

“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.” The authors of the report before me contend that this provision of the charter “simply creates an element in the board,” and vests the property of the University in the board as “thus constituted,” and not “in that congregational community of which the two-thirds are required to be members,” adding that the Christian Church in Kentucky, “being unincorporated, neither holds nor can hold legally any property whatever.” Now the truth is that legal enactments touching the ownership of property do not and can not vest this attribute in anybody. Ownership must first exist as inherent in some rightful possessor and it is the province of law simply to recognize and protect this previously existing right. Law is not the source of ownership in anything, but only of that protection by which its uninterrupted enjoyment is secured. Unincorporated bodies, as local congregations for example, may and do own property, but that they may be protected by law in the enjoyment of their ownership they appoint trustees as agents to represent them before the law, and in these the legal management, but not the ownership, of their property is vested. And this is the import of the bunglingly written provision of the charter above quoted. It means this or it means nothing. It would be, as we have seen, a solecism absurd in the highest degree to speak of trustees as owning anything they hold in trust for others. The charter of the University “creates an element in the Board” of Curators by providing that two-thirds “shall always be members of the Christian Church in Kentucky,” in order that the legal management of the institution should always be in harmony with the rights and wishes of its real owner. For this reason, and this only, was the board “thus constituted.”

# Kentucky University

ITS

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LOWE & STANLEY, 105 FIFTH STREET.  
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