

At an adjourned meeting of the Board of Regents of the Morehead State Teachers College, held at the Administration Building, Morehead, Kentucky, on Monday, May 8th, 1933, Professor J. H. Richmond, Chairman, Dr. J. M. Rose, Judge Allie W. Young and Secretary Earl W. Senff were present, and the following business was transacted:

The minutes of the last meeting, April 14th, 1933, were read, and on motion, duly seconded and unanimously carried, were approved.

Dr. J. M. Rose and Secretary Senff, Committee heretofore appointed to look into the question of settlement with S. M. Bradley, former treasurer and his surety, on account of the deposit now in the Citizens Bank of Morehead, made written report as follows:

May 5, 1933

To the Board of Regents of the Morehead
State Teachers College, Morehead, Kentucky

Gentlemen:

We submit herewith, for your consideration, proposal of settlement of the bank balance due the college from the Citizens Bank of Morehead, as placed there by former treasurer S. M. Bradley, together with opinion of Judge Edward C. O'Rear as to the legality of same.

Respectfully yours,

(Signed) J. M. Rose &
Earl W. Senff

COMMITTEE

April 15, 1933

Hon. Board of Regents,
State Teachers College,
Morehead, Kentucky

Gentlemen: Attention - Judge Earl Senff

When we took over the affairs of the Morehead State Bank, we bent every effort to liquidating the deposit of your School in that Bank. While times were good and there was a fair market for real estate - and notes could be collected once in a while - we made a very material reduction in the deposit. Even after hard times hit us, we kept the interest paid and reduced the principal consistently. More recently, as you well know, the economic situation has become more acute and the strain on the Banks almost more than they could bear.

The Citizens Bank met the conditions imposed on the State Banks by the Government, secured the approval of the State Banking Department, and is carrying on business as usual. Currently, we have had the additional strain of meeting the transfer of county funds to a new County Treasurer - and the later drains have it impossible to meet the payments we should have made on your account; and in an effort to work the matter out to a satisfactory conclusion, we have hit on a plan that we trust may have your approval.

The amount due as of May 5th, 1933, (the date of your next meeting) with interest, is \$74,651.43. The Aetna Company, surety for Mr. Bradley, former treasurer, is anxious to clear this matter up, and we are assured it will pay fifty per centum of the above sum for a clear release from future liability. The Citizens Bank, in turn will secure payment of the balance, by mortgaging all its real estate to you, to which it holds a good title. There is nothing in the Bank's Charter to the contrary and we offer to do this under Sec. 579 Supplement Carroll's Ky. Statutes, being Act 1932, Chapt. 13. A list of such real estate is herewith attached. We further offer:

I. To pay the college as rapidly as we can realize funds from a sale of the property proposed to be mortgaged to you, but in no event shall the college receive less than \$500.00 a month on its deposit, and more if sales of real estate, from time to time, will yield a greater sum.

II. We shall continue to pay interest at 3% on the average daily balance, such interest to be promptly placed to the credit of the College promptly.

III. All costs of every kind in carrying out this proposal, are to be born by the Bank.

IV. The Bank to have the handling and selling of the real estate so pledged, but all cash received from the sale of any such real estate, to be turned over to the Treasurer of the College as a credit on the principal payments above provided for; and all notes taken in payment for properties sold, to be turned over to and held by said Treasurer, until they shall be paid off and the proceeds of said notes shall apply as a like credit on payments due from the Bank to the College.

The situation is precarious as it stands now - and full of hazard for all parties, but this arrangement will stabilize the whole proposition and make it possible for the Bank to finish up what it has striven to zealously to perform. The perpetuation of our Bank will be a splendid service to the community where your School is located and a great help and convenience to the Staff and student body of the College. We bespeak your earnest consideration and favorable action, by May 1st, if possible.

Most truly yours,

(Signed) Citizens Bank of Morehead
By H. VanAntwerp
Secretary to Board

List of Real Estate tendered to the Board of Regents of the State Teachers' College, Morehead, Kentucky, to secure their deposit with the Citizens Bank of Morehead, Kentucky. Tender is made by order of the Directors of said Bank, to secure public funds. These Properties are owned by the Bank, the titles are clear, and good deeds can be made:

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|-------|--|-----------|
| I. | Forty suburban lots (10 acres) located in Phoenix, Arizona. Have been variously appraised, as high as \$20,000.00. Have been offered \$8000.00. Bank has in them and carries them @ | \$9000.00 |
| II. | Planing mill electrically equipped with 60 H. P. Motor and machinery to manufacture flooring, and all sorts of inside finishing material; dry house and storage sheds. All on a 3 acre tract located on the M. & N. F. R. R. in West Morehead. This is a fine manufacturing site, carried by the Bank, | @ 4000.00 |
| III. | Large two story house on Second Street and three lots on Bays Avenue. (House occupied by Mr. Points). These are on a corner, both streets paved. House is well built, has hardwood floors throughout and is worth,- with the lots - | 5000.00 |
| IV. | Fraley property on Sun Street. 7 room house. Lot has paved street front and back with room for house in rear. Carried by the Bank @ \$3500.00 ----- | 3000.00 |
| V. | C. C. Crosthwaite place. 5 room house and 7 acres of land, in edge of Morehead on Jules Branch. Adjoins John Allen place ----- | 1200.00 |
| VI. | Reynolds lot on E. Main, across from Court House. Appraised at \$2000.00. Have been offered \$1200.00 ----- | 1500.00 |
| VII. | 7 Room house and 3 lots in Caudill addition ----- | 900.00 |
| VIII. | House and lot (over an acre) occupied by Jack Wilson, West | |

of new Swimming Pool. Improved materially since since the Bank got possession of it. -----	\$2500.00
IX. 3 Building lots at Gates, Kentucky, on Midland Trail ---	100.00
X. One lot on Flemingsburg Road -----	50.00
XI. Bank and Office Building and Lot on R. R. Street -----	2500.00
XII. 600 acre farm on North Fork (adjoins J. E. Johnson and John Skaggs) 1/2 mile from new Flemingsburg Road. 100 acres is cleared and balance in timber. 500 acres com- paratively level; 100 acres hilly. Unimproved farm land,-----	3000.00
XIII. Hiram Bradley Tract. 1076 acres of the S. M. Bradley lands. Well timbered and better than the average of the big tract which is under option to the Government @ \$5.00 per acre, mineral rights reserved. Well adapted to sub-division and would make a number of good farms-	2500.00
XIV. Improved farm of 120 acres on Big Perry. Large house and barn, all in good shape. Improvements worth what the bank values this place at, viz: \$2500.00-----	1750.00
XV. "Pine Tree Farm" of 180 acres, lying South of Morehead and adjoining the plant of the Lee Clay Products Com- pany. Has fire clay on it. Small house and barn ----	<u>1000.00</u>
Total -----	\$38000.00

April 28, 1933

Judge Earl W. Senff,
Secretary Board of Regents,
Morehead State Teachers College,
Mt. Sterling, Kentucky

Dear Judge Senff:

Your letter of April 18:

I think the 1932 Act Ch. 13 authorizes the Citizens Bank of Morehead to pledge its assets to secure a deposit by the Board of Regents, provided there is nothing in the bank's charter to the contrary. As you point out, the validity of such an act was assumed in Com. Bank & Trust Co. v. Citizens T. & G. Co., 153 Ky. 566. The validity of this particular act was taken for granted by Judge Thomas in the recent case of Louisville v. Fidelity & Columbia Trust Company, et al., 245 Ky. 704. At the old common law, I believe, the sovereign's claims were always preferred in cases of insolvencies. I see no objection to the validity of the Act. While it does not expressly name Normal School Boards among the custodians of public funds whose deposits may be secured, I think it clear that a deposit

by such board would be one made "under the authority (implied) of the Commonwealth of Kentucky" and also by a "person having the legal custody or control of any such public fund or funds", and therefore within the Act.

It may be doubted whether the Act authorizes a bank to pledge its assets to secure existing deposits, so as to effect a preference of public deposits over private. The language could well be interpreted to allow pledges to secure simultaneous or future deposits only. Under any other interpretation, the assets of a failing bank might be so manipulated as to do great injustice to ordinary depositors.

Here, however, it will be a great stroke of fortune for the bank if the settlement can go through. It will be a stronger bank not only for the Board, but for other depositors. I suggest this course: Let the surety company pay the Board \$37,000., release all claims against the Bank arising by right of subrogation or otherwise and receive its full acquittance from the Board. At the same time let the Bank pay the Board the other \$37,000.00 winding the whole matter up. The Board might then make a new deposit with the Bank, taking a mortgage on the real estate. The Mortgage should recite that it is made under Chapter 13, Ky. Acts 1932 and to secure a deposit that day made. Whether a preference or no, I think the settlement such an advantageous one that the School might well take its chances on having the mortgage attacked within six months as preferential.

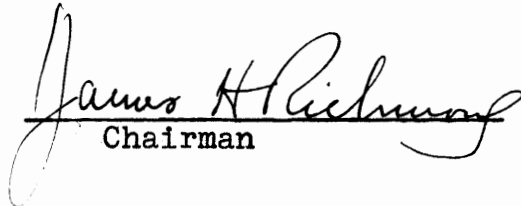
Very truly yours,

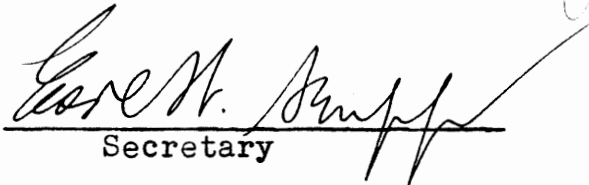
(Signed) Edward C. O'Rear

There came up for discussion the question of the adjustment of the claim of the Morehead State Teachers College against the Aetna Casualty and Surety Company, by reason of its having executed bond No. 210021, bearing date February 18, 1926, and bond No. 353424, bearing date February 18, 1928, as surety for S. M. Bradley, former treasurer of Morehead State Teachers College; and it appearing that there is now in the Citizens Bank of Morehead to the credit of the Morehead State Teachers College the sum of \$74,651.43, \$45.08 of which is interest due by the Bank, \$74,605.35 being a balance which grows out of a deposit of \$132,103.17 left in the Citizens Bank of Morehead, under an agreement heretofore entered into; it being the contention of the Aetna Casualty and Surety Company, bondsman for the said Bradley, that it is not liable for any of said sum because of certain defenses which it has to our claim.

THEREFORE, as a means of settling said controversy, it is agreed and resolved that the said Morehead Teachers College will accept from the Aetna Casualty and Surety Company the sum of \$37,303.18, and an assignment to it, Morehead State Teachers College, of the subrogation right of the Aetna Casualty and Surety Company against the assets of S. M. Bradley for this amount, to-wit: \$37,303.18, to be on a par with other common creditors of S. M. Bradley; this leaving to the credit of and same to be the property of the Morehead State Teachers College, in the Citizens Bank of Morehead, the sum of \$37,348.26; and Earl W. Senff and Dr. J. M. Rose, two members of our Board, are hereby appointed to make said settlement with said Aetna Casualty and Surety Company, with full and complete authority to make said settlement and to sign any and all receipts or other papers necessary, requisite or proper to be signed in the carrying out of this settlement; and that acts of our said representatives are hereby ratified, approved and confirmed.

On motion, unanimously carried, the meeting then adjourned until 11 o'clock A. M. Wednesday, June 14th, 1933, at the Administration building, Morehead, Kentucky.


Chairman


Secretary