

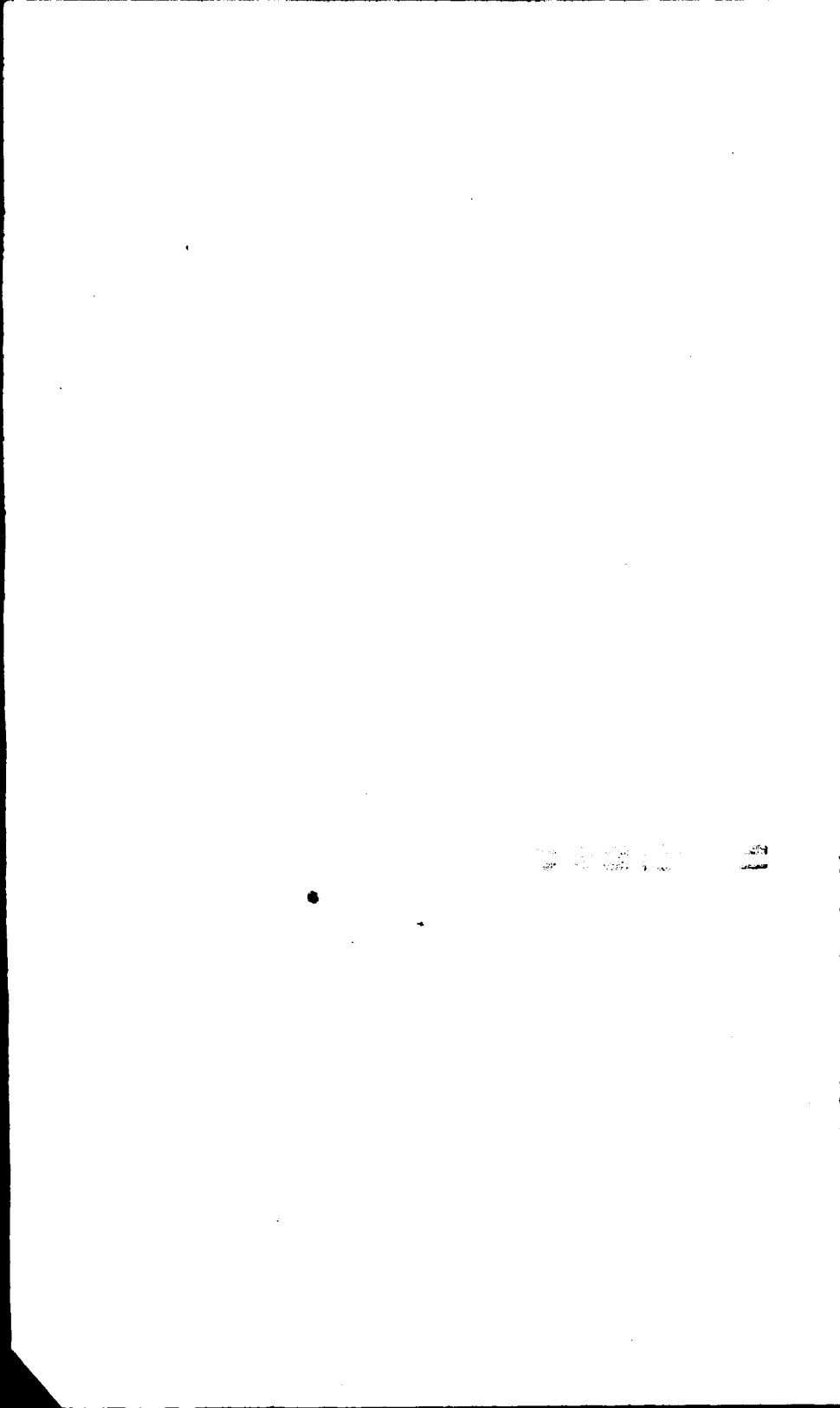
THIRD
ANNUAL REPORT
OF THE
BOARD OF REGENTS OF THE
STATE UNIVERSITY

TO THE
LEGISLATURE OF MINNESOTA.

SESSION OF 1863.

PRINTED BY AUTHORITY.

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1863



ST. ANTHONY, December 1, 1862.

*To His Excellency, Alexander Ramsey, Governor of the
State of Minnesota :*

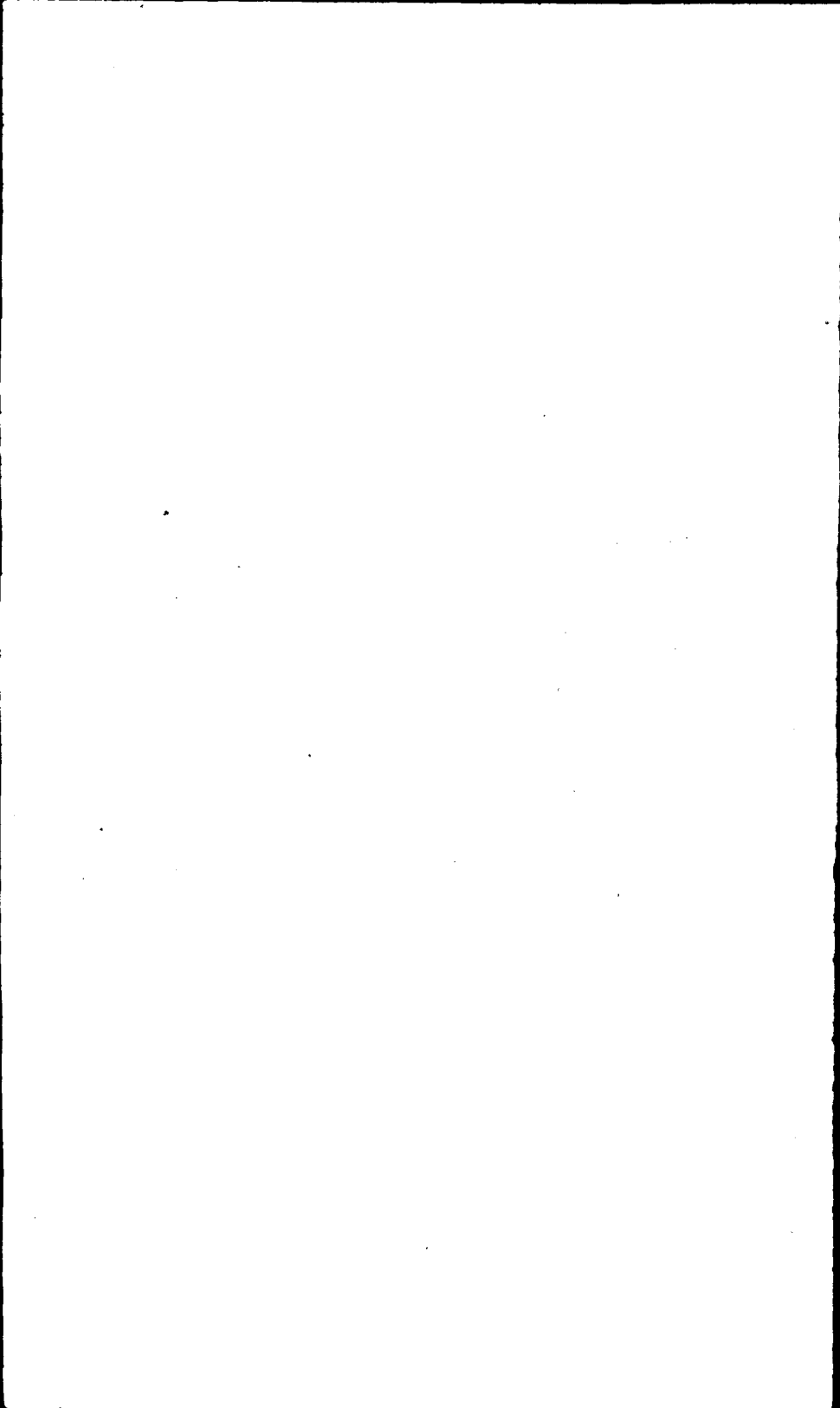
SIR—The act establishing the State University, requires that the Report of the Board or Regents shall be transmitted by you to the Legislature.

Accompanying this note, is the Third Annual Report of the Regents, which please transmit at your convenience.

Very respectfully,

URIAH THOMAS,

Sec'y of Board of Regents Minn. State University.



R E P O R T .

The Regents of the Minnesota State University present to the Legislature, their

THIRD ANNUAL REPORT.

The Legislature, at its last session, by an act, approved March 8th, 1862, authorized the Regents to attempt a compromise with the creditors of the University, and empowered them to convey the lands donated to the Institution, for that purpose. The attention of the Regents during the year, has been chiefly directed to efforts to accomplish that object.

At a meeting of the Board, held May 15th, 1862, the Secretary was directed to open negotiations with the creditors, under certain limitations and instructions.

The report of that officer to the Board, is herewith submitted, as furnishing in the most satisfactory form, a history of these proceedings :

ST. ANTHONY, November 29, 1862.

To the Regents of the Minnesota State University :

In accordance with your instructions to open negotiations with the creditors of the University, my attention was first directed to a search for the present holders of the various outstanding obligations.

These obligations naturally divided themselves into four classes.

1. The first issue of Bonds, amounting to the principal sum of \$15,000, secured by mortgage upon the University building and site. These bonds matured on the 1st of June, of this year.

2. The second issue of bonds (\$40,000) secured by mortgages upon 20,140 acres of pine lands.

3. Judgments against the Regents, amounting in the aggregate to the principal sum of \$5,677 05.

4. Balance of notes, given by the former Regents to contractors upon the University building—say \$10,000 principal.

It is not necessary that I should state in detail, all my efforts to trace these various claims to their present owners. Suffice it to say, that after exhausting the resources of correspondence, advertisement and personal investigation, I succeeded in finding the holders of the greater part of the above amounts.

The heavy issue of bonds, secured by mortgage of pine lands (\$40,000) seemed first to demand attention and effort. Having satisfied myself that nearly all these bonds were held by parties residing in New York City and State, I went east, to place myself in communication with them, to represent the condition of the University and to make offers of compromise.

Acting in the spirit of your instructions, I proposed to these bondholders, that they should accept in liquidation of their claims, a portion of the lands included in their mortgages, at an average valuation of \$4 per acre. These lands are covered with pine timber, and from all the information I could gather from experts, I was satisfied that this was a fair present valuation, considering that the large amount at stake demanded a special effort, I devoted several weeks to the attempt to negotiate with these parties. Failing to convince them of the justice of my first proposal, and its advantages to themselves, I offered the lands at such fair valuation, as might be placed upon them, by disinterested parties. It will readily be seen that to carry either of these offers, into effect, would have required the concurrent assent of all the bond-holders intrusted in each mortgage.

I have to report the entire failure of all my efforts to make any arrangement with this class of creditors. Only two or three, holders of single bonds, have signified their absolute acceptance of lands at any price, and these are residents of this State. The non-residents, in some instances, entertained the proposals at first with some degree of favor, but finally settled into an unwillingness to change the securities which they now hold.

It is scarcely necessary, perhaps, that I should assign reasons for the action of others; but the suggestion of a few, may possibly prove of service.

First of all, was the general unwillingness of eastern capitalists, to become owners of western lands, at this time. The uncertainties of war greatly enhanced the distrust which had been begotten by the events of 1857.

Second, the belief, or at least the hope, that these bonds were State obligations, and that the State would hold itself responsible for their payment, should the mortgage security in any event prove insufficient. This, I believe to be a mistake; and I endeavored to convince the holders that in no event could they expect the State to become responsible beyond the value of the lands mortgaged.

Again, I had to contend with a speculative feeling on the part of some. The bonds had not yet matured. Many had bought them, knowing that the interest was not paid, and they preferred holding them and taking the chances for the future, in preference to the acceptance of anything but cash.

Lastly, I have reason to believe, that in regard to a considerable portion of these bonds, I did not succeed in getting access to the *real* parties in interest, and that the holders were unwilling to distrust bonds which they had hypothecated, under circumstances favorable to themselves. My conjecture may be incorrect, but I think not.

Of the other issue of bonds (\$15,000,) \$8,000 were held, prior to the present Rebellion, by ex-Governor Aiken of South Carolina. The remaining \$7,000 I found in the possession of a lady residing in Washington. These bonds matured on the 1st of June last, and as they are secured by a mortgage of the University Building, I was especially desirous of liquidating this claim. The circumstances attending the ownership of these bonds, rendered the claims of the holder particularly meritorious.

I therefore offered her the best available lands at prices to be determined by disinterested parties. I have within a few days, received a final declination of the offer, on the ground that the care of the lands would necessarily devolve upon herself. She also stated that she would be unable to pay the taxes which would accrue upon the lands.

I regret especially the failure of this negotiation, as I believed the proposition made an advantageous one to the creditor.

The judgment creditors having chiefly for their security the valuable farming lands in Rice county, in accordance with your instructions, I offered them a selection from these lands at an average price of \$3.50 per acre, reserving the subdivisions only that had been leased. As all of these creditors, excepting one, were non-residents, and were represented in Minnesota by their attorneys, I addressed each party, at length, presenting and urging the proposition.

My letters were sent through the attorneys, whom I requested to endorse the proposals with such recommendation as seemed to them just.

From some of these parties I have received a prompt acceptance of the terms offered. Two of these creditors however, have failed to make any reply to my letters, although repeatedly urged by me, through their attorneys, to make some decision, whether favorable or adverse. A third has declined the proposition. These three represent about one-fourth of the judgment debt.

As it is obvious that no arrangement could be made upon the basis proposed, except by the consent of all who hold liens upon these particular lands, it will be seen that this proposition could not be carried out.

The lands last selected for the University, by A. J. Van Vorhes, Esq., being unencumbered by judgments, mortgages or other liens, were tendered to the holders of the notes known as "contractors' notes." A part of these notes I have been unable to trace, either personally or by advertisement. Some of the holders have declined to take the lands at any price, while others again have agreed to accept them at prices varying with the circumstances under which they came into possession of the notes, and the cost of the same to themselves.

The occurrence of Indian hostilities upon our frontier, interfered seriously with this negotiation; the immediate effect being to destroy, for a time, all values in land in any way exposed to savage incursions.

I have to report, however, that I have effected the following negotiations.

In accordance with your instructions, I have cancelled and taken up the notes of the late Board of Regents, (known as "Contractor's Notes,") held by the St. Anthony Falls Water Power Company, amounting to \$4,387 50. As a consideration for these notes, I have delivered to said Company, their obligation held by the Regents, on account of the old University Building. (See 1st Annual Rep. of Regents for year 1861, p. 13.)

The Company agreed to allow, and have allowed, upon their obligation to the Regents, interest at 12 per cent. per annum, although no interest is specified in said obligation.

Regents Notes, principal,	\$3,060 37
Interest at 12 per cent. from Feb. 24th, 1859,	
to Oct. 14, 1862, \$1,336 35—settled at	1,327 13
	<hr/> \$4387 50

Obligation of W. P. Co., Principal, - - -	\$2,500 00
Interest at 12 per cent. from June 28, 1856, to Oct. 14, 1862, - - -	1,887 50
	<hr/>
	\$4,387 50

I have also agreed to quit claim the said "old University Building" to the said Water Power Company, in accordance with the terms of the "obligation" referred to in this negotiation.

I have also further agreed with the said St. Anthony Falls Water Power Company, for the satisfaction of an additional amount of Contractors' notes, by the conveyance of lands to the said Company as follows;

Regents' Notes, Principal - - -	\$1,082 67
Interest to Nov. 29th, 1862 - - -	489 00

Amount - - - -	<hr/>
	\$1,571 67

To be paid by the conveyance of the following lands, viz:
 The N. W. $\frac{1}{4}$ N. W. $\frac{1}{4}$ and Lots 4, 5 and 6, of Section 5,
 Township 116, Range 31 - - - 193.39 acres.
 And N. E. $\frac{1}{4}$ of Section 6, Town 116, R. 31 159.87 "

Total - - - -	<hr/>
	353.26 acres.

I respectfully ask that some one be authorized by the Board, to execute deeds, in accordance with these negotiations.

I have also received the following proposition from creditors of the University, which I submit to the Board, for their consideration, viz:

E. W. GRINDALL,

Holds "Contractors' notes" for - - -	\$500 00
Interest to Nov. 24, 1862—3 years, 9 months and 5 days - - - -	225 84
	<hr/>
Amount - - - -	\$725 84

Proposes to take in satisfaction of the same, Section 8,
 Town 117, Range 31—640 acres.

HENRY HECHTMAN,

Holds Contractor's note for	-	-	\$72 61
Interest to Nov. 24, 1862—3 years, 9 months and and 5 days	-	-	32 79
Amount	-	-	\$105 40
Proposes to take in satisfaction of the same, the E, $\frac{1}{2}$ of N. E. $\frac{1}{4}$ Section 22, Township 117, Range 31—80 acres.			

J. S. PILLSBURY,

Holds Contractor's notes for	-	-	\$771 92
Interest to Nov. 24th, 1862—3 years, 9 months and 5 days	-	-	348 64
Amount	-	-	\$1,129 56
Proposes to take in satisfaction of the same cash	-	\$250 00	\$250 00
And the S. W. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ and the N. W. $\frac{1}{4}$ and the S. W. $\frac{1}{4}$ and the S. E. $\frac{1}{4}$ of Section 22, Town 117, Range 21—520 acres.			

It is proper to say, that Mr. Pillsbury has commenced a suit against the Regents upon the note held by him, but at my request, has stayed proceedings until his foregoing proposition could be submitted to the Board.

Should the proposals of Messrs. Grindall, Hetchman and Pillsbury be accepted, the amount of outstanding indebtedness, the liquidation of which may be regarded as negotiated, will be as follows:

"Contractors' Notes," Principal,	-	-	\$2,487 57
Interest,	-	-	2,423 40
Amount,	-	-	\$7,910 97

The attempt to liquidate the indebtedness of the University has been constantly embarrassed by the necessity of negotiating with classes of creditors, as such, and not with individuals. In the case of mortgagees and judgment creditors, a single recusant party has it in his power to prevent any compromise to which his associates may have assented. A failure to signify his acceptance of proposals, is equally fatal.

In dealing with the note-holders, whose legal status was

different, I have met with a partial success, perhaps as much as was reasonably to be expected, in view of the disastrous events of the past summer.

In conclusion, I would say, that I do not see what farther can be done by the Regents, in the premises, than to abide by their last resolution of instructions to myself, viz: to offer to the different classes of creditors, the lands available in each case, at a fair appraisal by disinterested parties. At the present depreciation of lands, the liquidation of the whole University debt would probably consume the whole grant of lands. Should the creditors rest upon their legal rights and remedies, they can hope for little more.

(Signed,)

URIAH THOMAS,
Sec'y. and Agent of the Board.

The propositions of Messrs. Grindall, Hechtman and Pillsbury, as submitted in the foregoing report, were not accepted, but the Secretary was authorized to offer to Mr. Pillsbury the amount of cash designated in his proposition, and for the balance of the amount claimed by him, a selection from the lands located for the University, by A. J. Van Vorhes, Esq., in 1860, at \$2 per acre; also to Messrs. Grindall and Hechtman, in satisfaction of their claims respectively, selections from the same lands, at the same price per acre.

These terms were accepted by these gentlemen, severally; and full authority having been conferred by the Board upon the President and Secretary, to execute deeds in accordance with the foregoing negotiations, they have executed and delivered deeds for lands as follows, to wit:

To St. Anthony Falls Water Power Company:
Quit-claim deed for old Univeristy building and site.

To Henry T. Wells, (assignee of St. Anthony Falls Water Power Company):
Deed for nw q of nw q, and lots 4, 5 and 6 of
Sec. 5, T. 116, R. 31, and ne q of Sec. 5, T.
116, R. 31, - - - - - 353.26 acres

To Elijah W. Grindall:
Deed for s e q and s hf of n e q, and e hf and
s w q of s w q of Sec. 8, T. 117 R. 31, - \$60 "

To John Hechtman:
 Deed for n e q of n e q, and n hf of n hf of s e
 q of n e q of Sec. 22 T. 117 R. 31, - - 50 "

To J. S. Pillsbury:
 Deed for the s w q and the s e q, and the w hf
 of the n e qr, and the s hf and s hf of n hf
 of s e q of the n e q of Sec. 22 T. 117 R. 31, 430 "

Total number of acres deeded, - - 1,193.26

Total amount of "contractors' notes" liquidated
 by the conveyance of the above lands, - \$3,273 47
 Average price obtained for said lands, a frac-
 tion less than - - - - - \$2 75 per acre

These lands are situated in Renville county, in townships
 bordering on the western boundary of McLeod county.

TOTAL AMOUNT OF INDEBTEDNESS LIQUIDATED.

The whole amount of the outstanding indebtedness of the
 University, which has been liquidated during the past year,
 may therefore be summed up as follows, viz:

Outstanding notes, given by late Regents.

Principal, - - - - - \$5,487 57
 Interest, - - - - - 2,423 40

Whole amount of debt liquidated, - - \$7,910 97

Paid with the following assets, viz:

Cash, - - - - - \$250 00
 Due bill of St. Anthony Falls Water
 Power Co., principal \$2,500 00, in-
 terest \$1,887 50, - - 4,387 50
 1193.26 acres of wild land in Renville
 county, @ \$2 74 $\frac{1}{2}$ per acre, - 3,273 47

\$7,910 97

A beginning has thus been made towards the liquidation
 of the heavy debt of the University. It is hoped that up-

on further consideration, the other creditors of the Institution will see it advantageous to themselves, to accept the terms of compromise proposed.

By reference to the proceedings of the Board of Regents, at the meetings held September 25th, and November 29th, 1862, (See appendix A.,) it will be seen that the Secretary is still authorized to negotiate with the creditors of the University, upon terms which shall be substantially fair to them, without unduly depreciating the lands with which the Institution has been endowed.

In the last annual Report of the Regents to the Legislature, (Session of 1862,) it was stated that a judgment had been rendered against the Regents in favor of Hart & Munson, (in a suit brought upon one of the "Contractors' Notes,") for \$2,108 31, being amount of the note and interest.

The Attorney General, by request of the Regents, carried the case, by appeal, to the Supreme Court. Just as the present Report is in preparation, the decision of this Court in the case, has been filed in the Clerk's office. As the opinions therein presented, have an important bearing upon the notes and judgments referred to in this report, the decision of the Court is herewith appended, (Appendix C.)

It will be seen, that although the judgment of, the Court below, is affirmed, the judgment against the Regents, can be a lien only against *the specific fund* provided for the erection of the University building. As this was expended before the notes were executed, the practical result is, that there is no legal process by which these notes or judgments obtained upon them, can be collected. They cannot be made a lien against the lands donated by Congress, nor against any real estate acquired by the corporation, by purchase.

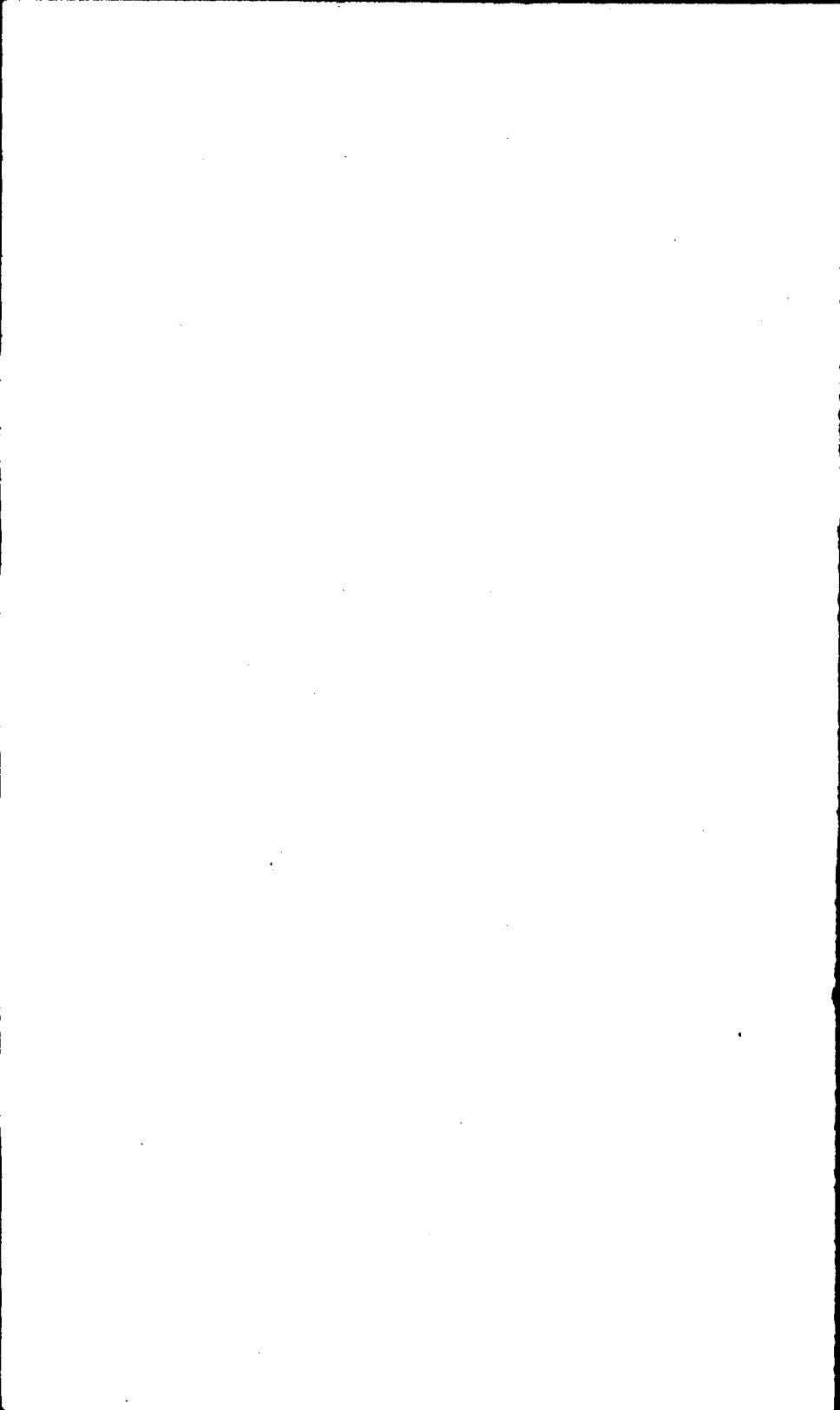
The settlement of these notes and judgments, by the Regents, must therefore rest upon grounds purely equitable.

The Annual Report of the Treasurer, and the Journal of Proceedings of the Board of Regents, are herewith appended.

All of which is respectfully submitted, on behalf of the Board of Regents.

URIAH THOMAS,

Sec. of Board of Regents of Minn. State University.
St. ANTHONY, Minn., Dec. 1st, 1862.



APPENDIX A.

JOURNAL OF PROCEEDINGS OF THE BOARD OF REGENTS FOR THE
YEAR ENDING DECEMBER 1, 1862.

ADJOURNED MEETING.

DECEMBER 2, 1861.

An adjourned meeting of the Regents was held at the Capitol on Monday, December 2d 1861. Present—Governor Ramsey, and Regents Kimball, Benson and Thomas.

Minutes of the meeting of November 20th read and approved.

The Second Annual Report of the Board of Regents to the Legislature for the year ending December 1st, 1860, as prepared by the Secretary, was read and adopted by the Board.

The following resolutions were unanimously adopted:

Resolved, That the Treasurer be authorized to pay to Uriah Thomas, as Secretary of the Board, one hundred dollars in full for his services from the organization of the Board, April 5th, 1860, to December 1st, 1861.

Resolved, That the Regents of the University, resident outside of the city of St. Paul, be paid two dollars per day for the time actually spent by them in attending the meetings of the Board, and their expenses necessarily incurred. The bills to be audited by the Secretary and paid by the Treasurer.

On motion, the Board Adjourned.

URIAH THOMAS,
Secretary.

SPECIAL MEETING.

APRIL 2, 1862.

A special meeting of the Regents was held at the Capitol, in St. Paul, on Wednesday, April 2d, 1862. Present, Governor Ramsey, Regents Benson, Kimball and Thomas.

The action of the Legislature at its late session, authorizing the Regents to compromise or liquidate the indebtedness of the University, by the conveyance of a portion of their lands, was brought before the Board for consideration. After a general conference, it was, on motion,

Resolved, That Regents Kimball and Thomas be a Committee to devise and prepare some plan for settlement with the creditors of the University, in accordance with the authority recently conferred by the Legislature, and to report at an adjourned meeting of the Board.

On motion, the Secretary was directed to publish a notice of inquiry for all persons holding claims against the University.

On motion, the Board adjourned to meet again at the same place, on Thursday, May 15th.

URIAH THOMAS,
Secretary.

ADJOURNED MEETING.

MAY 15, 1862.

An adjourned meeting of the Regents was held at the Capitol, in St. Paul, on Thursday, May 15th.

Present, Governor Ramsey, Regents Hamlin, Benson, Batchelder, Kimball and Thomas.

The report of the Committee appointed at the last meeting, to propose a plan for the settlement of the debt of the University, was presented and accepted, and the Committee discharged.

The report was then carefully discussed, amended and adopted. (Report on file.)

It was, on motion,

Resolved, That the Secretary be instructed to open negotiations with the creditors of the University, in the spirit of the report just adopted.

On motion, the Board adjourned to meet again at the call of the Secretary.

URIAH THOMAS,
Secretary.

SPECIAL MEETING.

TUESDAY, Sept. 16, 1862.

A special meeting of the Board of Regents was held at the State Capitol, in St. Paul, upon the call of the Secretary, on Tuesday, September 16th, 1862.

Present, Lieut. Governor Donnelly, and Regents Benson and Thomas.

A quorum not being present, the meeting adjourned until Thursday, September 25th inst.

URIAH THOMAS,
Secretary.

ADJOURNED MEETING.

THURSDAY, Sept. 25, 1862.

An adjourned meeting of the Board of Regents was held at the State Capitol, on Thursday, September 25th, 1862.

Present, Governor Ramsey, and Regents Benson, Batchelder and Thomas.

The Secretary reported progress in his negotiations for the liquidation of the indebtedness of the University, and asked further instructions.

Mr Benson introduced the following resolution:

Resolved, That the Secretary be authorized to offer, as the *ultimatum* of the Board, to the different classes of creditors, in satisfaction of their claims, such lands as are available for that purpose, at fair valuations to be fixed upon them by disinterested persons.

Which was agreed to.

On motion, Regent Batchelder was authorized and instructed to collect the rents coming due this fall, upon lands in Rice county.

The Bill of the *Press Printing Company* for advertising "Notice to creditors of the University," amounting to \$5 50 was ordered paid.

The Secretary laid before the Board the proposition of the St. Anthony Falls Water-Power Company, by their Agent, R. Chute, Esq., bearing date August 25th 1862, relative to the settlement of the obligation of the said Company, for the old University Building. (See proposal on file.)

On motion, the Secretary was directed to accept the offer made by the Company.

On motion, the Board adjourned, to meet again upon the call of the Secretary.

URIAH THOMAS,
Secretary.

SPECIAL MEETING.

WEDNESDAY, Nov. 19, 1862.

A special meeting of the Board was held at the State Capitol, at the call of the Secretary, on Wednesday, November 19th, 1862, to authorize the execution of deeds for lands, due notice being given thereof.

Present, Governor Ramsey, and Regents Kimball and Thomas.

A quorum not being present, for the transaction of business, the Board adjourned to meet at the same place, November 29th.

URIAH THOMAS,
Secretary.

ADJOURNED MEETING.

SATURDAY, Nov. 29, 1862.

An adjourned meeting of the Board was held at the State Capitol, November 29th, 1862.

Present, Governor Ramsey, and Regents Kimball, Batchelder and Thomas.

The minutes of the meeting of September 25th were read and approved.

The Secretary presented to the Board, a report of his proceedings under the resolution passed at the meeting of the Board, held May 15th, 1862, authorizing him to open negotiations with the creditors of the University.

Which was read and accepted.

Report on file.

The following resolutions were adopted, viz :

Resolved, That the President, in connection with the Secretary, be, and he hereby is, authorized to make, execute and deliver to the St. Anthony Falls Water Power Company, a quit-claim deed for the Preparatory School Build

ing of the University, commonly known as the Old University Building, releasing to the same all claim which the said University, or the Regents thereof, may have upon the site on which said building was erected, and also to execute and deliver to said Company, or their assignee, a deed of conveyance of the following described lands, viz: The n w q of the n w q, and lots 4, 5 and 6 of Section 5, and the n e q of Section 6, all in township 116 north, of range 31 west, containing altogether 353.26 acres, according to the United States Government surveys.

And the President is hereby authorized to affix the corporate seal of the University to said deeds, or either of them, and to acknowledge the execution of the same, as the act and deed of this corporation.

The said deeds being in accordance with the proposal of said Water Power Company, made August 28th, 1862, and accepted by this Board September 25th 1862.

Resolved, That the proposition of Messrs. J. S. Pillsbury, J. Hechtman and E. W. Grindall, for the liquidation of claims held by them, against the University, as presented in the report of the Secretary, just read, be not accepted; but that the Secretary be authorized to tender to Messrs. Hechtman and Grindall respectively, in liquidation of the "Contractors' notes" now held by them, lands from among the selections made for the University in May, October, and November, 1860, by A. Van Vorhes, Esq., at a valuation of \$2 00 per acre; also to Mr. Pillsbury, cash, amounting to \$250 00, according to the terms of his proposition, and for the balance of his claim, lands as aforesaid, at \$2 00 per acre.

Also the following:

Resolved, That the Secretary be and he is hereby fully authorized to settle any indebtedness, of the Regents of the University in accordance with an act of the Legislature, approved March 8th, 1862, entitled "An act to provide for the conveyance of the lands and the liquidation of the indebtedness of the Regents of the University," and in accordance with the instructions of this Board; *provided* that no lands of the University, shall hereafter be disposed of by virtue of this resolution, at a less price than two dollars and fifty cents per acre, except so far as the fractional subdivisions of the lands or of the debts shall necessitate a departure from the same; and upon his having entered into any agreement with any of the creditors of the corporation, the President in connection with the Secretary, is hereby authorized to make, execute and deliver a deed or deeds of

conveyance for such of said lands agreed to be given in liquidation of said indebtedness; and the President is authorized to affix the corporate seal of the University thereto, and to acknowledge the execution of the same as the act and deed of the corporation.

The following resolution was presented and adopted:

Resolved, That the Treasurer be authorized to pay to Uriah Thomas the sum of two hundred dollars in full for the year ending December 1st, 1862, for his services as Secretary of the Board, and as Agent of the Board, to negotiate with the creditors of the University; and also a further sum of one hundred and fifty dollars for his expenses to New York City, Utica and Washington, upon business connected with said negotiation.

The Secretary was directed to prepare the Annual Report to the Legislature, embodying therein his Report as Agent of the Board, this day read and accepted.

When, on motion, the Board adjourned, subject to the call of the Secretary.

URIAH THOMAS,
Secretary.

APPENDIX B.

TREASURER'S REPORT.

To the Regents of the State University :

It is neither necessary or becoming for me to enter into a formal or elaborate report of the present or past condition of the University, and its affairs, as that has already been assigned to the Secretary. By an act of the last Legislature, the Regents were authorized to sell lands to any party holding claims against the University. At a meeting of the Board, Mr. Thomas was chosen Agent to transact said business, and negotiate all settlements of indebtedness, a full and comprehensive account of which will be found in his report.

As shown in the amount of receipts, but little less than one hundred dollars has been received from rents of farming lands, and these amounts were all from arrears not paid up to date of last year's report. There is reason to believe, that of the balance of arrears of last year, (1861,) not much more will be collected. Some are unable to pay, and others have abandoned their claims and left the premises.

It will be perceived that no amount is credited as paid or due for rents of farming lands for the present year, 1862, and in fact nothing has been received by the Treasurer, and but very little has been paid.

The only reason that can be offered is, that at the time the rents became due, not only was the Treasurer absent in defence of the frontier, but the people were mostly engaged in the same cause. I am confident that the past year's rents will nearly all be paid during the present winter. No new leases have been given the present year. I have made, in the past year, a complete examination of all the timber lands in Rice county, including several sections that I had not before seen. There has also been a survey of several sections, with a full report and plats of the same, which show some valuable lands, well timbered.

Among the bills payable, it will be seen that the Regents have been paid for time and expenses in attending the meetings of the Board since their organization. In making up the amounts to each, it was agreed to pay two dollars per day, and the time limited; at several meetings, one day more was spent than allowed, in which cases only the actual expenses of travel were defrayed.

Respectfully submitted.

WILLIAM M. KIMBALL,
Treasurer.

St. ANTHONY, December 22, 1862.

Wm. M. Kimball in account with State University.

1861.

Dec. 31, By paid sundry bills.

“ O. D. Brown for surveying timber lands and making complete plats in Rice county, 11½ days,
@ \$3, - - - - \$34 50

	By paid Laborers, axe and chain-		
	men, - - -	25 75	
	“ Team transporting tools		
	and men for same, -	1 50	
	“ Messenger to notify parties	2 00	
	“ Franklin Cook, making		
	map of pine lands, -	7 50	
Aug 2,	“ Samuel Lawrence, examin-		
	ing and peramutating		
	lines of pine lands, -	14 00	
	“ Mr. Smith do, 4 days, -	8 00	
	“ S. Lawrence, for estimtses		
	of pine lands, - -	5 00	
		<hr/>	\$98 25
	“ Cole & Case, making pa-		
	pers, - - -	3 00	
	“ G. E. Cole, legal services,	6 25	
	“ Clerk of Court of Henne-		
	pin county, - - -	6 50	
	“ Bond & Clark, att’y fees,	24 50	
	“ D. Cooper, written opinion,	75 00	
	“ J. S. Fuller, Sheriff fee,	12 10	
		<hr/>	127 35
	“ D. Morrison, for lumber,	4 75	
	“ W. H. Wilson, repairing		
	fence, and glass, -	4 50	
	“ J. S. Pillsbury & Co., for		
	locks, nails, and iron for		
	building and fence, -	5 50	
		<hr/>	14 75
	“ A. Q. Greeley, gate fastens	2 00	
		<hr/>	2 00
	“ Thomas & Clark, printing		
	notice to creditors, and		
	deed blanks, - - -	9 25	
		<hr/>	9 25
	“ Uriah Thomas, expense five		
	times to St. Paul and to		
	Stillwater on business		
	connected with negotiat-		
	ing bonds, - - -	16 50	

By paid Advertising in New York			
	Herald, - - -	2	70
"	Clerk Supreme Court, -	2	00
"	Notary public, for 5 deeds,	1	00
"	Repairing seal, - - -	1	00
		<hr/>	23 20
January,	" Uriah Thomas, for 2 years' services as Secretary, to Dec. 1, 1861, - - -	200	00
	" do, for services for the year ending Dec. 1, 1862, as Secretary and Agent of the Board, as per resolution, - - -	200	50
	" Expenses of U. Thomas, Agent of the Board, on trip to New York and Washington, to negotiate indebtedness, - - -	150	00
		<hr/>	550 00
	" Expense for surveying logs	105	00
		<hr/>	105 00
	" Amount paid Regents attending meetings of the Board as appears by record, including \$2 per day and travel and expenses:		
	Jared Benson, attending ten meetings at \$8 each,	80	00
	E. O. Hamlin, attending five meetings at \$12 each,	60	00
	G. F. Batchelder, attending four meetings at \$12 each,	48	00
	Uriah Thomas, attending fifteen meetings, \$4 each,	60	00
	W. M. Kimball, attending twelve meetings, \$4 each,	48	00
		<hr/>	296 00
Feb. 1,	" Amount for expense and time as Agent granting permits for cutting timber and leasing farming lands:		

	By paid To Stillwater two days, -	6 00	
	“ Expense and horse hire,	7 25	
Feb. 27,	“ To Faribault seven days, -	21 00	
	“ Expense and horse hire,	19 75	
March 6,	“ Stillwater three days, -	9 00	
	“ Expense and horse hire,	8 25	
		<u> </u>	71 25
June 18,	“ Faribault six days, - - -	18 00	
	“ Travel and expense, - - -	15 25	
	“ Stillwater two days - - -	6 00	
	“ Expense and horse hire,	7 50	
		<u> </u>	46 75
July 30,	“ Princeton and the pineries		
	eight days, - - -	24 00	
	“ Expense and horse hire,	19 50	
		<u> </u>	43 50
	“ Balance due Treasurer on		
	settlement for the year		
	1860, and not since paid,	97 00	
		<u> </u>	97 00
	“ Express on books, - - -	5 00	
		<u> </u>	5 00
			<u> </u>
			\$1,489 30

RECEIPTS.

July 1,	To cash rec'd of Sheelenberg		
	& Co., - - - - -	\$1,383 93	
	To cash received of John Rol-		
	ling, stumpage, - - -	20 00	
	To cash received of John Dud-		
	ley, stumpage, - - -	218 00	
	To cash for rent of farming		
	lands, - - - - -	96 00	
	To cash on hand Dec. 1, 1861,	190 37	
		<u> </u>	
			\$1,908 30
1862.			
Dec. 22,	Cash in hands of Treasurer, -		419 00

Dec. 22,	To balance due for stumpage from Sheelenberg & Co.,	\$1,032 20
	To balance due from Martin & Lawrence, - - - -	150 00
	Estimated from land rent, -	300 00
		<hr/>
		\$1,482 20

All of which is respectfully submitted.

WM. M. KIMBALL,
Treasurer.

St. ANTHONY, December 22, 1862.

The following is a list of persons that have paid rents on farming lands, as appears in the above report:

D. N. Waters, 80 acres, - - - -	\$ 14 00
C. N. Ramsdell, 80 acres, - - - -	14 00
Godlow Pray, 160 acres, - - - -	28 00
E. L. Fuller, 40 acres, - - - -	7 00
John Boice, 80 acres, (balance) - - - -	5 00
John C. Dull, 40 acres, - - - -	7 00
John Williams, 80 acres, (one-half,) - - - -	7 00
August Pray, 80 acres, - - - -	14 00
	<hr/>
	\$ 96 00

APPENDIX C.

OPINION OF THE SUPREME COURT OF MINNESOTA, UPON
THE NOTES GIVEN BY THE REGENTS OF THE TERRITORY
UNIVERSITY, TO CONTRACTORS UPON THE UNI-
VERSITY BUILDING.

Alexander C. Hart and Edmund
Munson, partners under the name
and style of Hart & Munson, Re-
spondents,

against

The Regents of the University,
of Minnesota, impleaded with oth-
ers, Appellants.

The Regents of the University of Minnesota, are made a corporation by chapter 23 of the Compiled Statutes, page 350. Section 1 establishes the University. Section 2 provides a fund for the support of the same, from the proceeds of the lands that may be granted by the United States to the Territory for that purpose. Section 3 declares the object of the University to be purely educational. Section 4 vests the government of the same in a Board of Regents, and together with Section 5, provides the manner of their election. Section 7 makes them a body corporate, with the right as such, of suing and being sued, contracting and being contracted with, and of making, using and altering a common seal. Section 8 authorizes the Regents to appoint a Secretary, Treasurer and Librarian, and defines the duties of the first two officers. Section 9 confers upon the Regents certain powers, among which are to elect a Chancellor, who shall be *ex officio* President of the Board of Regents, and in his absence, authorizes them to appoint one of their own number, President *pro tem*. Section 13 locates the University at St. Anthony, and authorizes the selection of a site for the same, and the erection of the building as soon as funds may be provided for that purpose. Section 15 authorizes the Regents to expend such portion of the fund, which, by the provisions of said chapter 23, may come under their control, as they may deem expedient for the erection of buildings, &c. These

are the only portions of the chapter that it is necessary to refer to in this case. The Regents were confined in all their expenditures to the particular fund referred to and provided by that chapter, and persons dealing with them would be held chargeable with knowledge of their rights and powers. In 1856 they were, by act of the Legislature, (Comp. Stat. 352,) empowered to issue the Bonds of the University to the amount of \$15,000, secured by mortgage on the lands referred to in chapter 23, above mentioned, for the purpose of liquidating a debt incurred in the purchase of the site authorized by section 13 of said chapter, to the amount of \$5,000, and the balance of \$10,000 to be expended in the erection of the buildings, also provided for in section 13. By a subsequent act, passed March 8th, 1858, (Comp. Stat. 353,) the Regents were empowered to raise, by the same means, the sum of \$40,000, about the disbursement of which nothing is said.

We think these three acts must be construed together, and the two latter be understood as providing the funds spoken of in the first. They, however, depart to a certain extent from the original design of applying the funds. The first act declares that the proceeds of all lands that may hereafter be granted by the United States to the Territory, for the support of a University, shall be and remain a perpetual fund to be called the "*University Fund*," the interest of which shall be appropriated to the support of a University. It was the design of this act to retain all the proceeds that might arise from the sale or mortgage of the University land, as a principal fund, which was not to be encroached upon, but was to be invested to produce a revenue for the support of the University. The interest alone was to be expended. The act of 1856, however, authorizes \$15,000 to be raised upon bonds and mortgages of these land, and makes a specific appropriation of the whole sum to two objects—\$5,000 to pay a debt for the site and \$10,000 to be expended in the erection of buildings.

The act of 1858 raised \$40,000 by bond and mortgage of the same lands, but makes no appropriation of it for any purpose. It might be said that this \$40,000 was the first proceeds of the lands contemplated by Section 2 of the charter of the University, or Chapter 23 above spoken of, and at once became a "perpetual fund," the interest of which alone was subject to the disposal of the Board of Regents. But we are of opinion that the two latter acts must receive the same interpretation, and that of 1858 be understood to have

been passed to supply a deficiency growing out of the inadequacy of the sum raised by the act of 1856, and to carry out the purpose of that act, which was to erect a University building. Contemporaneous history and a fair comparison of the two acts justify this conclusion. Had the act of 1858 intended to devote the money raised under its provisions to the "perpetual fund" spoken of in the charter, some provision would have been made for its investment by the Regents, in order that a revenue, in the way of interest might be raised.

The conclusions we arrive at from this analysis of the several acts that control the subject, are as follows:

1st. The Board of Regents are a public corporation, for the purpose, among other things, of erecting a University building, and for that purpose, with the restrictions hereafter mentioned possess all the power necessary to the attainment of that end. They could make all necessary contracts, and give written evidences to creditors, of debts incurred in and about the work, payable at a future day, but could not execute a negotiable promissory note, in the commercial sense of that term, because they were restricted in their expenditures to the particular fund provided for them by the Legislature, and had no power to contract debts upon the credit of any other; and negotiable papers must be payable absolutely.

2d. That their powers were known to all persons dealing with them.

3d. That an action may be maintained against them upon any contract which they had power to enter into concerning the erection of the University buildings, but that a judgment recovered upon such contract, would bind only the fund upon the faith of which the credit was originally given.

4th. That the title to the lands reserved by Congress for the use and support of a State University, is in the State, and not in the corporation, and all property acquired by the Regents, real or personal, with the fund placed at their disposal, is the property of the State, the corporation being merely a trustee or agent with specified and limited powers, to use in a particular manner for a given end.

In regard to the manner in which the notes are executed, we think that the power granted by Section 9, of the charter, to the Board of Regents to elect one of their own number President *pro tem.* in the absence of the Chancellor, confers upon the President *pro tem.*, when so elected, the same powers that are vested in the permanent President, and any

business that could be transacted by one, might be done by the other. The Board, by resolution passed at a meeting over which Mr. Steele presided as President, authorized the President and Secretary to sign the notes; in pursuance of which, they were issued by Mr. Steele and the Secretary.

The counsel insists that the resolution referred to the regular President, and not to Mr. Steele; but from the whole evidence, we take a different view. The Chancellor seldom attended the business meetings, and Mr. Steele generally did, and always acted as temporary chairman. We think the resolution referred to him.

We have examined the authorities cited by the Attorney General, and we think they establish the rule, that a corporation which is confined in its expenditures to a particular fund, may not create a debt or borrow money beyond such fund, without express authority. To this rule we assent; but we do not think the Regents did either by the issuance of these notes. They merely postponed the payment of a demand against the Board, which might have been immediately paid out of the fund in their hands for that purpose. It was drawing on the fund at a future day.

The plaintiffs are entitled, under the pleadings and evidence, to judgment on the notes, but such judgments can only be executed on the fund provided by the Legislature for the erection of the buildings.

The order denying a new trial is affirmed.

FLANDRAU.

