

the school in the matter of suit brought by Captain Brinton B. Davis to collect a fee for work done on plans for a Classroom Building, Kentucky Building and students dormitories to accompany application on P.W.A. Loan. Mr. Rodes and Mr. Myers were authorized to appear for us in the Louisville Court. This motion was carried.

The meeting then adjourned.

Street  
Vice-Chairman

Alvorne Schneider  
Acting Secretary

**Minutes of Board Meeting**

January 1, 1935.

In line with the instruction of State Superintendent of Public Instruction and ex-officio chairman of the Board, Dr. James H. Richmond, the Board was called by President Cherry to meet in his office at 4:00 o'clock on January 1, 1935.

There were present Mr. Morgan Hughes, Mr. Charles Franklin, and Judge Henry B. Hines, Mr. Hughes presiding. The minutes of the previous meeting were read and adopted as read.

President Cherry presented the papers furnished by Mr. John B. Rodes, Attorney, in the suit of Captain Brinton B. Davis vs. the Western Kentucky State Teachers College. The following is a copy of Mr. Rodes' memorandum and also the letter to which the memorandum refers:

Memorandum for Board of Regents.

Captain Davis at our conference made a long talk. It is unnecessary to go over it. We invited finally a proposition from him. This letter is the proposition. Personally, I cannot advise its acceptance. However, it

is up to the Board. A conference with the Attorney General reveals that he agrees with us that the jurisdiction is wrong. Mr. Hamilton admits it is a close question. The Attorney General takes the further position that he doubts that the suit can be maintained at all as it is a suit against the State. On this proposition I am not inclined to agree with him.

JOHN B. RODES.

LAW OFFICES

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- Ernest Woodward
- Elwood Hamilton
- Robt. P. Hobson
- Wilbur O. Fields
- Oldham Clarke
- L. F. Bischof
- J.C.W. Beckham, Jr.
- Thos. S. Dawson
- Arthur W. Grafton

December 31, 1934

Messrs. John B. Rodes  
 Rodes K. Myers  
 Attorneys at Law,  
 Bowling Green, Ky.

Re: Davis vs. Western Kentucky  
 State Teachers College

Gentlemen:

Captain Davis advises me that, in making out his account against the Western Kentucky State Teachers' College, he reduced his fee of 2% to a fraction over 1% of the cost of the preliminary plans for the improvements under consideration. He also advises me that he feels it is unfair for the Board to ask that he make any further concession. However, he is willing to accept a cash payment of one-half of his account and defer the payment of the balance for a period of one year.

If you clients wish to settle on this basis, please advise us immediately. He insists that we press his suit for trial and is unwilling to delay the matter for any length of time.

I am convinced that a jury would not look with favor on the defense of the Board that his employment was entirely contingent on a loan being made by the United States Government for the completion of the improvements which his proposed plans covered. The fee he has charged is less than that customarily charged by architects for similar services and if it were intended that his fee was to be contingent, certainly it would have been more than that ordinarily charged by architects for similar services.

As I understand it, your clients insist that Captain Davis agreed to render the services required of him and that he was in no event to be paid more than the fees usually charged by an architect and that this was contingent on a loan being procured from the United States Government. This is not in accordance with the customary understanding of a contingent fee, such a fee usually being much higher than a fee certain. Captain Davis advises me, and other architects support him, that the fee he is charging your clients is less than that customarily charged. This would seem to be rather weighty evidence against his employment being on a contingent basis.

With kindest personal regards, I am,

Very truly yours,

Signed--WOODWARD, HAMILTON & HOBSON

By--Elwood Hamilton

EH/ee

It was moved by Senator Franklin with a second from Mr. Hughes that the attorney should be notified that the Board rejects the proposition as submitted. The motion was unanimously carried.

President Cherry then made a statement concerning the proposed completion of the Kentucky Building with the assistance of the K.E.R.A. The Board agreed that the date for the completion and dedication of this building should be set for the Homecoming of 1936.

A resolution as adopted by the College Heights Foundation Board was then read in full and, upon motion of Senator Franklin with a second from Mr. Hines, it was approved, accepted and ordered to be made a part of the regular minutes of the meeting. The motion passed unanimously. Below is a copy:

Resolution

WHEREAS, The College Heights Foundation, a benevolent corporation operating under the laws of the Commonwealth has to date secured in cash donations \$109,083.17 and in pledges \$244,802.74; and

WHEREAS, a part of the funds received by the Foundation have been used in erecting the Kentucky Building to its present state of completion and also for the purchase of books and museum exhibits in addition to such books and museum exhibits as have been donated to the Foundation and in addition has loaned \$149,140.47 to students for student loan purposes; and

WHEREAS, the library and museum exhibits of the College Heights Foundation are at present housed in the College Library in space that is grossly inadequate and that is needed for other college purposes; and

WHEREAS, The Kentucky Library and Museum are proving of inestimable value for instructional and research purposes to college students;

BE IT RESOLVED by the Board of Directors of the College Heights Foundation that the Executive Committee be authorized and directed to proceed at once to collect such subscriptions as have been made and to secure additional cash donations and pledges in amounts at least sufficient to complete the Kentucky Building by November 1936.

BE IT FURTHER RESOLVED that the Board of Directors of the College Heights Foundation accept the offer of the Federal Government through the Kentucky Emergency Relief Administration to furnish skilled and unskilled labor in sufficient amount to do all necessary labor for the completion of the Kentucky Building, and that the Executive Committee be directed to make such purchases of supplies and materials and to enter into such contracts as are necessary for the completion of the Kentucky Building, provided, however, that expenditures for materials and amounts involved in contracts shall not exceed the assets of the College Heights Foundation.

BE IT FURTHER RESOLVED that the Board of Directors of the College Heights Foundation direct and empower the Executive Committee of the Board to employ such personnel as may seem necessary to them for pressing to a successful conclusion the campaign to raise funds for the completion of the Kentucky Building.

BE IT ALSO FURTHER RESOLVED that the Executive Committee be empowered to fix salaries and provide expenses for such personnel.

BE IT FURTHER RESOLVED that the Board of Directors of College Heights Foundation hereby request the active cooperation and support of the Board of Regents of the Western Kentucky State Teachers College in carrying out this program.

The following resolution upon motion of Senator Franklin with a second from Mr. Hughes was unanimously adopted and ordered to be made a part of the minutes:

WHEREAS, the College Heights Foundation, a benevolent corporation operating under the laws of the Commonwealth for the purpose of receiving gifts and donations and administering the same primarily for the use and benefit of the Western Kentucky State Teachers College and the Commonwealth of Kentucky; and

WHEREAS, the said Foundation has secured large donations both in money and books and museum exhibits which are proving of inestimable value to the students of this college; and

WHEREAS, the Kentucky Building when completed becomes and remains the property of the Commonwealth for the use and benefit of the Western State Teachers College; and

WHEREAS, the completion of the said Kentucky Building will release a quantity of class room space now badly needed by the college for instructional purposes; therefore

BE IT RESOLVED by the Board of Regents of the Western Kentucky State Teachers College that such assistance of a material nature as well as of a personal nature as may be consistent with the resources of the college be given to the efforts of the College Heights Foundation to complete the Kentucky Building at the earliest possible date.

BE IT FURTHER RESOLVED that the Executive Committee of the Board of Regents be authorized and directed to take such steps as are necessary and consistent with the resources of the college to aid the College Heights Foundation in carrying to an early completion the work on the Kentucky Building.

Upon motion of Senator Franklin with a second from Mr. Hines, the following was upon roll call unanimously adopted and ordered to be made a part of the minutes:

Provided a portion of the revolving fund of the college can be reserved from the budget and used toward equipment for the Kentucky Library and Museum, the Board hereby resolves that President Cherry shall be given the privilege of using such amounts in a way that he deems satisfactory.

President Cherry stated to the Board that a recent contribution from Mr. Perry Snell consisting of twenty-four or more paintings had been recently received. The Board expressed appreciation for this handsome gift for the art museum. With a motion from Judge Hines and a second from Senator Franklin the President was authorized to send a note of thanks and appreciation to Mr. Snell.

Upon motion of Senator Franklin with a second from Judge Hines the Board unanimously agreed to appoint Mr. L. T. Smith supervisor of construction work for the Kentucky Building.

On motion by Judge Hines with a second by Senator Franklin the Board of Regents voted unanimously to instruct the Bursar to collect all receivables such as matriculation fees, board and room rent, etc., at the beginning of each semester or each period for which service is proposed to be rendered so far as practicable and that all such receivables shall be due and payable by the termination of the period for which the service is rendered.

President Cherry then requested that a statement made to the Governor by Mr. Sterrett Cuthbertson submitting his resignation from the Board of Regents be read. This was done, and President Cherry made an earnest comment concerning the splendid work that had been done by Mr. Cuthbertson during the thirteen years of his service as a member of the Board of Regents. All of the members of the Board expressed deep appreciation for his fine service and sincere regrets to have him withdraw from the Board, and Judge Hines moved that the Board accept with much reluctance his resignation tempered by the hope that he will become associated with the school in some other capacity that will increase his usefulness to the institution. The motion was seconded by Mr. Franklin and unanimously passed.

With a motion from Senator Franklin and a second from Judge Hines it was unanimously agreed that Mr. Cuthbertson should be employed as an assistant to the President, his title to be determined a little later. The motion was put by Mr. Hughes and unanimously passed.

Upon motion of Senator Franklin with a second from Judge Hines the Board fixed the salary of Mr. Cuthbertson at thirty-three hundred dollars (\$3300.00) annually. Upon roll call the motion was passed unanimously.

After this Mr. Cuthbertson who was requested to appear before the Board was felicitated by the members of the Board. It was agreed that no information to the effect of the change should be given until President Cherry decided to make the matter public.

Upon motion of Senator Franklin with a second from Judge Hines, Mr. Hughes was elected vice-president of the Board. The motion was unanimously carried.

Upon motion made by Judge Hines with a second from Mr. M. O. Hughes it was unanimously agreed by the Board to appoint Senator Franklin as a member of the State Council on Higher Education to represent Western in the place of Mr. Cuthbertson resigned from the Board of Regents.

A number of statements concerning the individual who should be sought to fill the vacancy created by the resignation of Mr. Cuthbertson from the Board were made. Senator Franklin, Judge Hines and Mr. Hughes agreed upon motion made and duly seconded to approve the individual whom President Cherry had in mind selecting and to request that he so indicate their approval to the Governor of Kentucky when the name is submitted.

Since the authorization by the Board at a previous meeting for Mr. Cuthbertson to close a contract with Chas. Smith for the rental of the Ogden Farm had not met with the approval of Mr. R. C. P. Thomas, Regent of Ogden College, the Board decided not to rent the farm to Mr. Smith but to authorize Dr. M. C. Ford to immediately put the whole place in grass and clover.

President Cherry then asked the Board of Regents to meet with the members of the College Heights Foundation Board and others who had been invited on the third floor of the library building where a box supper would be served. The purpose of this meeting was to bring together the members of both Boards and to give each an opportunity to see the collections that have been installed in the museum and art gallery.

The Board then adjourned.

M O Hughes  
Chairman

Mattie M. McLean  
Secretary