestock owners, county agents, and others who come to the institution for information and to discuss livestock disease problems. The organized projects for 4-H club members and young farm men and women have been very popular; and have received favorable comment from all county agents in the counties where the work has been established. Dr. Polk should be able to direct this work, get out the necessary directions and informative literature and be of help to a young veterinarian who we shall hope to secure for extension service in the field.

I understand Dr. Polk is writing you personally regarding the possibility of his being given a change in employment.

I hope you and the Board of Trustees will give every consideration that you possibly can to Dr. Polk's request.

Very truly yours,

(Signed) W. W. Dimock, Head,
Department of Animal
Pathology

March 24, 1943

President H. L. Donovan
University of Kentucky

Dear President Donovan:

I am transmitting application from T. P. Polk, Field Agent, Veterinary Science, and the recommendation of Dr. W. W. Dimock, Head of the Department of Animal Pathology, for change of employment and allowance to become effective July 1, 1943.

Dr. Polk was in an automobile accident last July and was severely injured. At present, he is on crutches. It is impossible for him to undertake the travel necessary to carry on veterinary extension work. He is capable of doing a great deal of work in the office that will be helpful and he is much interested in contributing whatever he can to the Extension program.

I wish to recommend that he be permitted to assume a change in his assignment of duties as of July 1, 1943, in accordance with the conditions set forth in his request.

Very truly yours,

(Signed) Thomas Cooper
Dean and Director

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7. Upon motion made, seconded and unanimously carried, Dr. T. P. Polk was given temporary Change of Occupation effective July 1, 1943, as office consultant, Live Stock Division, at a salary of \$1,376.00 per annum. This temporary Change of Occupation shall not be computed when Doctor Polk's Change of Occupation becomes permanent at age of 70, but his salary thereafter shall be on the same basis as it would have been were the permanent Change of Occupation made effective as of July 1, 1943, computed on a basis of 23 years of service.

* * * * *

M. Motion Picture, University of Kentucky.

President Donovan explained to the Executive Committee the benefits to be derived by the University from a motion picture entitled The University of Kentucky in War and in Peace. He detailed the project in mind and stated that a committee had been appointed to study the possibility and make recommendations. He further stated that it would be made available for showing to the senior classes of various high schools of the State, women's clubs, and civic clubs. The Executive Committee manifested genuine interest in the project and, upon motion, duly made and seconded, the project was approved and the President was ordered to have the picture made, same to be paid for out of any unappropriated revolving funds available.

N. Purchase of Property of William F. Bippus, Jr., on Euclid Avenue.

The Comptroller reported to the Executive Committee that the lot and building belonging to William F. Bippus, Jr., located on Euclid Avenue between Lexington and Harrison Avenues, could be purchased, together with an air conditioning system which has already been installed, and certain electric fans belonging to same. He stated that the question had been discussed with President Donovan and Chairman Judge Stoll. The purchase price of the land and the contract price of the building and cost of the air conditioning system were outlined to the committee. The Committee discussed at length the advisability of purchasing this piece of property which would complete the acquisition of all property on Euclid Avenue between Limestone Street and the DeBoor Laundry near Rose Street. They also considered the possibility of said property under private ownership eventually becoming a detriment to the further expansion and usefulness of the University.

* * * * *

8. Upon motion duly made and seconded, the Board unanimously approved the purchase from William F. Bippus, Jr., of lot fronting on Euclid Avenue, having a frontage of 145.6 feet, a depth of 201 feet and 1/10 inch, bounded on the east by Lexington Avenue, on the north by Adams Street, on the west by University property; of the building and the equipment in said building belonging to William F. Bippus, Jr.

* * * * *

O. Notice of University of Kentucky's Call of Outstanding Land Trust Certificates.

President Donovan explained to the Executive Committee that the University (under date of September 1, 1938) entered into a lease agreement with the Security Trust Company for use of Kinkead and Breckinridge Halls with option to purchase said halls. This lease has been renewed from year to year, the University having had continuous possession of these buildings since that date. It was also related that the lease agreement provides that the University may exercise the option of completing the purchase of said buildings by giving written notice of its intention so to do by registered mail addressed to the lessor at Lexington, Ky., and mailed to

lessor not less than 30 days prior to the termination of the current term of lease, whether original term or extended term. The extended term of the present lease will expire September 1, 1943. The re-purchase price at that time will be \$158,000.

It was further explained that the University on August 1, 1939, agreed to amend the lease of September 1, 1938, of Kinkead and Breckinridge Halls for and in consideration of lessor agreement to make additional improvements of said Kinkead and Breckinridge Halls amounting to the sum of \$12,000. One-half of this amount has been repaid and the remainder outstanding, to be included in the re-purchase price of Kinkead and Breckinridge Halls as original lease of September 1, 1938. It is also provided that this amount may be retired at the expiration date of any additional extended term of the original lease agreement.

It was also explained to the Executive Committee that the University entered into a lease agreement with the Security Trust Company, Lexington, Kentucky, on the date of July 1, 1935, for the lease of the building formerly known as the Service Warehouse Corporation Building, located on Limestone Street opposite the campus of the University. This lease agreement provides for re-purchase of the Service Warehouse Building at the termination of any extended term of the lease by giving written notice to the lessor at Lexington, Kentucky, and mailing to the lessor not less than 30 days prior to the termination of the current term of the lease written notice. The re-purchase price as of July 1, 1943, will be \$15,000.

The Executive Committee discussed at length the advisability of exercising the option to purchase Kinkead Hall, Breckinridge Hall, and the Service Warehouse Corporation Building and took the following action:

* * * * *

9. Upon motion duly made, seconded and unanimously carried, the Comptroller of the University is ordered and directed to give to the Security Trust Company, the lessor, written notice of the intention of the University of Kentucky of exercising the option granted in the original leases made on properties, referred to above, at the next date of expiration of the extended term of the leases, entered into by the University with the Security Trust Company under date of September 1, 1938, for Kinkead and Breckinridge Halls, and July 1, 1935, for the lease of the Service Warehouse Corporation Building and that he address such notices by registered mail to the lessor at Lexington, Kentucky, notifying the lessor that it is the intention of the University of Kentucky to purchase these properties on expiration date of the existing lease agreements.

* * * * *

The President also explained that under date of January 1, 1942, the University of Kentucky entered into a lease agreement for the use of the Woolley property located at 342 South Limestone Street, Lexington, Kentucky. Said lease agreement is with the Security Trust Company of Lexington, Kentucky. He further stated that this lease agreement provides for a purchase price at the expiration date of the original lease or extended term, and that this property can be purchased as of January 31, 1944, for the sum of \$21,000.

* * * * *

10. Upon motion duly made, seconded and unanimously carried, the Comptroller of the University is ordered and directed to give written notice by registered mail to the lessor at Lexington, Kentucky, that it is the intention of the University of Kentucky to exercise the option of purchase as provided for by the lease agreement, extended term, under date of January 31, 1942.

* * * * *

It was further explained that on June 1, 1942, the University of Kentucky entered into a contract agreement with Saxe Dabney Averitt and Eleanor S. Averitt for the lease of two apartment houses known as lots 31 and 32 of Graham's addition of the city of Lexington, Kentucky, which property fronts on Washington Avenue in the city of Lexington one hundred (100) feet and extends northward between parallel lines a distance of approximately ninety-eight (98) feet, and that this contract agreement provides for additional payments semi-annually of not less than \$500.00 of the principal and that all of the purchase price may be paid in any semi-annual due date period.

* * * * *

11. Upon motion made, seconded and unanimously carried, the Comptroller is authorized and directed to address written notice to Saxe Dabney Averitt and Eleanor S. Averitt, notifying each of them that the University intends to exercise its option to pay the sum of \$13,500 due on said apartment houses as of June 1, 1943, and that on and after said date and said payment the now existing contract agreement shall become null and void.

* * * * *

P. University Agreement to Help Finance Field House.

The Board discussed at length the question of financing the Field House and the use of the present Capital Outlay Appropriation for the acquisition of other properties. The President explained that the University is paying interest rates on lease property ranging from $3\frac{1}{2}\%$ to 6% and recommended the action above taken in exercising purchase option of leased property by the University. It was agreed to be good financing to use the Capital Outlay Appropriation at this time towards acquiring other properties needed for furtherance and advancement of the University program, and it was further agreed that in consideration of the use of the Capital Outlay Appropriation for these Capital Outlay acquisitions rather than the use of same for the erection of a Field House, that the Board of Trustees agree to finance the erection of a Field House when it is possible to secure building materials for the erection of same, to the amount of \$400,000.

The above statement having been read to the Board and being fully understood by them, was unanimously approved.

Q. State Requisitions and Purchases of the Comptroller Approved.

The Comptroller presented the following letter listing purchases made since November 10, 1942.

March 29, 1943

President H. L. Donovan
University of Kentucky

Dear President Donovan:

I submit a list of State Requisitions, Advice of Emergency Purchases, Special Purchase Orders, Food Contracts, and Departmental Purchase Orders, which have been made since November 10, 1942, and have not been approved by the Executive Committee. The list below gives the number of documents requesting the purchase, or actually making the purchase, which documents are made a part of this record and are held in the Office of the Comptroller for record subject to inspection. These purchases have been made on properly drawn documents at the request of the various departments and have been charged against available funds. The list follows:

State Requisitions	857 - 1320
Advice of Emergency Purchases	502 - 1085
Special Purchase Orders	2559 - 5166
Food Contracts	10 - 31
Departmental Purchase Orders:	
Library	308 - 425
	426 - 450
	476 - 500
	501 - 525
	526 - 550
	576 - 600
	601 - 625
	651 - 670
Business Office	375 - 400
	451 - 475
	551 - 575
	626 - 633.

I submit this list and respectfully request approval of the Executive Committee, of the Board of Trustees, of purchases and requisitions as listed above which have been handled by this office.

Respectfully submitted,

(Signed) Frank D. Peterson
Comptroller.

* * * * *

12. Upon motion duly made and seconded, purchases made upon State Requisitions, Advice of Emergency Purchases, Special Purchase Orders, Food Contracts, and Departmental Purchase Orders as set forth in above letter were unanimously approved.

* * * * *

R. Agreement of University of Kentucky with Kentucky and West Virginia Power Company.

The following contract agreement between the University of Kentucky and the Kentucky and West Virginia Power Company was presented, and explained to the Executive Committee, and, after examination, the Committee took the following action:

AGREEMENT

Covering

UNIVERSITY OF KENTUCKY
ROBINSON EXPERIMENTAL STATION, QUICKSAND, KY.

to Poles Owned by

KENTUCKY AND WEST VIRGINIA POWER COMPANY, INC.

NON-RENTAL FORM OF AGREEMENT COVERING ATTACHMENTS OF
OTHER COMPANIES TO POWER COMPANY POLES

THIS AGREEMENT, made this _____ day of _____, 19____, by and between Kentucky & West Virginia Power Company, Inc., a corporation organized and existing under the laws of the State of Kentucky, hereinafter sometimes called "Owner", and The University of Kentucky, Robinson Experimental Station, hereinafter sometimes called "Licensee."

WITNESSETH:

WHEREAS, the Owner operates and maintains an electric distribution system consisting of various pole lines extending in and through the County of Breathitt, and

WHEREAS, Licensee desires to attach to certain poles of the Owner, more specifically shown on the attached map in the Towns of Quicksand and Jackson, of Breathitt County, Kentucky; certain wires and/or other attachments hereinafter more specifically described, and

WHEREAS, Owner is willing to permit Licensee to place said attachments on said poles under and subject to the conditions hereinafter set forth.

NOW, THEREFORE,

The Owner, for and in consideration of the premises and the payment to it by the Licensee of the sum of One Dollar (\$1.00) the receipt of which is hereby acknowledged, does hereby license and permit Licensee to place the attachments described in the following table, on the poles of the Owner therein described.

TABLE DESCRIBING ATTACHMENTS AND POLES COVERED
BY THIS AGREEMENT

<u>Pole Number or Description</u>	<u>Number and Kind of Attachments</u>
1108-51 Quicksand, Ky.	2-3 pt., sec. racks
1108-50 Quicksand, Ky.	1-3 pt., sec. racks
1108-49 Quicksand, Ky.	1-3 pt., sec. racks
1108-48 Quicksand, Ky.	1-3 pt. sec. racks & 3-1 pt., tel. Brkets.
1108-47 Quicksand, Ky.	1-3 pt., sec. rack & 3-1 pt. tel. brkets.
1108-40 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-39 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-38 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-37 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-36 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-35 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-34 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-33 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-32 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-31 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-30 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-29 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-28 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-27 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-26 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-25 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-24 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-23 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-16 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-15 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-14 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-13 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-12 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-9 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-7 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-6 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-5 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-4 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-3 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-2 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1108-1 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1084-19 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1084-18 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1084-12 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets
1084-11 Jackson-Quicksand Hwy.	2-1 pt., tel. brackets

Said attachments to be placed on the said poles in a manner and under conditions hereinafter set forth, all of which the Licensee accepts and agrees to abide by and perform, viz.:

1. Said attachments are to be placed on the poles of the Owner in a manner satisfactory to the Owner and so as not to interfere with any use which Owner may desire to make of its said poles or wires attached thereto. Said attachments shall be installed and at all times maintained by the Licensee in strict accordance with the provisions of the National Electrical Safety Code and/or any rulings of state, local or other governmental authority having jurisdiction. The Owner shall be the sole judge as to the use of its own attachments or equipment and of any interference therewith and also shall be the sole judge of the compliance of the Licensee's attachments with the Code and the rulings aforesaid.

2. The licensee shall assume all risk of and liability for injury or damage to persons and/or property arising out of or in any manner caused by the placing, maintaining and operating said attachments or any part thereof on the said poles of Owner and shall indemnify and save harmless the Owner from and against any and all such liability.

3. The Owner reserves the right to remove, replace or change the location of any or all of its poles or attachments regardless of any occupancy of the Owner's poles by the Licensee and the Licensee shall at its sole cost, upon ten (10) days' written notice by the Owner, make such changes in its attachments as shall be required by any such action of the Owner as aforesaid.

4. Whenever in the judgment of the Owner the Licensee's attachments shall interfere with the operation of the equipment of the Owner or shall become dangerous to the service of the Owner, on ten (10) days' written notice to the Licensee the Licensee shall immediately remove or change its attachments as the Owner may direct. In case of emergency, the Owner reserves the right to remove or relocate the attachments of the Licensee without notice and no liability therefor shall be incurred by such action.

5. The Owner shall not be required to secure any right, license or permit from any governmental body or other person or persons which may be necessary in the construction of said attachments of the Licensee nor will the Owner guarantee any rights of way for said attachments.

6. This agreement shall continue in force and effect for a period of one year from and after the date hereof and thereafter from year to year unless sooner terminated by either party by giving to the other thirty (30) days' written notice of its intention so to do.

This agreement shall be binding up and inure to the benefit of the parties hereto, their respective successors and/or assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate as of the day and year first above written.

KENTUCKY & WEST VIRGINIA POWER COMPANY, INC.

By _____
President

Attest:

Secretary

UNIVERSITY OF KENTUCKY, ROBINSON EXPERIMENT STATION

By Richard C. Stoll
Chairman of the Executive Committee

Attest:

Witness

* * * * *

13. Upon motion, duly made and seconded, the Contract Agreement was ordered approved and the Chairman of the Executive Committee was authorized to sign same.

* * * * *

S. Purchase of Mattie Patterson Property.

Comptroller Peterson reported to the Executive Committee that Lot #19 on plat known as Field House Site, owned by Mattie Patterson, located on Rose Street between Adams Street and College View Avenue, consisting of a house and lot having a frontage of 31.5 feet and a depth of 90 feet, could be purchased at price of \$3,250.00. It was explained to the Executive Committee that this lot has a five-room house in good state of repair located on same and is located on the site necessary for the Field House auditorium building which the Board of Trustees has ordered acquired. He further stated that this is a compromise price on the part of Mattie Patterson, made in an effort to avoid condemnation proceedings.

* * * * *

14. Upon motion, duly made, seconded and unanimously carried, the Comptroller was authorized to contract for said property for the sum of \$3,250, the owner giving immediate possession.

* * * * *

T. Question of the Maxwell Street Presbyterian Church's Ability to Give Deed to Property on Rose Street.

The President presented the following letters relative to purchase of a house and lot on Rose Street between Adams Street and College View Avenue belonging to the Maxwell Street Presbyterian Church.

March 26, 1943

President H. L. Donovan
University of Kentucky

Dear President Donovan:

In regard to the purchase of a house and lot on Rose Street, between Adams and College View Street, from the Maxwell Street Presbyterian Church, we find there is a question as to the authority of the Board of Trustees of the Church to make a Guaranty Deed to the University since the Will of Mrs. Gossett, former owner of the property, provided that the property was willed to the Maxwell Street Presbyterian Church as a trust fund to be used by the Board of Trustees of the Church.

I have submitted the question to Dean A. E. Evans, who is an authority on wills, and he submitted the attached opinion and conclusions, which I would like to submit to the President and Board of Trustees for consideration.

Yours very truly,

(Signed) Frank D. Peterson
Comptroller.

March 18, 1943

Mr. Frank D. Peterson, Comptroller
University of Kentucky

Dear Mr. Peterson:

Re: Gossett's Will

1. This is a gift to the Maxwell Presbyterian Church, which I am informed is an unincorporated association but has a Board of Trustees which hold title to the local church property. A gift to a church body is a gift to its board of trustees or other governing body, i.e., those persons who hold title to its property.¹
2. This is a gift of real property to be held as a trust fund. Obviously a parcel of ground is not a trust fund nor any other kind of fund. The implication seems plain that the donor intended the property to be converted into money. We must infer that the premises are to be sold. Both the term "fund" and the term "income" show pretty clearly that the premises were to be sold and the proceeds were to be so applied as to produce income.
3. This is a trust property and is to be used by the church trustees as they see fit. The intention to create a trust seems plain. In order for a trust to exist, there must be a trustee who holds the legal title to the property, under an obligation, however, to use it for the benefit of some beneficiary. In charitable trusts the trustee holds the property and uses the income for such charitable purposes as are set out in the instrument. If none are clearly set out, then we must infer from all the circumstances just what those purposes are. Here the church trustees, by the terms of the will, may determine the application of the income. We must infer, necessarily, that the application is limited to such uses as would benefit the organization, e.g., running expenses, missions purposes, minister's salary, repairs, a new location, a new building, or anything, in fact, which could legitimately be said to contribute to the carrying on of the worship of this church.
4. I have tried to show that this is a charitable trust and the beneficiary consists of such objects and purposes as the church trustees shall select, they being limited in their selection to matters pertaining to the advancement of the interests of the organization now known as the Maxwell Street Presbyterian Church. I have also indicated that a gift to this church is a gift to its trustees, who are thereby also made trustees of the gift. Thus, a gift to Transylvania College is a gift to its Board of Trustees.

¹ In Britton v. Jackson, 31 Ariz. 97, 250 Pac. 763 (1926) a deed to "Church of God in Christ of Phoenix, Arizona" was held to be a conveyance to the trustees as the legal title holders. The same implication may be found in Street v. Cave Hill Inv. Co., 191 Ky. 422 (1921)

Another alternative is possible if one by any chance should be mistaken in the assumption just made. Clearly a trust was created. Clearly, also, the religious purposes of the named church are the object of the trust. If the church trustees were not vested with title, then no one was. That is, we have the not uncommon case of a trust created by will where the testator inadvertently failed to name a trustee. In that case a court of equity, on proper petition, will appoint a trustee to take legal title.

5. If we assume that a devise to a church is a devise to the legal title holders of its property, in this case a good title can be passed. There is no restriction on the conveyancing. In fact, as shown in paragraph (2), the Board are required to convey in order to carry out the purpose of the gift. If we assume that no trustee was named but that a trust was created for the benefit of the church, then the church can pass its beneficial interest through the agency of its proper officers. There would be formally a defect but such defect is cured. (a) There is no one who could object to the conveyance by the church trustees to the University. If no one can show an interest in raising the issue, the title is substantially as good as if it were formally correct. Thus, the heirs at law and the residuary devisees are clearly cut off. Their only ground for contesting the University's title would be that nothing was conveyed. But all they could do would be to insist that the court formally appoint a trustee and they would be faced with the difficulty of showing any interest warranting such relief.

The executor of the will also has no interest in the disposition. Clearly the trustees of the church and their successors in office could not later attack the conveyance. They are estopped. So also is the church congregation and the members thereof. No one outside of the church trustees could claim to represent the church's interests. They are also estopped not merely by their conveyance but by the fact that they have received the proceeds and applied them as they are permitted to do. (b) If the Board of Trustees do not hold the legal title, they do hold the equitable interest and in such case a conveyance by them is a conveyance by all who have an interest in the premises.

My conclusion, then, is: (a) A devise to the church is a devise to its trustees. About this I think there is no reasonable doubt. (b) If not, however, still the trust is valid and will not fail for want of a trustee. The church trustees would then represent not the legal, but rather the beneficial interest in the property. If they convey their beneficial interest, a title is received by the grantee substantially as good as a conveyance of the legal interest would be because no one can question the conveyance.

The lot can be sold inasmuch as it was to be converted into an income bearing trust fund. The University would therefore acquire from the church trustees an unimpeachable title.

I think also that a resolution should be adopted by the congregation and spread on its minutes authorizing the Board of Trustees to make the conveyance, and the deed should be signed by all the trustees. The deed should recite that the conveyance is made by virtue of said resolution of the congregation. I would also have the Board of Trustees vote to make the conveyance by virtue of such resolution and a recital thereof made in the deed. The order should be: (a) resolution of congregation, spread on minutes; (b) resolution of Board reciting resolution of congregation; (c) deed by Board signed by all the trustees and reciting the resolution of the Board of Trustees authorized by the congregation. Thereafter, it would do no harm to have the church congregation pass a resolution approving the action of the church trustees.

Very truly yours,

(Signed) Alvin E. Evans
Dean

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CONGREGATIONAL RESOLUTION

Whereas the Maxwell Street Presbyterian Church desires to sell and the University of Kentucky desires to buy the house and lot at 369 Rose Street, Lexington, Kentucky;

Now, Therefore, be it resolved on this _____ day of March, 1943, that the congregation of the Maxwell Street Presbyterian Church, a quorum being present, do hereby authorize its Board of Trustees to sell, transfer, and convey unto the University of Kentucky, said house and lot for the price of _____.

Dated this _____ day of March, 1943.

Chairman of Congregation

RESOLUTION BY BOARD OF TRUSTEES

Whereas the Maxwell Street Presbyterian Church desires to sell and the University of Kentucky desires to buy the house and lot at 369 Rose Street, Lexington, Kentucky; and whereas the Board of Trustees were authorized by a resolution of the congregation, dated the _____ day of March, 1943, to sell and convey the said lot to said grantee;

Now, Therefore, the Board of Trustees do hereby resolve to comply with said direction and do hereby resolve to sell, transfer and convey to the University of Kentucky the said house and lot for the price of _____.

Dated this _____ day of March, 1943.

Chairman

- - - - -

This conveyance is made by direction of the church congregation of the Maxwell Street Presbyterian Church, in response to a resolution of said congregation dated the _____ day of March, 1943, and further as a compliance with a resolution of the Board of Trustees of said Church dated the _____ day of March, 1943.

(To be signed by all the trustees)

The Executive Committee examined the above forms and advised the Comptroller to proceed accordingly.

There being no further business to come before the Executive Committee the Committee adjourned.

Frank D. Peterson
Secretary of the Executive
Committee