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1931-12-15

Board of Regents, Murray State Normal School

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MINUTES OF BOARD OF REGENTS
MURRAY STATE TEACHERS COLLEGE

December 15, 1931

The Board of Regents of the Murray State Teachers College met in the President's office at 9:30 A. M. Tuesday, December 15, 1931 with Mrs. William H. Mason, Mr. G. P. Ordway, Mr. S. J. Snook and Mr. Claude T. Winslow present. Vice Chairman S. J. Snook presided in the absence of Chairman W. C. Bell.

Reading of the Minutes

The minutes of the meeting of the Board of Regents on November 6, 1931 were read, approved and signed.

Resignation and Re-appointment of Mrs. Mason and Mr. Winslow

Mrs. William H. Mason and Mr. Claude T. Winslow informed the Board of Regents that they each resigned their terms of office as members of the Board of Regents on December 5, 1931, and that immediately thereafter, Governor Flem D. Sampson appointed and issued a commission to Mrs. William H. Mason as a member of the Board of Regents for the term ending April 1, 1934, and appointed and issued a commission to Mr. Claude T. Winslow as a member of the Board of Regents for a term ending April 1, 1932.

Thereupon, Mr. G. P. Ordway made a motion that Mrs. William H. Mason be elected Secretary of the Board of Regents. Said motion was seconded by Mr. Claude T. Winslow, and the Chairman called the roll on the said motion with the following result: Mrs. Mason, not voting; Mr. Ordway, aye; Mr. Winslow, aye; Mr. Snook, aye.

Mr. Ordway made a motion, which was seconded by Mr. Winslow, that Mrs. William H. Mason be authorized as an official representative of the Board of Regents to countersign the checks paid from the treasury of this college. Mrs. William H. Mason was unanimously elected as official representative of the Board of Regents to countersign all the checks.

Letter from Mr. W. C. Bell

President Wells presented to the Board of Regents a letter which he received from State Superintendent W. C. Bell this morning, and recommended that it be made a part of the minutes.

Motion was made by Mr. Winslow, and seconded by Mrs. Mason, that the letter from Mr. W. C. Bell be embraced in the minutes of this meeting and the President be requested to make reply and express the appreciation of this Board to him. This motion was unanimously carried and the letter follows:

Commonwealth of Kentucky

DEPARTMENT OF EDUCATION

Frankfort

December 14, 1931

" Pres. Rainey T. Wells
Murray State Teachers College
Murray, Kentucky

Dear Pres. Wells:

I regret very much that it is impossible for me to attend the meeting of your Board on Tuesday morning, December 15, 9:00 A. M. Previous engagements necessitate my being absent from that meeting.

I have appreciated immensely courtesies extended by you and other members of your Board during my tenure of service. It is gratifying to note the development of your institution from every standpoint.

As a "high private", I shall observe with keen interest the continued developments of the Teachers College at Murray.

Very truly yours,

(Signed) W. C. BELL

WCB:LR

Superintendent Public Instruction"

Report of Entrance, Credits, Certification and Graduation Committee

Next, President Wells read to the Board the report and recommendations of the Committee on Entrance, Credits, Certification and Graduation, and recommended that the report be approved and the certificates be issued and renewed, according to the following recommendations:

December 15, 1931

To the Board of Regents
Murray State Teachers College:

As per the duties assigned to the Committee on Entrance, Credits, Certification, and Graduation, we report as follows:

1. We have examined the credentials in reference to age and moral character of the persons listed in this section of the report and it is our opinion that they meet the requirements in regard to age and moral worth.

We recommend that the persons listed below be granted the COLLEGE ELEMENTARY CERTIFICATE, valid for two years, as each has completed at least sixteen semester hours of credit and has fulfilled all other requirements as set forth in Chapter 37 of the Acts of 1930 for such a certificate:

Kirkland, Tommie
Solomon, Charlette

2. We have examined the record of the person named in this section of the report and find she has completed the required work for the renewal of a COLLEGE ELEMENTARY CERTIFICATE and recommend that her certificate be renewed for two years:

Jordan, Eliza (Mrs. Eliza Jordan Hooks)

3. We recommend that the STANDARD CERTIFICATE of each of the persons listed in this section of the report be renewed for life, as each has taught successfully for three years since her certificate was issued and has fulfilled all other requirements as set forth in Chapter 87 of the Acts of 1926:

Davis, Cleo (Mrs. Cleo Davis Truitt)
Irvan, Lucille (Mrs. Roy Weatherly)
McRae, Mary Alice

4. We recommend that the STANDARD CERTIFICATE of the person named below be renewed for life, as she has taught successfully for two years and has attended college for one year since her certificate was issued:

Hindman, Retha (Mrs. Retha Hindman Dunphy)

5. We recommend that the COLLEGE CERTIFICATE of the person named in this section of the report be renewed for life, as she has taught successfully for three years since her certificate was issued and has fulfilled all other requirements as set forth in Chapter 87 of the Acts of 1926:

Crawford, Lucille Elizabeth (Mrs. Lucille Crawford Jordan)

6. Records in the office of the Registrar show that Ava Obera Swann (Mrs. Ava Obera Swann Miller) was issued a Standard Certificate on August 13, 1927, a College Certificate on May 30, 1929, and the degree of Bachelor of Arts on May 30, 1929. Mrs. Miller states that these have been destroyed and that she would like to have a duplicate issued her for each one.

We recommend that a duplicate STANDARD CERTIFICATE, a duplicate COLLEGE CERTIFICATE, and a duplicate BACHELOR OF ARTS DEGREE bearing the dates given above be issued to Ava Obera Swann.

7. Records in the office of the Registrar show that Jeffie Galloway (Mrs. Jeffie Galloway Turner) was issued an Advanced Certificate on June 16, 1925, and that this certificate was renewed for life on July 17, 1931. Mrs. Turner states that this certificate has been destroyed by fire and requests that she be issued a duplicate.

We recommend that a duplicate ADVANCED CERTIFICATE bearing the date of June 16, 1925, and the renewal date of July 17, 1931, be issued to Jeffie Galloway.

8. Records in the office of the Registrar show that Marguerite M. Jones (Mrs. Marguerite Jones Terrell) was issued a Standard Certificate on July 5, 1928. Mrs. Terrell states that she has lost this certificate and requests that she be issued a duplicate.

We recommend that a duplicate STANDARD CERTIFICATE bearing the date of July 5, 1928, be issued to Marguerite M. Jones.

Yours truly,

Cleo Gillis Hester
J. W. Carr
Rainey T. Wells
Floy Robbins
Anne H. Augustus
G. T. Hicks
Herbert Drennon

Motion was made by Mrs. Mason, and seconded by Mr. Ordway, that the report of the Committee be accepted and the certificates be issued and renewed as recommended by the Committee and the President. The roll was called upon the adoption of this motion with the following result: Mrs. Mason, aye; Mr. Ordway, aye; Mr. Winslow, aye; Mr. Snook, aye.

Letter from Attorney General J. W. Cammack

Dr. Wells presented to the Board of Regents a letter from Attorney General J. W. Cammack and recommended that it be embraced in the minutes of the Board.

Motion was made by Mr. Winslow, and seconded by Mr. Ordway, that the letter received from Attorney General J. W. Cammack be recorded in the minutes of this meeting. This motion was unanimously carried and the letter follows:

Commonwealth of Kentucky
ATTORNEY GENERAL'S OFFICE
Frankfort, Kentucky
October 28, 1931

Judge Rainey T. Wells, President
Murray State Teachers College
Murray, Kentucky

Dear Judge:

Your letter of October 8, 1931, received and is copied in full herein.

"In the maintenance, management and operation of the State Teachers Colleges you will know by past experience that at certain periods it is necessary for the Boards of Regents to borrow certain sums of money to meet the operating expenses until the sheriffs settle with the State Auditor at the end of the year. In order that we may be able to present this matter in legal form to our banks, I will be pleased to have you write me an official opinion that the Board of

Regents has power to borrow money for the operation and maintenance of this institution, limited only by the revenue set apart by the State and which will be received by it during the fiscal year.

"We would not consider extending such indebtedness beyond the revenue that will be received on or before July first of the budget year. Probably this indebtedness might be extended so far as the millage tax is concerned, but I only desire your opinion as to the revenue which is provided for this purpose for the fiscal year, including any annual appropriation made for that purpose and the millage tax which is set apart generally for this object.

"May I refer you to the Acts of the General Assembly of 1924, creating the Board of Regents for this institution. The language of this Act provides, 'Said Boards shall be bodies incorporate with perpetual succession and power to contract and be contracted with, to sue and be sued, to plead and be impleaded, etc.' This act has been amended two or three times since this college has been established, but this language remains the same in each amended Act. As you know, this is the general phraseology used for incorporating bodies and empowering them with full authority to operate, manage and control the business or institution placed in their charge and in all acts necessary for this purpose. The courts have held that if the incorporating Act undertakes to specify the particular powers designated to the governing body, that the authority would be limited to the specific powers designated; but, when general authority is given as in the above language, then the governing body has full power and authority to do all things necessary for the successful operation of said institution or business.

"If you will please write me in order that I may present it to the Board and our bank advising that under this corporate authority they have the power to contract for the loan of money, I shall appreciate it. Will you please get me this information immediately, as it is necessary to have same at the earliest moment."

Section 4535b-4a, Kentucky Statutes, Carroll's 1930 Edition, provides that the governing body, the Board of Regents of the Murray State Normal School, shall be a body "incorporate with perpetual succession and power to contract and be contracted with, to sue and be sued, to plead and implead, to receive by any legal mode of conveyance property of any description, to have and to hold and enjoy the same in their official capacity, to purchase or sell and convey property necessary for the proper management of their respective institutions, and to condemn real estate in the same manner as provided by law in the condemnation of lands for railroad purposes; to have power to adopt by-laws, rules and regulations for the government of their members, officials, agents and employes; and with full power to make and adopt all rules and regulations for the efficient management and control of their respective schools."

Said section further provides that the "management, control and supervision of the Murray State Normal School is hereby vested in the board of regents of the Murray State Normal School." This section of the Kentucky Statutes vests in the Board of Regents of the Murray State Normal School broad general corporate powers in addition to the express powers conferred by said section. All other corporate powers ordinarily exercised by corporations which are not limited or prohibited by either statutory or constitutional provision, which are reasonably necessary in the performance of the duties of said Board in the management, control and operation of the Murray State Normal School, are implied from the broad language used in said section of the statute. In the absence of any constitutional or legislative limitation or prohibition, said Board, in the exercise of its general corporate powers, would have the right and authority to

borrow money. There is no legislative act limiting or prohibiting the exercise of such power of the Board of Regents, except that the Board must not incur obligations during any fiscal year in excess of the money appropriated and allocated to said Board by the General Assembly for that fiscal year and which it is reasonably certain will be received during the fiscal year. Section 1992a-18, Kentucky Statutes, Carroll's 1930 Edition. Therefore, the question is narrowed down to a consideration of whether there is any constitutional limitation or prohibition on the authority of the Board to borrow money in anticipation of the revenues which have already been levied by the General Assembly and specifically appropriated to said Board and which it is reasonably certain will be collected during the fiscal year which will end June 30, 1932.

While the Board of Regents of the Murray State Normal School is a separate corporate entity, it is nevertheless an agency of the Commonwealth of Kentucky and its acts, within the scope of its authority, are the acts of the Commonwealth of Kentucky.

Each department of the State government is required to conduct its business on the basis of the revenue provided by the General Assembly and appropriated to that department, and which it is reasonably certain will be received during the fiscal year. State Highway Commission v. Coleman, 236 Ky. 444, 33 S. W. (2d) 318; Billiter & Wiley v. State Highway Commission, 203 Ky. 15, 261 S. W. 855; Section 1992a-18, Kentucky Statutes, Carroll's 1930 Edition; 1928 O. A. G. No. 68.

In the case of Rhea v. Newman, 153 Ky. 604, 156 S. W. 154, 158, the Court of Appeals of Kentucky stated that:

"Revenues of the State assessed and in process of collection may be considered as constructively in the State treasury, and may be appropriated and treated as though actually and physically there; and an appropriation of them by the legislature does not constitute an incurring of indebtedness within the meaning of Section 49 of the Constitution."

Section 49 of the Kentucky Constitution provides that:

"The general assembly may contract debts to meet casual deficits or failures in the revenue; but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed five hundred thousand dollars (\$500,000.00) and the moneys arising from loans creating such debts shall be applied only to the purpose or purposes for which they were obtained, or to repay such debts; provided, The general assembly may contract debts to repel invasion, suppress insurrection, or, if hostilities are threatened, provide for the public defense."

Section 50 of the Kentucky Constitution provides that:

"No act of the general assembly shall authorize any debt to be contracted on behalf of the Commonwealth except for the purposes mentioned in Section 49, unless provision be made therein to levy and collect an annual tax sufficient to pay the interest stipulated, and to discharge the debt within thirty years; nor shall such act take effect until it shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for and against it: Provided, The general assembly may contract debts by borrowing money to pay any part of the debt of the state, without submission to the people, and without making provision in the act authorizing the same for a tax to discharge the debt so contracted, or the interest thereon."

Section 171 of the Kentucky Constitution provides in part that:

"The general assembly shall provide by law an annual tax, which with other resources, shall be sufficient to defray the estimated expenses of the Commonwealth for each fiscal year."

The Court of Appeals has uniformly held that Sections 49 and 50 of the Kentucky Constitution apply only to indebtedness created in excess of the revenues of the State, and which are assessed and in the process of collection, and which it is reasonably certain will be received into the State treasury during the fiscal year or biennial period in which the obligations and debts involved are created. In other words, it has been uniformly held that debts or obligations may be created in any fiscal year in anticipation of the revenues already assessed and appropriated and which it is reasonably certain will be collected during that fiscal year. *Billiter & Wiley v. State Highway Commission*, supra; *James v. State University*, 131 Ky. 170, 114 S. W. 767; *Rhea v. Newman*, supra, and numerous other cases which are cited in the annotations under Sections 49 and 50 of the Kentucky Statutes as compiled in Carroll's 1930 Edition of the Kentucky Statutes.

Since there is no doubt as to the authority of the Board of Regents to incur contractual obligations and debts in anticipation of revenues already appropriated by the Legislature and which it is reasonable to anticipate will be collected during the fiscal year, there can be no distinction between other classes of contractual obligations and obligations issued in the form of notes executed for borrowed money in so far as the question here involved is concerned.

Therefore, we are of the opinion that the said Board of Regents may borrow money in anticipation of the revenues which have already been appropriated to that Board by the General Assembly for the current fiscal year and which are sufficiently definite and certain as to come within the rule above quoted from the *Rhea v. Newman* case and the *Billiter & Wiley* case as to anticipating revenues.

By Section 43 of Chapter 164 of the Acts of the General Assembly of 1930 there was appropriated to the Murray State Teachers College "the funds now authorized by law, or that may hereafter be authorized by law, in distribution of the state revenues for the maintenance and operation of said institution."

There was also appropriated by said section for the fiscal year beginning July 1, 1931, and ending June 30, 1932, "for the use and benefit of said institution for the payment of the construction, heating and equipment of a library and/or boys' dormitory, and the extension and installation of the water, light and sewerage systems and other capital investments and improvements at said institution" the sum of \$125,000.00.

By Section 4019, Kentucky Statutes, 1931 Supplement, being Chapter 152 of the Acts of the General Assembly of 1930, the Legislature appropriated two per cent of the ad valorem taxes imposed by said section "plus six and one-fourth per cent ($6\frac{1}{4}\%$) of the inheritance taxes, for the support and erection of buildings for the Murray State Normal School and Teachers College at Murray."

By Section 4535b-42, Kentucky Statutes, the Legislature has impliedly granted to the Normal Schools all moneys which may be derived from tuition or other fees paid by students.

By Section 4535b-5, Kentucky Statutes, there was appropriated by the General Assembly of Kentucky of 1922 the sum of \$30,000.00 annually, and this appropriation not being repealed was expressly recognized and continued by the General Assembly of 1930 by the enactment of Section 43 of Chapter 164 of the Acts of the General Assembly of 1930.

The foregoing revenues are all that have been appropriated by the General Assembly to said School, and by virtue of said appropriations said Board of Regents may obtain from the Auditor of Public Accounts warrants upon the State treasury during the present fiscal year which will end June 30, 1932, for the following amounts, less amounts already drawn, to-wit:

(a) Two per cent of the estimated amount of ad valorem taxes levied under Section 4019, Kentucky Statutes, which it is reasonable to anticipate will be collected and paid into the State treasury prior to June 30, 1932.

(b) The amount of \$125,000.00 appropriated by Section 43 of Chapter 164 of the Acts of 1930.

(c) \$30,000.00 appropriated by the General Assembly of 1922 by Chapter 10 of said Acts, being Section 4535b-5, Kentucky Statutes, Carroll's 1930 Edition, recognized and continued in effect by the 1930 session of the General Assembly as Section 43 of Chapter 164 of the Acts of 1930.

(d) Warrants for six and one-fourth per cent of the inheritance taxes as and when collected and paid into the State treasury. The amount of inheritance taxes can not be anticipated in advance of collection because of its uncertainty, and the rule as to anticipated revenues assessed and in the process of collection can not be applied to the inheritance taxes. Overall v. City of Madisonville, 125 Ky. 684, 102 S. W. 281, and Billiter & Wiley v. State Highway Commission, supra.

The revenues authorized to be received by the Board of Regents during the present fiscal year as stated in clauses (a), (b) and (c), next hereinabove, and all moneys which may reasonably be expected to be collected during the present fiscal year as tuition or other fees paid by students may be anticipated in arriving at the amount of obligations and indebtedness which said Board of Regents may incur during the present fiscal year. Some consideration may also be given to the inheritance taxes which will be received by the Board, but the amount thereof is too indefinite and uncertain to estimate with any degree of certainty.

Very truly yours,

(Signed) Clifford E. Smith
Assistant Attorney General.

Approved:

J. W. CAMMACK
Attorney General

CES:AD.

Bond for Federal Asphalt Paving Company for Hard Surface Drives

Next, the President advised the Board that the bonding company had extended the bond for thirty days for the repair of the hard surface drives and roads on the campus, and had agreed to renew this bond for the Federal Asphalt Paving Company for a period of one year, but that this bond must be renewed within the next two days.

Application of Mr. L. E. Hughes

President Wells presented the application of Mr. L. E. Hughes for a position as caretaker of the campus. He stated that since this application was addressed to the Board of Regents, he wanted to present it to the Board but that there is no vacancy at this time.

Resolution Concerning Fraternities and Sororities

Mr. Winslow introduced the following resolution and moved its adoption:

R E S O L U T I O N

WHEREAS, there has been continuously maintained a splendid democratic spirit among the students of the Murray State Teachers College since its organization, and there has existed a most commendable fellowship and cooperative interest in the entire student body without any evidence of distinction by reason of financial, social, religious or political standing or belief, and

WHEREAS, it is the sincere desire of the Board of Regents of this institution that this commendable spirit and reputation, which have been established by reason of this attitude, may be maintained constantly and continuously in the future as exemplifying the true American spirit of a State institution, and

WHEREAS, it is and has been the sincere purpose to maintain and administer this institution in such a manner that young men and young women of moderate means may be provided a thorough college education and receive a cultural training which will materially aid, in developing the most splendid citizenship for our Commonwealth, therefore

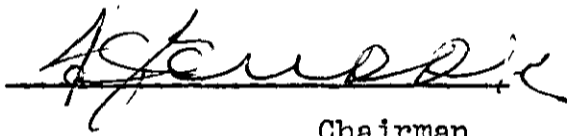
BE IT RESOLVED, that the Board of Regents establish as a policy of the Murray State Teachers College that no fraternity, sorority or other similar student organization be permitted among the students of this institution, and that in lieu thereof academic societies be encouraged and fostered by the students, faculty and administration of the college in order that the students may receive that training which will best fit them for the responsibilities of life; provided the organization of academic societies, with the constitution and by-laws, must first be approved by the President of the College, and

BE IT FURTHER RESOLVED, that only circulars, pamphlets or other publications, previously approved by the President of this institution, be countenanced or permitted to be edited, published or distributed by the students, faculty or any one connected with the institution, in order that every activity may be in harmony with and in support of the approved activities and policies of the institution.

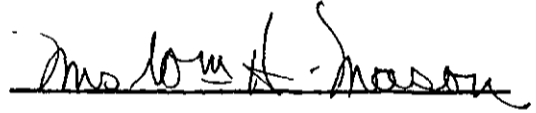
Mrs. Mason seconded the motion for the adoption of the above resolution. The roll was called upon the adoption of this motion with the following result: Mrs. Mason, aye; Mr. Ordway, aye; Mr. Winslow, aye; Mr. Snook, aye.

Adjournment

Motion was made, seconded and carried that the Board adjourn to meet again at the call of the Chairman.



Chairman



Secretary