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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Trial Court Case No.: 2011-CP-01-109
Appellate Case No.: 2015-001660

Robert E. Smith, and William K. Smith ..... Appellants

v.

Erskine College .....Respondent

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF ABBEVILLE)	CASE NO. 2011-CP-01-109
)	
ROBERT E. SMITH,)	
and WILLIAM K. SMITH)	
)	
Plaintiffs,)	
)	REVISED ORDER
V.)	
)	
ERSKINE COLLEGE,)	
)	
Defendant.)	

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THIS MATTER CAME BEFORE THE COURT for a bench trial on May 22, 2014 in Greenwood, South Carolina. Present were James Randall Davis, Esq. and Nikki Setzler, Esq. representing the Plaintiffs, and Roy Hemphill, Esq. representing the Defendant. Prior to trial both parties moved for Summary Judgment in front of The Honorable Eugene C. Griffith, Jr. Summary Judgment was denied on June 18, 2013, and the case went forward. Plaintiffs' complaint seeks a Declaratory Judgment to confirm the validity and ability of Plaintiffs to redeem, honor or repurchase the Certificate of Scholarship and Sub-Certificates which were issued to Rev. J.R. Castles (hereinafter referred to as "Rev. Castles") in 1854 by Erskine College (hereinafter referred to as "Erskine").

The court issued an order dated January 2, 2015 finding that the doctrine of laches applies to prevent relief. Plaintiffs filed a motion for reconsideration, the hearing on which was held on May 18, 2015. Having carefully reviewed the parties' briefs, reflected on the testimony at trial, considered the relevant legal authorities, and reconsidered the court's order of January 2, 2015, the Court hereby finds as follows:

1

FACTS

Erskine College was founded as a private liberal arts college in Due West, South Carolina in 1839. On April 8, 1853 Erskine adopted an Endowment Plan to raise funds for the school, primarily by the sale of scholarships. The Endowment reads in pertinent part as follows:

> "...An Endowment Fund of a Hundred Thousand Dollars shall be created by the sale of Scholarships; which Scholarships shall be offered on the following terms and conditions:
>
> 1. The payment of forty dollars ($40) shall endow a *single scholarship*, which shall entitle the subscriber to the tuition of *one student* during the term of six years.
>
> 2. The payment of sixty dollars ($60) shall endow a Scholarship which shall entitle the subscriber to the tuition of one or more of his own sons, or of any students he may select, amounting in the aggregate to twelve years.
>
> 3. Any person paying or securing to the Trustees of said College the sum of one hundred dollars ($100) shall be entitled to the education, free of tuition expenses, of one son or nominee for the term of *twenty-five years*, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years.
>
> 4. No sales of limited scholarships shall be binding either on the purchaser or on the Board of Trustees, until scholarships amounting to *fifty thousand dollars* are sold, (due notice whereof shall be given in the public prints), after which time all contracts for scholarships made previous to that date shall be binding on the parties concerned, shall become due, and bear interest. On the payment of Scholarships, subscribers or purchasers of the same shall be furnished with a certificate, signed by the President and Secretary of the Board of Trustees of the said Erskine College, guaranteeing to the said subscribers the privileges enumerated by the resolutions of the Board, according to their relative subscriptions.
>
> * * *
>
> 5. Any individual, association of individuals, or congregation, who shall pay or secure to the Trustees of Erskine College, the sum of five hundred dollars ($500), shall be entitled to a perpetual scholarship, to which the party or parties may appoint any pupil he or they may think proper."[1]

If an individual made a contribution to the endowment fund, Certificates of Scholarship along with Sub-certificates were issued by Erskine to the individual reflecting the amount paid by the individual. The Certificates of Scholarship and Sub-certificates evidenced that an individual

[1] In original endowment, listed as bullet 7. Also, all italics emphasis is as reflected in original endowment.

subscribed to the endowment and the Endowment Plan laid out the terms of the agreement between the individual and Erskine.

In 1854, Rev. Castles contributed one hundred dollars ($100). Per the Endowment Plan's terms, Rev. Castles received the Certificate of Scholarship and the Sub-Certificates, with each Sub-Certificate representing a single year of tuition. Rev. Castle's Certificate of Scholarship lists his name and reads as follows:

> "This certifies that, for and in consideration of One Hundred Dollars, paid to John N. Young, Treasurer of the Board of Trustees of Erskine College, or to his successor in office, Rev. J. R. Castles is entitled to twenty-five Years of Tuition in the said College; which Tuition is to be obtained on the surrender of the accompanying Sub-Certificates---each Sub-Certificate entitling to One Year's tuition."

The Certificate of Scholarship is signed by both the President and Secretary of Erskine. The Sub-Certificates state that surrender "to the Treasurer of Erskine College entitles the bearer to One Year's Tuition in said College." None of the Sub-Certificates have expiration dates, nor do the Certificate of Scholarship or the Endowment Plan expressly limit when the certificates may be redeemed.

For the past one-hundred sixty (160) years, Rev. Castles' Certificate of Scholarship and Sub-Certificates have been passed down through family inheritance. Today, Robert and William Smith (hereinafter referred to as "Plaintiffs") have rightful ownership of the Certificate of Scholarship and the twenty-five Sub-Certificates. Plaintiffs now contend they are entitled to redeem the Sub-certificates in lieu of paying the current tuition at Erskine.[2] In 2011, Plaintiffs brought suit to enforce what Plaintiffs characterize as Rev. Castles' "investment." No real factual dispute exists concerning the Endowment Plan or the terms under which the Plan initially

[2] The 2013-2014 tuition rate at Erskine was $29,395.00, not including room and board or other associated fees. This rate was found on Erskine's website, http://visit.erskine.edu/parents/excellence-affordability/. Gregory W. Haselden, Erskine's Senior Vice President for Finance and Operations, signed an affidavit testifying that tuition for the 2011-2012 school year was $26,350.00 and tuition for the 2012-2013 school year was $27,915.00.

entitled the Rev. Castles, or his designees, heirs or assigns, to free tuition. Simply stated, the dispute is whether this ancient obligation remains viable and enforceable. Erskine contends the Certificate of Scholarship and Sub-certificates presently possess no redeemable value as they have expired, and if not expired, Plaintiffs' claims are barred by the doctrine of laches, doctrine of staleness of demand, and the statute of limitations. Plaintiffs assert that the Sub-certificates constitute an investment by Rev. Castles, and this investment is no different from a bearer bond. Plaintiffs seek a declaration that the Certificate of Scholarship and Sub-certificates are currently redeemable per the original terms of the endowment plan; in essence, Plaintiffs seek specific performance per the original terms under which the Certificates were issued, e.g. twenty-five (25) years of free tuition at Erskine.

For the following reasons, the Court finds that the Certificate of Scholarship and accompanying Sub-certificates have, by the passage of time and intervening historical events, been rendered void and unenforceable.

STANDARD OF REVIEW

A declaratory judgment action is neither legal nor equitable, but rather takes on the nature of the underlying claim. Felts v. Richland Cnty, 303 S.C. 354, 356, 400 S.E.2d 781, 782, (1991). An action for specific performance of a contract sounds in equity. Ingram v. Kasey's Associates, 340 S.C. 98, 105, 531 S.E.2d 287, 290 (2000). An action to construe a contract is an action at law. Pruitt v. S.C. Med. Malpractice Liab. Joint Underwriting Ass'n, 343 S.C. 335, 339, 540 S.E.2d 843, 845 (2001). An action for breach of contract seeking money damages is an action at law. R & G Constr., Inc. v. Lowcountry Reg'l Transp. Auth., 343 S.C. 424, 430, 540 S.E.2d 113, 117 (S.C. Ct. App. 2000). The one who alleges the contract must prove it by the preponderance of the evidence,-by the greater weight of the testimony. In a civil suit that is always the rule, -the

preponderance of the evidence; the greater weight of the testimony. Jones v. Fitzpatrick, 47 S.C. 40, 24 S.E. 1030, 1031 (1896). Defenses, such as the statute of limitations, will bar recovery. Harvey v. S.C. Dept. of Corrections, 338 S.C. 500, 508, 527 S.E.2d 765, 769 (S.C. Ct. App. 2000).

LAW & ANALYSIS

As an initial matter, the Court acknowledges and appreciates the legal arguments made by both Plaintiffs and Defendant; this is certainly a very interesting case, and precedent to aid the court is sparse. Based on the unique facts presented, the passage of time, and intervening historical events, the Court finds Plaintiffs' claim is barred by the doctrines of laches and staleness of demand.

A. Nature of the Transaction

At the hearing on Plaintiffs' motion for reconsideration, Plaintiffs request that the court definitively classify exactly what type of instrument or agreement was at issue in this case. Although the court finds that a precise definition of the agreement is unnecessary, for purposes of subsequent review the court finds that the Certificate of Scholarship and accompanying Sub-certificates are hybrid instruments encompassing both an eleemosynary intent as well as a tuition or scholarship component. Put another way, the court concludes that Rev. Castles and others were likely motivated, at least in part, by charitable intent in deciding to purchase the Certificate of Scholarship. That is, Rev. Castles sought to endow Erskine as a college which would both promote the Presbyterian faith and educate others in a manner consistent with that faith. Therefore, a portion of the payment for the Certificate of Scholarship indicates a charitable or donative intent.

Additionally, by making this contribution, the Rev. Castles and others became entitled to assign twenty-five (25) years of education at Erskine to some other individual. Accordingly, Rev. Castles and other purchasers were also motivated by the investment nature of the Certificates. This aspect of the Certificate of Scholarship gives rise to a contractual right which could be exercised at the discretion of the purchaser.

Because of the dual nature of the Certificate of Scholarship, the court characterizes the instrument as an "Eleemosynary Scholarship Program," an instrument which combines both a charitable benefit to Presbyterian with a corresponding financial or educational benefit to the original benefactor or his assigns. Because Plaintiffs seek declaratory judgment that the Certificates of Scholarship's eligibility remains outstanding, due and payable, Plaintiff essentially seeks specific performance of this obligation from 1854.

B. The Doctrine of Laches

Laches is defined as an "unreasonable delay in pursuing a right or claim – almost always an equitable one – in a way that prejudices the party against whom relief is sought." Black's Law Dictionary 712 (9th ed. 2009). "The equitable defense of laches follows the equitable maxim: "Equity aids the vigilant, not those who slumber on their rights."" Eldridge v. Eldridge, 398 S.C. 113, 121, 728 S.E.2d 24, 28 (2012) (citing Hemingway v. Mention, 228 S.C. 211, 89 S.E.2d 369 (1955)). In South Carolina, "a party asserting laches must show that prejudice has occurred to the extent that it would be inequitable to allow enforcement of the other party's rights." 12 S.C. Jur. Equity § 25. "Delay alone does not constitute laches, but the delay must be such that, as a result, the defendant was materially prejudiced." Id. Therefore, the elements of the defense of laches are as follows:

1. Delay by one party

2. Unreasonable or unexplained length of time
3. Knowledge of rights by the party
4. Reliance on non-assertion by the other party
5. And, prejudice to that other party if the right is now asserted. Id.

Based on the foregoing, this Court finds the elements of the Defense of Laches have been met:

(1) In this case, one-hundred sixty (160) years have passed since the original contract was formed between Rev. Castles and Erskine. As stated, Plaintiffs obtained Rev. Castles' Certificate of Scholarship and Sub-certificates through family inheritance. Although Plaintiffs were not privy to the contract between Rev. Castles and Erskine and although they obtained the certificates much later, their attempt to use these certificates one-hundred sixty (160) years later clearly constitutes a delay.

(2) Further, although Plaintiffs may not have had possession of the certificates until relatively recently, no explanation is offered as to why the certificates went unredeemed from 1854 to 2008. During that period, other family members of the Plaintiffs had rightful possession of these certificates, yet they made no attempt to redeem them.

(3) Because the certificates were passed through family inheritance, knowledge of the certificates certainly existed in Plaintiffs and Plaintiffs' family, as they have held the certificates for one-hundred sixty (160) years. Apparently, these certificates were passed through familial generations and not simply stumbled upon by the Plaintiffs, illustrating knowledge of an arguable right to tuition at Erskine by someone in Plaintiffs' family line over the last one hundred sixty (160) years. Importantly and in addition, at no point during this time period did any prior relative seek a determination as to the certificates' validity, nor is there any evidence of any inquiry by Plaintiffs' family to Defendant concerning their continued validity or enforceability.

(4) As was evidenced at trial, Erskine has not honored these certificates since the 1870s and there is no reference in Erskine's catalogs to the certificates since that time. Also, evidence shows the Civil War almost depleted the Endowment Funds, causing Erskine to honor the certificates on a reduced basis for a time prior to the second endowment in the 1870s. This new endowment fund entirely altered the terms of the original 1853 endowment. There is ample evidence that Erskine has long relied on these certificates being expired, extinguished, and no longer enforceable. The fact that no other instances of the certificates being presented and honored in full during the intervening one hundred, sixty (160) years indicate an acquiescence, acknowledgement, and understanding on the part of Erskine and any surviving post-Civil War certificate holders that history had compelled a change of circumstances upon Erskine and the donors, and that if Erskine were to survive as an institution of higher learning, redemption of the certificates at full value simply was not possible.

(5) Great prejudice would result from allowing the redemption of the certificates in that it would require Defendant to afford free tuition for any individuals who might come forward with these antiquated certificates. Also, as is further discussed below, Defendant would be greatly prejudiced by the discrepancy in the 1854 tuition rate and today's tuition rate. In short, honoring the certificates would represent a windfall to any certificate holder and would be extremely detrimental to Erskine's financial capacity to plan for and execute its educational mission.

Further, "in determining the question of laches, it is also proper to take into consideration whether there has been such a change in conditions as to prejudice the right of one of the parties in making his defense and render inequitable the enforcement of the claim sought

to be asserted." Hemingway v. Mention, 228 S.C. 211, 218, 89 S.E.2d 369, 372 (1955) (citing Lyerly v. Yeadon, 199 S.C. 363, 19 S.E.2d 648, 655 (1942)). As already stated, Erskine has not honored these certificates in over one-hundred forty (140) years, thereby prejudicing their right to create a defense against the certificates.[3] Rev. Castles and the architects of the original endowment have long since passed, and no one remains alive to explain fully the intent of Erskine or Rev. Castles. Also, the increase in tuition rates at Erskine from 1854 until present most certainly represents a substantial change in conditions which would constitute inequity if these certificates were enforced. Per Plaintiffs' argument, $100 in 1854 bought twenty-five years of tuition at Erskine, and so long as Erskine exists, those certificates are redeemable in full. Today, Erskine's tuition is pushing $30,000 per year, making the equivalent of the present value of the certificates $750,000. The length of time and increase in tuition rates over the past one-hundred sixty (160) years most definitely constitute a change of conditions which would cause an unjust, inequitable, and potentially destructive effect on Erskine if these certificates were to be enforced.

One-hundred sixty (160) years is an incredibly long amount of time to allow this right to go unasserted. South Carolina case law states the burden in applying the defense of laches as being the lack of a statutory amount of time to allow the defense to be upheld:

> It is confessedly impossible to adopt a general rule, and fix a definite length of delay which shall justify a court of equity in refusing relief on the ground of laches. Each case must be governed by its own facts, and courts of equity must be trusted to exercise a salutary discretion. Bell v. Mackey, 191 S.C. 105, 3 S.E.2d 816, 824 (1939).

[3] At the hearing, the Court was advised that, in recent years, a student had come forward requesting redemption of a Sub-certificate. The terms reached by the student and Erskine concerning how that matter was handled are confidential, and the Court was not made privy to the specifics of that confidential agreement. Accordingly, being an isolated incident, this single occurrence has no bearing upon the Court's analysis.

Based on the specific facts of this case, this Court concludes one-hundred sixty (160) years is a sufficient, if not exorbitant, amount of time warranting the application of laches and, consequently, barring Plaintiffs' recovery. South Carolina case law has barred actions because of laches for much shorter lengths of time than one-hundred sixty (160) years. In 1955, the Supreme Court of South Carolina upheld the defense of laches due to a ten year length of time. Hemingway, 228 S.C. 211, 89 S.E.2d 369, (1955). In 1939, the Supreme Court of South Carolina upheld the defense of laches due to a nineteen year length of time. Bell, 191 S.C. 105, 3 S.E.2d 816, (1939). In 2010, the Supreme Court of South Carolina upheld the defense of laches due to a thirty-nine year length of time. Robinson v. Estate of Harris, 388 S.C. 616, 698 S.E.2d 214 (2010). Based upon a consideration of the five elements referenced above, the Court finds that laches bars Plaintiffs' action.

C. The Doctrine of Staleness

While the Court rests its decision primarily on the doctrine of laches, the doctrine of staleness should also be considered in this case. It has been held, "there are some points of distinction between laches and staleness of demand." Bell, 191 S.C. 105, 3 S.E.2d 816, 824 (1939) (citing Thomas v. MacNeill, 138 S.C. 86, 92, 135 S.E. 643, 645 (1926)). In Bell, the Supreme Court reiterated,

> 'Laches' has been defined as 'the neglect for an unreasonable and unexplained length of time, under circumstances permitting diligence, to do what in law should have been done' ... A 'stale demand' has been defined as 'one that has for a long time remained unasserted; one that is first asserted after an unexplained delay of such great length as to render it difficult or impossible for the court to ascertain the truth of the matters in controversy and to do justice between the parties, or as to create a presumption against the existence or validity of the claim, or a presumption that it has been abandoned or satisfied.' Id., 3 S.E. 2d at 824 (citing Thomas v. MacNeill, 138 S.C. 86, 92, 135 S.E. 643, 645 (1926)).

In this case, there has been a delay that has rendered it difficult, if not impossible, for all parties and the court to understand the true meaning, significance, and intent of the Rev. Castles and Erskine. Although Erskine has continued as an institution of higher learning, every individual involved in the transaction of 1854 are deceased and there are no cases of record reflecting any similar situation arising in South Carolina. Based on the length of time which has passed and the fact that no effort was made to redeem the certificates or ascertain their continued validity, any claim regarding enforceability has been abandoned. At the very least, the passage of time and post-Civil War events have created a reasonable presumption that a party in possession of the certificates would not seek their redemption. Accordingly, this Court finds the doctrine of staleness would also bar Plaintiffs' recovery.

CONCLUSION

For the reasons explained above, due to the unique facts of this case, this Court finds the doctrine of laches and the doctrine of staleness bar Plaintiffs from enforcing both the Certificate of Scholarship and Sub-certificates.

IT IS SO ORDERED.

Frank R. Addy, Jr.
Circuit Court Judge
Eighth Judicial Circuit

July 2, 2015
Greenwood, South Carolina

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STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS

CASE NO. 2011-CP-01-109

ROBERT E. SMITH,
and WILLIAM K. SMITH

Plaintiffs,

V.

ERSKINE COLLEGE,

Defendant.

ORDER

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THIS MATTER CAME BEFORE THE COURT for a bench trial on May 22, 2014 in Greenwood, South Carolina. Present were James Randall Davis, Esq. and Nikki Setzler, Esq. representing the Plaintiffs, and Roy Hemphill, Esq. representing the Defendant. Prior to trial both parties moved for Summary Judgment in front of The Honorable Eugene C. Griffith, Jr. Summary Judgment was denied on June 18, 2013, and the case went forward. Plaintiff's complaint seeks a Declaratory Judgment to confirm the validity and ability of Plaintiff to redeem, honor or repurchase the Certificate of Scholarship and Sub-Certificates which were issued to Reverend J.R. Castles (hereinafter referred to as "Reverend Castles") in 1854 by Erskine College (hereinafter referred to as "Erskine"). Having carefully reviewed the parties' briefs, reflected on the testimony at trial, and considered the relevant legal authorities, the Court hereby orders as follows:

FACTS

Erskine College was founded as a private liberal arts college in Due West, South Carolina in 1839. On April 8, 1853 Erskine adopted an Endowment Plan to raise funds for the school, primarily by the sale of scholarships. The Endowment reads in pertinent part as follows:

"...An Endowment Fund of a Hundred Thousand Dollars shall be created by the sale of Scholarships; which Scholarships shall be offered on the following terms and conditions:

1. The payment of forty dollars ($40) shall endow a *single scholarship*, which shall entitle the subscriber to the tuition of *one student* during the term of six years.

2. The payment of sixty dollars ($60) shall endow a Scholarship which shall entitle the subscriber to the tuition of one or more of his own sons, or of any students he may select, amounting in the aggregate to twelve years.

3. Any person paying or securing to the Trustees of said College the sum of one hundred dollars ($100) shall be entitled to the education, free of tuition expenses, of one son or nominee for the term of *twenty-five years*, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years.

4. No sales of limited scholarships shall be binding either on the purchaser or on the Board of Trustees, until scholarships amounting to *fifty thousand dollars* are sold, (due notice whereof shall be given in the public prints), after which time all contracts for scholarships made previous to that date shall be binding on the parties concerned, shall become due, and bear interest. On the payment of Scholarships, subscribers or purchasers of the same shall be furnished with a certificate, signed by the President and Secretary of the Board of Trustees of the said Erskine College, guaranteeing to the said subscribers the privileges enumerated by the resolutions of the Board, according to their relative subscriptions.

* * *

5. Any individual, association of individuals, or congregation, who shall pay or secure to the Trustees of Erskine College, the sum of five hundred dollars ($500), shall be entitled to a perpetual scholarship, to which the party or parties may appoint any pupil he or they may think proper."[1]

If an individual made a contribution to the endowment fund, Certificates of Scholarship along with Sub-certificates were issued by Erskine to the individual reflecting the amount paid by the individual. The Certificates of Scholarship and Sub-certificates evidenced that an individual subscribed to the endowment and the Endowment Plan laid out the terms of the agreement between the individual and Erskine.

In 1854, Reverend Castles contributed one hundred dollars ($100). Per the Endowment Plan's terms, Reverend Castles received the Certificate of Scholarship and the Sub-Certificates,

[1] In original endowment, listed as bullet 7. Also, all italics emphasis is as reflected in original endowment.

with each Sub-Certificate representing a single year of tuition. Reverend Castle's Certificate of Scholarship lists his name and reads as follows:

> "This certifies that, for and in consideration of One Hundred Dollars, paid to John N. Young, Treasurer of the Board of Trustees of Erskine College, or to his successor in office, Rev. J. R. Castles is entitled to twenty-five Years of Tuition in the said College; which Tuition is to be obtained on the surrender of the accompanying Sub-Certificates---each Sub-Certificate entitling to One Year's tuition."

The Certificate of Scholarship is signed by both the President and Secretary of Erskine. The Sub-Certificates state that surrender "to the Treasurer of Erskine College entitles the bearer to One Year's Tuition in said College." None of the Sub-Certificates have expiration dates, nor do the Certificate of Scholarship or the Endowment Plan expressly limit when the certificates may be redeemed.

For the past one-hundred sixty (160) years, Reverend Castle's Certificate of Scholarship and Sub-Certificates have been passed down through family inheritance. Today, Robert and William Smith (hereinafter referred to as "Plaintiffs") have rightful ownership of the Certificate of Scholarship and the twenty-five Sub-Certificates. Plaintiffs now contend they are entitled to redeem the Sub-certificates in lieu of paying the current tuition at Erskine.[2] In 2011, Plaintiffs brought suit to enforce what Plaintiffs characterize as Reverend Castles' "investment." No real factual dispute exists concerning the Endowment Plan or the terms under which the Plan initially entitled the Reverend Castles, or his designees, heirs or assigns, to free tuition. Simply stated, the dispute is whether this ancient obligation remains viable and enforceable. Erskine contends the Certificate of Scholarship and Sub-certificates presently possess no redeemable value as they have expired, and if not expired, Plaintiff's claims are barred by the doctrine of laches, doctrine

[2] The 2013-2014 tuition rate at Erskine was $29,395.00, not including room and board or other associated fees. This rate was found on Erskine's website, http://visit.erskine.edu/parents/excellence-affordability/. Gregory W. Hasselden, Erskine's Senior Vice President for Finance and Operations, signed an affidavit testifying that tuition for the 2011-2012 school year was $26,350.00 and tuition for the 2012-2013 school year was $27,915.00.

of staleness of demand, and the statute of limitations. Plaintiff asserts that the Sub-certificates constitute an investment by Reverend Castles, and this investment is no different from a bearer bond.

For the following reason, the Court finds that the Certificate of Scholarship and accompanying Sub-certificates have, by the passage of time and intervening historical events, been rendered void and unenforceable.

STANDARD OF REVIEW

A declaratory judgment action is neither legal nor equitable, but rather takes on the nature of the underlying claim. Felts v. Richland Cnty, 303 S.C. 354, 356, 400 S.E.2d 781, 782, (1991). An action for specific performance of a contract sounds in equity. Ingram v. Kasey's Associates, 340 S.C. 98, 105, 531 S.E.2d 287, 290 (2000). An action to construe a contract is an action at law. Pruitt v. S.C. Med. Malpractice Liab. Joint Underwriting Ass'n, 343 S.C. 335, 339, 540 S.E.2d 843, 845 (2001). An action for breach of contract seeking money damages is an action at law. R & G Constr., Inc. v. Lowcountry Reg'l Transp. Auth., 343 S.C. 424, 430, 540 S.E.2d 113, 117 (S.C. Ct. App. 2000). The one who alleges the contract must prove it by the preponderance of the evidence,-by the greater weight of the testimony. In a civil suit that is always the rule, -the preponderance of the evidence; the greater weight of the testimony. Jones v. Fitzpatrick, 47 S.C. 40, 24 S.E. 1030, 1031 (1896). Defenses, such as the statute of limitations, will bar recovery. Harvey v. S.C. Dept. of Corrections, 338 S.C. 500, 508, 527 S.E.2d 765, 769 (S.C. Ct. App. 2000).

LAW & ANALYSIS

As an initial matter, the Court acknowledges and appreciates the legal arguments made by both Plaintiffs and Defendant; this is certainly a very interesting case, and precedent to aid the

court is sparse. Based on the unique facts presented the passage of time and intervening historical events, the Court finds Plaintiff's claim is barred by the doctrines of laches and staleness of demand.

A. The Doctrine of Laches

Laches is defined as an "unreasonable delay in pursuing a right or claim – almost always an equitable one – in a way that prejudices the party against whom relief is sought." Black's Law Dictionary 712 (9th ed. 2009). "The equitable defense of laches follows the equitable maxim: "Equity aids the vigilant, not those who slumber on their rights."" Eldridge v. Eldridge, 398 S.C. 113, 121, 728 S.E.2d 24, 28 (2012) (citing Hemingway v. Mention, 228 S.C. 211, 89 S.E.2d 369 (1955)). In South Carolina, "a party asserting laches must show that prejudice has occurred to the extent that it would be inequitable to allow enforcement of the other party's rights." 12 S.C. Jur. Equity § 25. "Delay alone does not constitute laches, but the delay must be such that, as a result, the defendant was materially prejudiced." Id. Therefore, the elements of the defense of laches are as follows:

1. Delay by one party
2. Unreasonable or unexplained length of time
3. Knowledge of rights by the party
4. Reliance on non-assertion by the other party
5. And, prejudice to that other party if the right is now asserted. Id.

Based on the foregoing, this Court finds the elements of the Defense of Laches have been met:

(1) In this case, one-hundred sixty (160) years have passed since the original contract was formed between Reverend Castles and Erskine. As stated, Plaintiffs obtained Rev. Castles' Certificate of Scholarship and Sub-certificates through family inheritance. Although Plaintiffs were not privy to the contract between Reverend Castles and Erskine

and although they obtained the certificates much later, their attempt to use these certificates one-hundred sixty (160) years later clearly constitutes a delay.

(2) Further, although Plaintiffs may not have had possession of the certificates until relatively recently, no explanation is offered as to why the certificates went unredeemed from 1854 to 2008. During that period, other family members of the Plaintiffs had rightful possession of these certificates and yet made no attempt to redeem them.

(3) Because the certificates were passed through family inheritance, knowledge of the certificates certainly existed in Plaintiffs and Plaintiffs' family, as they have held the certificates for one-hundred sixty (160) years. Apparently, these certificates were passed through familial generations and not simply stumbled upon by the Plaintiffs, illustrating knowledge of an arguable right to tuition at Erskine by someone in Plaintiffs' family line over the last one hundred sixty (160) years. Importantly and in addition, at no point during this time period did any prior relative seek a determination as to the certificate's validity, nor is there any evidence of any inquiry by Plaintiffs' family to Defendant concerning their continued validity or enforceability.

(4) As was evidenced at trial, Erskine has not honored these certificates since the 1870's and there is no reference in Erskine's catalogs to the certificates since that time. Also, evidence shows the Civil War almost depleted the Endowment Funds, causing Erskine to honor the certificates on a reduced basis for a time prior to the second endowment in the 1870's. This new endowment fund entirely altered the terms of the original 1853 endowment. There is ample evidence that Erskine has long relied on these certificates being expired, extinguished, and no longer enforceable. The fact that no other instances of the certificates being presented and honored in full during the intervening one hundred,

sixty (160) years indicate an acquiescence, acknowledgement, and understanding on the part of Erskine and any surviving post-Civil War certificate holders that history had compelled a change of circumstances upon Erskine and the donors, and that if Erskine were to survive as an institution of higher learning, redemption of the certificates at full value simply was not possible.

(5) Great prejudice would result from allowing the redemption of the certificates in that it would require Defendant to afford free tuition for any individuals who might come forward with these antiquated certificates. Also, as is further discussed below, Defendant would be greatly prejudiced by the discrepancy in the 1854 tuition rate and today's tuition rate. In short, honoring the certificates would represent a windfall to any certificate holder and would be extremely detrimental to Erskine's financial capacity to plan for and execute its educational mission.

Further, "in determining the question of laches, it is also proper to take into consideration whether there has been such a change in conditions as to prejudice the right of one of the parties in making his defense and render inequitable the enforcement of the claim sought to be asserted." Hemingway v. Mention, 228 S.C. 211, 218, 89 S.E.2d 369, 372 (1955) (citing Lverly v. Yeadon, 199 S.C. 363, 19 S.E.2d 648, 655 (1942)). As already stated, Erskine has not honored these certificates in over one-hundred forty (140) years, thereby prejudicing their right to create a defense against the certificates.[3] Reverend Castles and the architects of the original endowment have long since passed, and no one remains to fully explain the intent of Erskine or Reverend Castles. Also, the increase in tuition rates at Erskine from 1854 until present most

[3] At the hearing, the Court was advised that, in recent years, a student had come forward requesting redemption of a Sub-certificate. The terms reached by the student and Erskine concerning how that matter was handled are confidential, and the Court was not made privy to the specifics of that confidential agreement. Accordingly, being an isolated incident, this single occurrence has no bearing upon the Court's analysis.

certainly represents a substantial change in conditions which would constitute inequity if these certificates were enforced. Per Plaintiffs' argument, $100 in 1854 bought twenty-five years of tuition at Erskine, and so long as Erskine exists, those certificates are redeemable in full. Today, Erskine's tuition is pushing $30,000 per year, making the equivalent of the present value of the certificates $750,000.00. The length of time and increase in tuition rates over the past one-hundred sixty years most definitely constitutes a change of conditions that would cause an unjust and inequitable effect on Erskine if these certificates were to be enforced.

One-hundred sixty (160) years is an incredibly long amount of time to allow this sort of contractual right to go unasserted. South Carolina case law states the burden in applying the defense of laches as being the lack of a statutory amount of time to allow the defense to be upheld:

> It is confessedly impossible to adopt a general rule, and fix a definite length of delay which shall justify a court of equity in refusing relief on the ground of laches. Each case must be governed by its own facts, and courts of equity must be trusted to exercise a salutary discretion. Bell v. Mackey, 191 S.C. 105, 3 S.E.2d 816, 824 (1939).

Based on the specific facts of this case, this Court concludes one-hundred sixty (160) years is a sufficient, if not exorbitant, amount of time warranting the application of laches and, consequently, barring Plaintiffs' recovery. South Carolina case law has barred actions at law due to laches for much shorter lengths of time than one-hundred sixty (160) years. In 1955, the Supreme Court of South Carolina upheld the defense of laches due to a ten year length of time. Hemingway, 228 S.C. 211, 89 S.E.2d 369, (1955). In 1939, the Supreme Court of South Carolina upheld the defense of laches due to a nineteen year length of time. Bell, 191 S.C. 105, 3 S.E.2d 816, (1939). In 2010, the Supreme Court of South Carolina upheld the defense of laches due to a thirty-nine year length of time. Robinson v. Estate of Harris, 388 S.C. 616, 698 S.E.2d 214

(2010). Based upon a consideration of the five elements referenced above, the court finds that laches bars Plaintiffs' action.

B. The Doctrine of Staleness

While the Court rests its decision primarily on the doctrine of laches, the doctrine of staleness should also be considered in this case. It has been held, "there are some points of distinction between laches and staleness of demand." Bell, 191 S.C. 105, 3 S.E.2d 816, 824 (1939) (citing Thomas v. MacNeill, 138 S.C. 86, 92, 135 S.E. 643, 645 (1926)). In Bell, the Supreme Court reiterated,

> 'Laches' has been defined as 'the neglect for an unreasonable and unexplained length of time, under circumstances permitting diligence, to do what in law should have been done' ... A 'stale demand' has been defined as 'one that has for a long time remained unasserted; one that is first asserted after an unexplained delay of such great length as to render it difficult or impossible for the court to ascertain the truth of the matters in controversy and to do justice between the parties, or as to create a presumption against the existence or validity of the claim, or a presumption that it has been abandoned or satisfied.' Id., 3 S.E. 2d at 824 (citing Thomas v. MacNeill, 138 S.C. 86, 92, 135 S.E. 643, 645 (1926)).

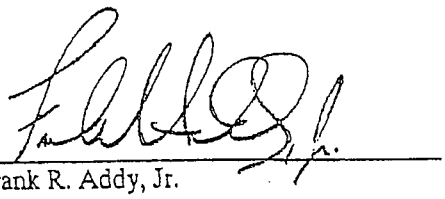
In this case, there has been a delay that has rendered it difficult, if not impossible, for all parties and the court to understand the true meaning, significance, and intent of the Reverend Castles and Erskine. Although Erskine has continued as an institution of higher learning, every individual involved in the transaction of 1854 are deceased and there are no cases of record reflecting any similar situation arising in South Carolina. Based on the length of time which has passed and the fact that no effort was made to redeem the certificates or ascertain their continued validity, any claim regarding enforceability has been abandoned. At the very least, the passage of time and post-Civil War events have created a reasonable presumption that a party in

possession of the certificates would not seek their redemption. Accordingly, this Court finds the doctrine of staleness would also bar Plaintiffs' recovery.

CONCLUSION

For the reasons explained above, due to the unique facts of this case, this court finds the doctrine of laches and the doctrine of staleness bar Plaintiffs from enforcing both the Certificate of Scholarship and Sub-certificates.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Circuit Court Judge
Eighth Judicial Circuit

January 2, 2015
Greenwood, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)

ROBERT E. SMITH and
WILLIAM K. SMITH

Plaintiffs,

vs.

ERSKINE COLLEGE

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

SUMMONS

2011-CP-01-109

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2011 APR 25 PM 12 08
EMILY Y MCMAHAN
CLERK OF COURT

A TRUE COPY
CLERK OF COURT

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscribers at their office at 140 East Main Street, Lexington, South Carolina, WITHIN THIRTY (30) DAYS after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

DAVIS, FRAWLEY, ANDERSON, MCCAULEY, AYER, FISHER & SMITH LLC
140 East Main Street, P.O. Box 489
Lexington, South Carolina 29071
(803) 359-2512

By: _____
James Randall Davis

SETZLER & SCOTT, PA
1708 Augusta Road, P.O. Box 4024
West Columbia, South Carolina 29171
(803) 796-1285

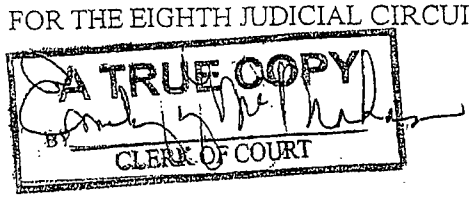
By: Nikki G. Setzler
Nikki G. Setzler

ATTORNEY FOR THE PLAINTIFFS
ROBERT E. SMITH AND WILLIAM K. SMITH

April 21, 2011

STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)
)
ROBERT E. SMITH and)
WILLIAM K. SMITH)
)
Plaintiffs,)
)
vs.)
)
ERSKINE COLLEGE)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT



COMPLAINT
(Non-Jury Trial Demanded)
2011-CP-01-109

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2011 APR 25 PM 12 08
EMILY Y MCMAHAN
CLERK OF COURT

Plaintiffs, complaining of the Defendant, allege:

PARTIES

1. Plaintiffs Robert E. Smith and William K. Smith are citizens and residents of South Carolina.

2. Defendant Erskine College (Erskine) is a South Carolina non-profit private liberal arts college located in Due West, South Carolina.

JURISDICTION AND VENUE

3. Venue is appropriate in the Court of Common Pleas for the Eighth Circuit, as Erskine is located in Abbeville County, South Carolina.

4. A declaratory judgment is sought pursuant to S.C. Code Ann §§ 15-53-10, *et seq.* as the Plaintiffs and Erskine have an actual controversy as to their respective rights and obligations relating to the sub-certificates at issue.

FACTUAL ALLEGATIONS

5. Erskine is a non-profit private liberal arts college offering the Bachelor of Science and Bachelor of Arts degrees.

6. Erskine was founded in 1839 in Due West, South Carolina.

7. In 1853 the Board of Trustees for Erskine established the Erskine College Plan of Endowment. The program was effectuated to ensure that Erskine "be placed on equal

footing...with other colleges, and in circumstances to afford an education, not only as thorough, but also as cheap as any other Institution in the land."

8. Through this program, donors of certain sums of money were issued a Certificate of Scholarship entitling the donor to a specified number of years of free tuition upon surrender of accompanying sub-certificates.

9. The sub-certificates state that upon surrender to the Treasurer of Erskine, the "bearer" is entitled to one year of free tuition at Erskine.

10. During the nineteenth century, endowment-by-scholarship programs were a popular means of raising funds for institutions of higher education. Many schools adopted programs similar to that established at Erskine.

11. The Plan of Endowment was a success as Erskine is today a thriving liberal arts college while many other colleges, new at the time this program was established, have since failed.

12. Plaintiffs lawfully possess Certificate of Scholarship Number 725 from Erskine College.

13. Plaintiffs lawfully possess 25 sub-certificates each of which entitles "the bearer to One Year's Tuition" at Erskine.

14. Currently, the tuition at Erskine is approximately $23,000.

CLAIMS OF PLAINTIFFS

15. All of the paragraphs above are incorporated by reference.

16. Upon acceptance of $100.00 from Reverend J.R. Castle over 150 years ago, Erskine bound itself to furnish one year of free tuition to the bearer of each sub-certificate accompanying Certificate of Scholarship 725.

17. Erskine has had the opportunity to use Reverend Castle's $100 for over 150 years without having to honor the sub-certificates in the possession of the Plaintiffs.

18. When Erskine issued the sub-certificates it chose not to limit the time during which said sub-certificates could be surrendered in exchange for one year of free tuition.

19. The sub-certificates specify only that "the bearer" of said sub-certificate is entitled to one year of free tuition. Erskine chose not to place any further limitations on who could use, barter or surrender the sub-certificates.

20. Erskine accepted $100 as consideration and issued sub-certificates to allow any "bearer" to benefit from one year of free tuition at the college.

21. This Court should declare upon surrender of each sub-certificate of the Certificate of Scholarship at issue to the Erskine Treasurer or its designee, Erskine is required to pay the then current value of or provide one year of free tuition at Erskine to the bearer of said sub-certificate.

WHEREFORE, Plaintiffs pray for a judgment that Erskine is required to honor the presentation of the sub-certificates at issue by any bearer by providing one year of free tuition for each sub-certificate presented, or pay the current value of said sub-certificate and grant such other and further relief as is deemed appropriate.

DAVIS, FRAWLEY, ANDERSON, MCCAULEY, AYER, FISHER & SMITH LLC
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By: _____
James Randall Davis

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West Columbia, South Carolina 29171
(803) 796-1285

By: _____
Nikki G. Setzler

ATTORNEY FOR THE PLAINTIFFS
ROBERT E. SMITH AND WILLIAM K. SMITH

April 21, 2011
Lexington, South Carolina

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**EIGHTH JUDICIAL CIRCUIT**
COUNTY OF ABBEVILLE	)	**CIVIL ACTION NO. 2011-CP-01-109**
	)	
Robert E. Smith and William K. Smith,	)	
	)	
Plaintiff,	)	
	)	**ANSWER**
vs.	)	
	)	
Erskine College,	)	
	)	
Defendant.	)	

TRUE COPY

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2011 JUN 3 AM 8 54
EMILY Y MCMAHAN
CLERK OF COURT

The Defendant, Erskine College ("Erskine"), hereby answers the Plaintiffs' Complaint alleges as follows:

FOR A FIRST DEFENSE

1. That Erskine has no information as to the allegations of Paragraph 1 of the Plaintiffs' Complaint and can neither admit nor deny same.

2. That Erskine admits the allegations of Paragraph 2 of the Plaintiffs' Complaint and, further answers thereto by showing that it is a charitable organization and is a private liberal arts college located in Due West, South Carolina; further, Erskine was incorporated as a non-profit corporation by Act of the General Assembly of the State of South Carolina on December 20, 1850.

3. That Erskine admits the allegations of Paragraphs 3 and 4 of the Plaintiffs' Complaint.

4. That Erskine admits the allegations of Paragraphs 5 and 6 of the Plaintiffs' Complaint.

5. That Erskine admits so much of the allegations of Paragraph 7 of the Plaintiffs' Complaint as allege that it established a college plan of endowment, but craves reference to the written plan of endowment for its exact language.

6. That Erskine admits the allegations of Paragraphs 8, 9, and 10 of the Plaintiffs'

Complaint.

7. That Erskine admits so much of the allegations of Paragraph 11 of the Plaintiffs' Complaint as allege that it is a private liberal arts college, but is without sufficient information and belief to form an opinion regarding the remaining allegations of Paragraph 11; therefore, said allegations are denied.

8. That Erskine is without sufficient information and belief to form an opinion regarding the allegations of Paragraphs 12 and 13 of the Plaintiffs' Complaint; therefore, said allegations are denied.

9. That, in response to Paragraph 14 of the Plaintiffs' Complaint, Erskine craves reference to its current tuition and fees schedule.

10. That, in response to Paragraph 15 of the Plaintiffs' Complaint, Erskine repeats and realleges its foregoing allegations as if fully realleged herein verbatim.

11. That, in response to Paragraph 16 of the Plaintiffs' Complaint, Erskine admits that it issued a Subcertificate to Reverend J. R. Castle with a face amount of $100; however, Erskine denies the remaining allegations of Paragraph 16 of the Plaintiffs' Complaint.

12. That Erskine denies the allegations of Paragraphs 17, 18, 19, 20, and 21 of the Plaintiffs' Complaint and demands strict proof of same.

13. That Erskine denies each and every allegation of the Plaintiffs' Complaint not hereinabove specifically admitted, explained, or modified.

FOR A SECOND DEFENSE

14. That if the alleged Subcertificates were issued, Erskine would show that no time for performance was stated in said alleged Subcertificates, and in the absence of a stated time for performance, the applicable statute of limitations and/or repose commenced either upon the issuance of the said alleged Subcertificates or within a reasonable time thereafter and has long ago expired, by reason of which the Plaintiffs' claims are barred.

FOR A THIRD DEFENSE

14. The Plaintiffs' claims are barred by the equitable doctrine of laches.

FOR A FOURTH DEFENSE

15. That if the alleged Subcertificates were issued as alleged in the Complaint, the Plaintiffs' delay in asserting their claims has rendered performance by Erskine to be so impractical as to constitute impossibility of performance, and Erskine pleads impossibility of performance as a bar to this action.

FOR A FIFTH DEFENSE

16. That if the alleged Subcertificates were issued as alleged in the Complaint, there exists a failure of consideration, and Erskine pleads failure of consideration as a bar to this action.

FOR A SIXTH DEFENSE

17. That if the alleged Subcertificates were issued as alleged in the Complaint, there exists a frustration of purpose or object of the alleged issuance of the Subcertificates, by reason of which the Plaintiffs' claims are barred.

WHEREFORE, having answered the Plaintiffs' Complaint, Erskine prays that same be dismissed with the award of costs and such other and further relief as the Court may deem just and proper.

McDONALD PATRICK POSTON
HEMPHILL & ROPER, LLC

By: _____

Roy R. Hemphill
414 Main Street (29646)
Post Office Box 1547
Greenwood, South Carolina 29648
(864) 388-1006
Email: rhemphill@mcdonaldpatrick.com
Attorneys for Defendant Erskine College

June 2, 2011
Greenwood, South Carolina

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**EIGHTH JUDICIAL CIRCUIT**
COUNTY OF ABBEVILLE	)	**CIVIL ACTION NO. 2011-CP-01-109**
	)	
Robert E. Smith and William K. Smith,	)	
	)	**CERTIFICATE OF MAILING**
Plaintiff,	)	
	)	
vs.	)	
	)	
Erskine College,	)	
	)	
Defendant.	)	

The undersigned, Michelle Smith, hereby declares that she is the paralegal of MCDONALD PATRICK POSTON HEMPHILL & ROPER, LLC, Attorneys for the Defendant, and that on the 2nd day of June 2011 a true and accurate copy of the attached Answer was placed in an envelope with first class postage thereon prepaid through the United States Postal Service, and mailed to the attorney for the Plaintiff as follows:

MCDONALD PATRICK POSTON
HEMPHILL & ROPER, LLC

BY _____
Michelle Smith
Paralegal to Roy R. Hemphill
Post Office Box 1547
Greenwood, South Carolina 29648
Telephone: 864-388-1026
Email: msmith@mcdonaldpatrick.com

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2011 JUN 3 AM 8 54
EMILY Y MCMAHAN
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

EIGHTH JUDICIAL CIRCUIT
IN THE COURT OF COMMON PLEAS

ROBERT E. SMITH and WILLIAM K. SMITH,

PLAINTIFFS,

-VS-

ERSKINE COLLEGE,

DEFENDANT.

2011-CP-01-109
TRANSCRIPT OF RECORD

MAY 22, 2014
GREENWOOD, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

A P P E A R A N C E S:

ATTORNEY FOR PLAINTIFF:

W. JOSEPH MAYE, ESQUIRE
JAMES RANDALL DAVIS, ESQUIRE
NIKKI G. SETZLER

ATTORNEY FOR DEFENDANTS:

ROY HEMPHILL, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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EXHIBITS

NO	DESCRIPTION	ID	EVIDENCE
Plaintiff's #1-#13	RETAINED BY JUDGE IN FILE		
Defendant's #1	RETAINED BY JUDGE IN FILE		

THE COURT: I think this is case 11-CP-01-109. An Abbeville County case, Robert Smith vs. Erskine College. This is relating to basically scholarship certificates. I've had an opportunity to do a cursory review of the briefs that were forwarded to me recently. Okay? I have not been able to dive in with both feet. I had a doctor's appointment yesterday afternoon and, trust me, I was in no condition to be practicing law after that thing. So I'm ready to roll though if you all are. I assume that you're offering testimony here today; is that correct?

MR. DAVIS: Your Honor, may it please the Court?

THE COURT: Yes, sir.

MR. DAVIS: Plaintiff and Defendant really were going to stipulate -- have stipulated to the facts and we were going to introduce exhibits in. And then if the Court will allow us to do it that way, have arguments based on our trial briefs is what we were planning to do.

THE COURT: Works for me.

MR. HEMPHILL: Do you want to go ahead and put the stipulations on?

MR. DAVIS: Yes.

THE COURT: And I've touched this file a couple of times, so I'm pretty good on the issues that we're dealing with. But go ahead and, for the record, let's handle the issues.

MR. DAVIS: Your Honor, may I take a second to show Mr. --

THE COURT: Sure, please.

MR. DAVIS: Let's see. Just one second, Your Honor.

THE COURT: Yes.

MR. DAVIS: Your Honor, may it please the Court?

THE COURT: Yes, sir.

MR. DAVIS: The parties to the action have agreed that certain items will be admitted as exhibits in the case, and the Plaintiff has reviewed those with the Defendant and those -- our exhibits will be Plaintiff's 1 through -- let me count just to make sure. 1 through 13. 1 through 13. 1 through 13. We also are stipulating to the date of birth of both Plaintiffs.

MR. HEMPHILL: Both Plaintiffs.

MR. DAVIS: The year or age. The year of birth of the Plaintiff Rob Smith is 1952, correct?

MR. HEMPHILL: No, he's 52-years-old.

MR. DAVIS: I'm sorry. 52-years-old. And Mr. Smith, Kent Smith, is 57-years-old. I believe that's what we have.

MR. HEMPHILL: And, Your Honor, with regards to the Defendant's stipulations, I have an affidavit of Greg Hazelton, the vice president at Erskine, who did various research. And that research is contained in a number of references in the briefs to Bates stamped documents. Those

Bates stamped documents go from 1 to 168. Just collectively refer to those as Defendant's Exhibit 1.

Your Honor, there have been references to current -- or this lawsuit has been pending for a while, and I would request a stipulation. I think counsel is in agreement to the current tuition at Erskine is 29 -- that is for the calendar year -- or school year 2013 through 2014, is $29,310. And --

THE COURT: Per year? Per year, correct?

MR. HEMPHILL: Per year, correct.

THE COURT: That's correct? You'll stipulate to that?

MR. DAVIS: Yes, Your Honor.

THE COURT: Very good.

MR. HEMPHILL: I've got three copies of all the exhibits there and I need to pull out some copies, so I can give them to the judge and the clerk.

(Whereupon, Plaintiff's Exhibits 1-13 and Defendant's Exhibit 1 were marked for identification.)

MR. DAVIS: Your Honor, may it please --

THE COURT: Yes, sir.

MR. DAVIS: One thing Mr. Hemphill -- we have the original certificate of scholarship here along with the sub-certificates. And it is our position the Defendant has stipulated to the authenticity of the certificate and the sub-certificates.

MR. HEMPHILL: That's a true stipulation, Your Honor.

THE COURT: Obviously we won't be introducing those into the record then.

MR. DAVIS: Right. But if the Court wants to see the original. In fact, I may pass it up, if that's okay. Hand me that original so the Court can see it.

THE COURT: The Plaintiff has handed me a number of certificates. They are in fairly good condition, but they look like they're printed on somewhat fragile paper. I assume -- how many of these are there here? I don't want to try and open these and damage them.

MR. DAVIS: There is a main certificate of scholarship and then there are 25 sub-certificates.

THE COURT: And each of the sub-certificates are of the category 3 sub-certificates, the third paragraph, or are they of the plan of endowment or --

MR. DAVIS: The sub-certificates have been appended to the main certificate and they each read the same thing, and that is one year --

THE COURT: One year's tuition.

MR. DAVIS: -- one year free tuition to the bearer. And there are 25 of them.

THE COURT: So 25 years of tuition is what the Plaintiff is basically alleging?

MR. DAVIS: Yes.

THE COURT: Anything else pre-trial?

MR. DAVIS: That's it.

THE COURT: Good deal.

MR. DAVIS: Your Honor, may it please the Court?

THE COURT: Please.

MR. DAVIS: My name is Randall Davis. I practice law in Lexington. I represent the Plaintiffs in this matter. Nikki Setzler is also co-counsel, and Joe Maye, he's an attorney in my office, are the three attorneys for the Plaintiff. Mr. Kent Smith, who is one of the Plaintiffs, is here. He has a brother named Rob Smith who is in Alabama and could not be present this morning. But they are the two Plaintiffs. They're brothers.

The Plaintiffs brought a declaratory judgment action in Abbeville on April 21st of 2011. And in that declaratory judgment they have alleged that they are the owners of the original certificate which we handed up to you. The certificate of scholarship and the sub-certificates. And that they have been in possession of that document for some time. It came to them through inheritance in their family. The person who bought the original certificate from Erskine College was a Reverend Cassills who is an ancestor of the Plaintiffs. We have as an exhibit -- as an exhibit -- let me get the exhibit number. As an exhibit, we have -- that's an exhibit on their affidavit. Give me the exhibit number,

if you will. We have filed an exhibit with the Court, which I'll give the number shortly, which indicates the fact that they do own -- have possession of the certificate and have had it and it's passed through their family. They set out the history of the ownership of the certificate. Which one is it? Exhibit 10 and 11. As the owner of the certificate with the sub-certificates the Plaintiffs are requesting that this Court confirm the validity of the certificates and ask Erskine College to honor the agreement which they entered into. That is the basis of the declaratory judgment. We have done it in the alternative. One is that really under the declaratory judgment pleadings we have said that we're wanting them to honor that. The alternative would be breach of the contract and monies owed for not paying the value of the certificates.

The certificate in question was purchased by their ancestor, Reverend Cassills, who was a Presbyterian minister, and he bought the certificate in 1854. Erskine College was formed in 1839. As other small colleges in South Carolina -- private colleges in South Carolina and other states, a lot of them got into the endowment program in the mid 1850s. Erskine -- and this is based on - Erskine College had this endowment and started in 1853. The board for the college passed a resolution -- endowment resolution in 1853, and it's part of the record here. They wanted to

raise the initial sum of $100,000 to provide funds for the school and to improve the school. Reverend Cassills, again, who was a Presbyterian minister, purchased certificate number 725 for $100. And as the certificate of scholarship indicates, in return he got 25 years of tuition at the school. Not repeating myself, but attached to the sub -- the main certificate are these sub-certificates saying that the bearer of this sub-certificate, once presented, is entitled to one year free tuition at Erskine College.

We believe that that certificate did form a contract between Reverend Cassills and the college. We have cited in our trial brief cases from other parts of the country indicating that -- well, I'll call these endowment cases, or contract cases. So the area of law to look at is contract law. We believe that the certificate and the sub-certificate did create a contract between the school and Reverend Cassills. Obviously the parties to the contract are named, Reverend Cassills and the school. The consideration is set forth, which is $100 he paid. And in return, our position is he received 25 years of free tuition. And that would be honored basically on the redemption of those sub-certificates.

We'd ask the Court to notice that it is a bearer document. At least in substantive it is a bearer document. And as we understand the law, the person who has possession

of it is one, in this case, would have the right to redeem the same from the college. We'd ask you to note that there's no date of issuance on the certificate. There is no expiration date on the certificate, or the sub-certificates. It is endorsed by the college, by the president, and it's either the secretary or treasurer, one or the other, has signed the main certificate. The sub-certificates are initialed by some agent of the school. And the certificate, the main certificate, has a number 725. And I would assume that that means that there were at least 724 other certificates.

We believe that based on what I just testified to based on the exhibits, that that is enough information to prove it was a contract between the school and Reverend Cassills. We believe that the document represents an obligation by the school to honor what that certificate and sub-certificate says. The resolution which is not -- the resolution that the school passed for the endowment is not specifically referenced in the certificate or sub-certificate. But there is a resolution that it was passed. In that resolution it says that this is a scholarship bond. In the exhibits -- there is an exhibit we've introduced where the president of Erskine College, who is actually the president who signed our certificate, indicated that these certificates were owned by what he called stockholders. And there's a

specific exhibit, which we'll get the number for the Court in just a second. But in the minutes of this particular exhibit a Mr. Bonner, I believe is his name, actually signed this certificate indicating --

THE COURT: Exhibit 10? Is that what it is? I think that's what you had referenced in your brief.

MR. DAVIS: Yes. Yes. Yes, sir. The President Bonner who signed this certificate indicated -- and I apologize, Your Honor. It's 13. 13. That they were stockholders.

Plaintiffs believe that because it is a bond the law is when you look to determine how long a bond is valid you look to the document itself, the contents of the document, and any accompanying material that may go with it. Whether it's part of any of the accompanying material that goes with it. And we believe that the -- in this situation, based on the fact that there is no expiration period on the face of the certificate or sub-certificate, there's no duration on limits. There's not even a date on it for someone to trigger how long the thing is valid, and the fact that the endowment itself indicates, which is also an exhibit in the endowment. Under paragraph six of the endowment it indicates that these bonds are -- can be used at any time in any intervals as is convenient to the holder. It further indicated in a follow-up paragraph that these bonds are transferrable by inheritance, demise, bargain, sale, et

cetera. That would be consistent with the college placing on the sub-certificate, again, initialed by the college, that this is a bearer document. Meaning that -- obviously that means it's transferrable. And since there were no limitations placed on the certificate or sub-certificate as to time periods, the only limitation on the purchaser of that bond, or anyone who gained possession of it, was to present it to the college for redemption. There's no other time limitation on it. And that would be consistent with law dealing with maturity dates on bonds and when people have to do something to protect their interest under a bond. And we believe the law -- and we cited a case in the brief, a United States Supreme Court case. We believe it says you look -- you look at the bond document and see what it says as to when it is that you have to do certain things. And if you look at -- even if you look at the resolution by the school, the school's resolution said at what intervals and at what time. It was up to you when you used it at your convenience. So we think it's open-ended as to when it is to be redeemed.

With a bond -- with a bond -- there's two sides to a bond, meaning -- when I say two sides to it, you know, when he invested his money Erskine College was a young school and they may not have made it. They did. They have made it. But they may not have made it.

THE COURT: May not have survived the Civil War as you correctly point out in your brief.

MR. DAVIS: Correct. And he may have lost his money. So he made an investment and he may have lost his money. On the other hand, if it's successful, based on what Erskine College produced -- they were the drafter. It really is an adhesion contract. They were the drafter. And they determined what it is on the basis of what the man got -- or what the Presbyterian minister got for this bond. They determined what he got. So it's not like -- he could have lost or he could win under this investment.

There's no case that we can find in South Carolina right on point. But we do cite a case in Pennsylvania which if you look at the facts of the case itself -- and it's cited on page 26 of the brief. If you look at the facts of that case, it dealt with briefly the Catholic Women's Association gave $5,000 to a college, and in return for that $5,000 the college had to admit a student. One student at a time. It could only get one student in based on $5,000. Which is similar to what we have here. There's a $100 investment for a years of tuition. And I should point out, when you think about it, okay, it's $100. You have to remember what the cost of tuition was at Erskine at that time, and it was -- and I may be wrong, but it was either eight or 12 or somewhere in that range. So he was -- he was

paying for some years of tuition. But anyway, the Pennsylvania case, 5,000 and you get a person into college one at a time. The court held in that case, which is an endowment case, that that -- even though it put an economic burden on the college -- on a college, basically what it said was as long as that institution is in existence there is a covenant between that school -- between that school and that person to honor their commitment. And we see -- we see and hear the same way here. The school set terms. Not us. We paid what they said, and we think we have a bond that's in existence and we have a right to exercise our rights under -- under the bond -- under the bond documents.

THE COURT: Did the case out of Pennsylvania involving the Catholic school, did those certificates or bonds, they were explicitly perpetual, correct, or no?

MR. DAVIS: The -- there was -- they were perpetual in the sense that there was an obligation -- there was an obligation for the school to continue providing one student free at that school. It was perpetual in that nature.

THE COURT: But they were explicitly perpetual. They actually used that word, I think. Am I wrong?

MR. DAVIS: I don't know if they used -- let's see. Not to take the Court's time. But the -- Your Honor, I'm not sure they used the word perpetual. I would admit that that obligation to provide that one student free at a time

was there. It was there.

THE COURT: It was clearly found to be there by the court.

MR. DAVIS: Yes.

THE COURT: Right.

MR. DAVIS: And the court said that's the covenant and that's -- as long as you're in existence you have to honor what that commitment is. As to the Defendant's position in this matter, they have an issue as to the time period -- they have an issue as to the time period that the obligation extends. Those are the issues they have, which I'm sure Mr. Hemphill will talk about. But putting that aside, that issue aside, they don't really question, in my opinion, that there's a contract. They say there are reasons that it should not be enforced. And I would like, if I could, on my argument present our side to that. Which I'm sure Mr. Hemphill will have his. But present our side to that.

The first thing is that as to any cause of action we have here, which are action at law, we think we have exercised -- and I don't think there's been an issue here. That our suit was filed -- once the school said we're not going to honor the certificate we filed on April -- we filed the pleadings in Abbeville April 21st, 2011, within three years.

The school -- the Defendant has raised a statute of

limitations defense in this way. They say that this bond is like a payable on demand promissory note. That's their argument. Well, obviously a bond is not -- is not like a note. They're different negotiable instruments, but they are negotiable instruments. They cite a case, a South Carolina case, which they say indicates that if it's not a time period -- if it is like a note payable on demand -- which we think it's not the same thing. A bond is different from a note. But it's a negotiable instrument. They're contention is that since it's not a -- they think that there's not a time period setting the note -- and the bond for performance, which we disagree with because we think it's -- it stays in existence until our bearer presents it for redemption. But using their argument, they say there's only a reasonable period of time -- or strike that. The statute of limitations runs from the execution of the note payable on demand. That's what they state. They say -- they cite a case that says that the statute of limitation runs from the time of the payable on demand note. That case, when you read it, even if you accept that, but when you read that case it says, "comma, unless there are other circumstances that show the intent of the parties." That language in that case that's cited by the Defendant really, based on the modification which I represent to the Court is in that case, is consistent with the United States Supreme

Court case in *Morgan* that we cited. You can look at the contents and see what the document says. You look at -- look at -- in this case, no time limitation on the certificate. It's a bearer document which can be transferred. Bearer resolution says use them when you want to. We think it's open-ended. We don't think that that particular defense is appropriate here even based on the case they present when you look -- when you look at the complete reading of that case.

Let me mention this point. Mr. Maye has worked on this file with me and hopefully, with the Court's permission, Mr. Hemphill, he's got two things he's going to present as to their defenses. And I'm going to finish up on things that I want to cover.

They've also, on the equity side, and I guess on the law side, too, they've alleged laches and they've raised in their trial brief the defense of stale demand. On laches that requires some failure by the -- in this case, the Plaintiffs. On failure by the Plaintiff to do something they had to do. It requires negligence of some nature. And we do not think that by the nature of this particular document being a bond that is a defense, because based on our theory of the case the right of redemption is open-ended as to time. And we are not under any obligation -- we're not under a specific time-frame to assert a claim. Our

document set forth what it is that we -- our rights, and we had no obligation to assert and have exercised no negligence in regards to that assertion. Furthermore, we do not believe laches is a proper defense based on the theory of unclean hands, and I mean that the sense of the school, or the Defendant, prepared the certificate and sub-certificate, as well as the resolution, and they could have protected themselves as to their financial obligations. It was in their hands. And based on what they did, we would not think it would be fair to come in and say it's too late for you when they were the ones that could have controlled the document and did not do so. They need to have a legal reason and not a reason of convenience to them for not performing under the document that they produced. And even if the -- even if it's turned out favorable to Reverend Cassills and his descendants, just because it's an economic burden does not provide -- does not open the door for them to say at this time that we're not going to honor our obligation.

The Defendant, on the trial brief, has raised the defense of stale demand which is similar to laches but does not -- does not have the aspect of negligence to it that laches does. It indicates that it's just -- their argument is it's so old, the time for presentation, that they don't have a right to do it. And that the people who were

involved in this transaction are long dead, so you can't prove anything and justice cannot be done in the case is basically what stale demand says. I have read the three cases presented by the Defendant on that issue. When you look at them they are not -- they're not -- they're different from this fact situation. Here we have a bond with a redemption rights and those redemption time rights are set forth in the document. In the case that's cited by the Defendant in their brief, one deals with -- briefly, one deals with a probate matter where the contesting parties were attempting to claim interest in an estate 19 years after the estate was probated. They did not file any claims with the probate court at the time of the probation of the estate but it was 19 years later. That was where they were filing a claim. Here we have a right, not a claim. We have a recognized right that was given to us by the school that is different from a potential claim. The other cases dealt with a title issue where the issue had a curative title issue where a trust had been deactivated over a hundred years, and the third one deals with kind of the same subject. We do not believe that that's fitting for this particular case because of the nature of the document that was given to us by the school.

In regards to trying to understand exactly what stale demand is, the best I can see is it talks about you can't

ascertain the truth now. Well, in our opinion, truth lies with the certificate and the sub-certificate. And also if you want to look at the endowment resolution, it sets forth the various terms of what's being done here. We think the certificate and sub-certificate provides a contract. But even if you go beyond it there are items in the resolution which are supportive of Defendant's position.

The other aspect of stale demand says do justice. I'm sure the school would like to say, well, justice would be, you know, the bond's not worth anything. But I would say the Plaintiff also has a right to justice and that justice being that a covenant was entered in between the school and one of its Reverend and the school provided the terms of that document and there is still a chance of the school to perform what it originally agreed to do to these descendants of the original party who paid money to the school.

THE COURT: Not to interrupt you there, but let me ask you this question. My understanding was that at some point post-Civil War some of these certificates were actually redeemed and the college agreed to honor them but not at face value. They honored them at some -- I can't remember. Lesser value like half or something like that of what the full cost of the tuition was. I'm assuming that the nice people in the endowment invested the money from the endowment in Confederate bonds and probably got wiped out

after the war was over with. And so, they were -- Erskine was in -- I think in the brief it said they were in really bad trouble. How does that play into this? On the one hand they honored these some years after the sale even though there was no money in the endowment to honor the certificates and the money that had been paid for the certificates was rendered worthless by events, the fact that they still honored them post-Civil War, certainly inures to your benefit, the fact that they didn't honor them at face value and everybody seemed okay to accept them at less than $29,310 per year under the current going rate for tuition at Erskine, how does that factor into the equities?

MR. DAVIS: Mr. Maye -

THE COURT: Is going to touch on that.

MR. DAVIS: If --

THE COURT: Sure.

MR. DAVIS: He can be the mouthpiece on that, if that's okay with the Court.

THE COURT: That's fine. I didn't mean to interrupt your argument. Keep going.

MR. DAVIS: But I'm finishing now, so I want to get your question answered. And Mr. Maye can get up on that one, and one other subject. May I have just a second to just make sure I've covered everything that I wanted to cover?

THE COURT: Sure. And, Mr. Maye, if you want to go next and then he can respond, or you can let him go and then you can --

MR. MAYE: I want to go ahead and go ahead and get all our case out.

THE COURT: All right. Go ahead.

MR. MAYE: Give me just one second.

THE COURT: Sure. Sure. My Clerk pointed me into part of Plaintiff's brief, but it looks like they were honoring it at about -- sorry, Defendant's brief. They were honoring it at about 25 percent of tuition is what -- is what is reflected in the Defendant's brief.

MR. MAYE: I remember them saying $32 dollars or -- I can't remember the specifics.

To go ahead and answer your question, Your Honor.

THE COURT: Yes, sir.

MR. MAYE: That issue goes to the concept of anticipatory breach. Erskine College did accept some of these sub-certificates for a reduced value, but none of them have come from our specific clients. These were other investors who brought their investment forward to be redeemed. And I'm going to go in-depth into anticipatory breach. But that's -- that's how it relates back. I contend to you that as far as our investment goes none of them have been submitted to be redeemed yet. Therefore, you

don't have the cause of action arising for -- in 1860 where they're only accepting them for, whatever, 25 percent value. But I'll go in-depth into that in a minute.

Your Honor, my main two arguments go to the dispute between the parties as to whether these sub-certificates have no valid expiration date where they just -- they are never expiring, or whether -- like Defendant's argument, they expire after 25 years. Before I get into that, and before I get into the anticipatory breach, there's a couple of things I want to touch on that kind of relate back to Randy's argument. And if at any point in this I start to cover stuff that might have already been said once, I ask the Court if you can just bear with me.

THE COURT: That's fine.

MR. MAYE: Just to make a logical connection to it all. Going back to the argument of is it a bond, is it a note, how do we know. The plan of endowment at the bottom of the second page specifically refers to this investment as a scholarship bond. So they give it a type, and nowhere does it say that these are notes. And more specifically, in administering these certificates and the substantive investors, there's no maturity date that's put on the certificates. I just want to reiterate that. Additionally, the term bearer, I want to make sure that the Court was aware that this was a very specifically chosen term and that

the college intended all the ramifications that come with a bearer document to apply. If you look at Bates number 8. And I'm going to refer to Bates numbers just because it's easier to go by pagination. And the Defendant's exhibit, Erskine College lays out how these certificates are to be administered to different investors. And it says -- it's basically a newspaper article going through how these things are being given out. In Bates number 8 it says in filling out the sub-certificates they are to be initialed and cut and given to the investors, but any remainder on the page that they happen to be removing these from is to be burned. Not thrown away, not discarded, but burned. Which means -- it shows the intent that they recognize these things are freely transferrable and, since they carry no date, could last for quite some time.

THE COURT: That's -- okay. Okay.

MR. MAYE: Yeah. That particular document is hard to read. If you want an easier readable version, we've got it on computer to look at if you need to.

THE COURT: I'm okay.

MR. MAYE: And I'll hop into my arguments now, Your Honor, if that's all right. Just to backtrack a little bit. In 1853 Erskine decided that it wanted an endowment fund to help fund the college for years to come. They set up the endowment scholarship and had multiple different offers for

multiple different prices in which they were giving scholarship certificates for the investors to attend the college free of tuition. That's been made pretty clear. The certificate language -- and I'll get to the Plaintiff endowment in a second. But the certificate language says specifically, and I want to read it just so it's in the record officially, "This certificate that for and in consideration of $100 paid to John Young, treasurer and board of trustees at Erskine College, or to his successors in office, Reverend J.R. Cassills is entitled to 25 years of tuition in said college, which tuition is to be obtained on the surrender of the accompanying sub-certificates. Each sub-certificate entitling to one year's tuition." That's the main single document certificate. In addition to that, attached to it you have a page of sub-certificates, and each one of them, all 25 say, "This being surrendered to the treasurer of Erskine College entitles the bearer the one year's tuition in said college." That's the entire certificate and sub-certificate. There's no dates provided. There's no expiration date provided. If you look at that document, combined they have all the necessary terms that you would need to have a contract and administer that contract. It says what consideration each party is getting, who's entitled to that consideration, a defined value for the consideration being the sub-certificates, how the value

is to be redeemed, and the nature of the document itself going back to the term bearer, which means it's transferrable. And the absence of a maturity date at this point gives the document essentially a perpetual nature. Now, it says 25 years of tuition, and that gets to the point that these are limited. And Your Honor pointed out in the Pennsylvania case is it a perpetual scholarship or is it not. Ours is perpetual in the sense that these sub-certificates don't expire, but it's not perpetual in the sense that you can send an infinite number of students every year for as many years as this college were to exist. It's simply you get 25 years at your choosing. And I'm going to go into detail on how we get to at your choosing.

We've already had it referenced here, Your Honor, but the plan of endowment was an internal resolution from the board of Erskine College. And in that document the board goes through basically committing itself to executing this endowment raising fund, and it goes through the three different offers. The first was a $40 offer guaranteeing -- and I'm going to read out in a minute the exact language used. The $40 offer giving six years of tuition, $60 investment giving 12 years of tuition, and a $100 investment giving 25 years tuition. And just to go ahead and give you that specifically. Bear with me one second, Your Honor. To fully reference those, I want to go ahead and read the

report. On the first page of the plan of endowment for Erskine College, section one says, "The payment of $40 shall endow a single scholarship which shall entitle the subscriber to tuition of one student during the term of six years." Number two, "The payment of $60 dollars shall endow a scholarship which shall entitle the subscriber to tuition of one or more of it's own sons or any students he may select amounting into aggregate." Three, "Any person paying for security to the trustees of said college the sum of $100 shall be entitled to the education, free of tuition, of one son or nominee for the term of 25 years, or of two or more pupils at the same time amounting in the aggregate to 25 years." Bear with me just one second.

Your Honor, going into the theories of incorporation of a contract -- of documents into a contract. This was an internal resolution of the board which if you would imagine it yourself you see the board members of Erskine College sitting down and agreeing to this. But it is not a public statement. It is not being published. What we've been provided and what we've been told by the other party, there's no reason to believe that any of the investors were actually given this document or made known of its contents.

Going to the concept of incorporation as determining whether this actually affects the terms of the contract or not. Citing *Stevens Aviation, Incorporated vs. Dyncorp*

Intern, and that's 394 S.C. 300 2011. And I commend to this Court that part of that case has been reversed, but the rule of law about the State is not a part of that reversal. Now, I've got cases if the Court wants to review those. But the Court says, "To incorporate the terms of extrinsic material a contract need -- not need -- not use magic words. However, the contract must explicitly or at least precisely identify the written material being incorporated and must clearly communicate that purpose of reference is to incorporate the reference material into the contract, rather than merely to acknowledge that reference material is relevant to the contract, such as the background involved in negotiating." So what the court was saying there is if you want to incorporate a document then you have to make that intent clear in the contract itself.

Now, as we've committed to you, the terms of the contract exist in the certificate and the sub-certificate is a loan. There is no reference to the plan of endowment on either of those documents. And from -- as I've stated, we don't have any knowledge of the investors being made aware of this plan of endowment.

This all goes to the question of are these sub-certificates valid perpetually and can be used at any time until you've used all 25 or did some expiration date exist for the sub-certificates. Now, the Defense hangs its case

on one word, and you can find it on section three of the plan of endowment. For the term of 25 years. And it italicizes 25 years, not the word term. They try and bolster that argument by saying that in the catalogs that Erskine College admits every year they stop referring to this endowment and start referring to the new endowment after 25 years. I want to -- I want to make clear to the Court that while the college did stop referring to this first endowment, they stop referring to it after only 20 years. The first -- the first catalog in 1873 makes only reference to the new endowment and not the old one. So --

THE COURT: And the new endowment actually did have a sunset provision on the -- on the scholarships.

MR. MAYE: Yes, Your Honor. And I'll harp on that in a minute. If you want to hear it now, that --

THE COURT: No, go ahead. Let me -- do it in the order you want to present it.

MR. MAYE: But that one word "term" is where they hang the entire case of these things had an expiration date and it leaves them invalid as of now. That word does not appear on either certificate or sub-certificate, which are the documents that are handed to the investors. And I've got a number of different arguments as to both legal reasons why that word would not be applied to this contract, as well as factual. And I'll start to enumerate them, so bear with me.

If you get lost I'll be happy to repeat anything.

The legal arguments are -- have kind of already been laid out. One, it's not an incorporated document and for the reasons I've already stated. Two, there's case law that's cited in my brief that says the intentions of the parties to a contract are to come from the contract itself. That again goes to the fact that the certificate and sub-certificates are the only document that were given to investors. But thirdly, that ambiguity cannot be created by pointing to a single word in the contract. And that's also cited in my brief. That's *Silver vs. Abstract Pools and Spas*, S.C. Court of Appeals 2008. Those are the legal reasons. But, Your Honor, if you look through the documents that Erskine provides there's a number of different factual reasons as to why their interpretation is stretched and, in our opinion, incorrect. The first is, you can simply read it to not be a restrictive term, but it's just enumerating how many years this investment gets you. You paid $100. You get 25 years of tuition. And the certificate would bolster that by saying, by the way, there's no time limit on these because we didn't put one on the document. And I commend you they issued over 724 of these and none of them had a date. And you would think repetitively doing that maybe someone would have -- the thought to occur saying, oh, maybe we should date these things.

The second argument refers to the word term, and I commend to this Court that the word term refers to school term. And you can check on Bates numbers 29, 53 and 61 where the school discusses the expenses of tuition. And in each of those documents the school refers to the expenses of tuition in a per term basis. Our argument is that if you -- if this word term has meaning, it refers to school term. The term of 25 years.

Additionally, and probably -- probably one of the more obvious reasons, the only way they find this word is in that one document, and it's repeated -- let me backtrack for just one second. The word term of -- term of, and insert the number of years, is in the first offer for six and in the third for 25. If this term "term" is so crucial to the contract as they understand it, why is it not anywhere else? It's not on the certificates. It's not on the sub-certificates. There's a number of different newspaper articles that refer to these endowments. It's not stated in that. It's not anywhere else. Just those two spots. And if it's so important to their interpretation of the contract, why is it not used in all three offers in the plan of endowment. If the Court looks to the first page, the offer for six years of scholarship for $40 says term of six years. The offer for 25 years, which is the one we're dealing with today, for $100 says term of 25 years. But

there's that middle for $60 in return for 12 years and that word is excluded from the description of that offer, and it doesn't make any sense to me of giving three different -- three offers which seemingly would operate in the exact same way and then basing an argument on the word term to having that word not mentioned in one of those offers. So essentially, Your Honor, if we were here today with an offer of the 12 years of tuition they wouldn't have an argument because that term isn't even present in that portion.

Also, quite obviously, and we already discussed it to some extent, if the term of these offers is to 25 years, why doesn't the certificate and sub-certificate not have an expiration date or even a date of being issued. If it's -- if it's to be invalid after 25 years how is an investor, either the original or any subsequent owner of these bearer documents, to know when that 25 years expires. The documents don't bear when they were issued. So if an investor dies and gives them to his children, how are the children to know exactly when 25 years is to run out.

In addition to that argument they're going to say -- the Defense is likely to say that they start from the second the school had raised $50,000. And it does make that point that these become operative after gaining $50,000. However, the plan of endowment also says that after that $50,000 has been raised these same certificates can be purchased for

cash. So that leaves the option of people a year later buying the certificate, except it wouldn't relate back to the date in which $50,000 had been gained. So it leaves a very big hole in determining when do you run a 25 year validation date when nothing's been dated and we haven't informed the individuals of that restriction on the surface of the document in the first place.

Still going back to those arguments, Your Honor, if you look at section six, which is right after the different offers, it says -- I want to read that report as well. Bear with me for one second. Section six, which follows the -- not quite immediately after, but within a couple of lines of the different offers, section six says, "The purchaser of a limited scholarship may enjoy the advantages of the same at such time and at such intervals as may suit his convenience." And in that statement there is no relation to until the -- until your respective investments become invalid or until the years of the duration have expired. Any kind of limiting nature to that same statement. It says at your convenience, at some time and at such intervals.

On the same thread of the thinking, if you limited these certificates why is it even necessary to say at such time and at such intervals. At such intervals would be enough because you've already stated, by the way, you have to use them within 25 years. The intent showed right in

section six that it's not a restrictive term.

Number -- let's see. There's an additional argument on the same discussion. If you look at the very bottom of the second page of the plan of endowment you see the header Scholarship Line. And in that section Erskine has said, "The board of trustees Erskine College, Abbeville District, South Carolina, in order to raise the sum of $50,000 and upwards for the purposes of education did on the 8th of April, 1853 pass the resolution to the effect that the subscription and payment of certain sums should entitle the person or persons so subscribing to the privileged of so many years scholarship." Not to duration years, but so many years, as the Plaintiff is arguing here today. Six, 12 and 25.

And I've got just a couple more factual arguments, because I know I'm running long on it. But one of the more physical evidences of this is Erskine College has referred to these endowments in the catalogs for the years that followed the creation of that endowment and has actually provided kind of a summary. And give me just a second and I'll pull that as well. That's Bates number -- it's actually multiple times within that stack, but 153 is one of the times where it's discussed. One second, Your Honor.

THE COURT: Sure.

MR. MAYE: I want to give you the full -- full two

pages on the same page. In the catalog it has a header of Endowments, and under that header -- it's Plaintiff's Exhibit No. 8, Your Honor. And on that it states, "The result of the late war swept away all of the endowment excepting about $13,000. Having tried some temporary expedience the synod 1871 entered into a second effort to secure permanent endowment. The plan --" and this is the key part, Your Honor. "The plan was similar to one of 1853 except that the price of the scholarships was raised to $20 each and the term of the college obligation limited to 1895." Erskine College's own documents state that in comparison of the two, the term of the obligation of the second endowment was limited. And if you look at the years in which it was initiated to when it would have been invalid, it's exactly 25 years. They did that on the second try but not on the first. And if you refer to Bates number 83, similar to the second, they administer a certificate of scholarship essentially. Except in this case it's called the $100,000 endowment bond. And it states, "On or before the 25th day in December, 1882 I promise to pay the treasurer of Erskine College the sum," and it's got a blank to fill in the amount, "with interest payable annually at the legal rate. This obligation is given on condition that for $20 paid the subscriber is to receive a certificate of scholarship entitling the holder to one years tuition in

Erskine College if presented for the year 1895." So on the second time around they realized they needed to put an expiration date on these certificates. But they didn't do it on the first endowment.

Your Honor, that really sums up how and why the use of the word term has been included and how it should really be interpreted by this Court. I want to move to anticipatory breach now, if that suits Your Honor.

THE COURT: Sure. Go right ahead.

MR. MAYE: Anticipatory breach. And this goes to the defenses of stale demand and laches that Mr. Davis has already gone into.

If you look at the brief Am. Jur. provides a pretty basic understanding of what really constitutes anticipatory breach, and I want to recite a portion. Under Am. Jur. "Anticipatory breach of a contract is one committed before the time has come when there is a present duty of performance and is the outcome of words or acts evincing an intention to refuse performance in the future." Under anticipatory breach it is not a present refusal to honor a contract when performance is requested. It is the statement by one party that it does not intend to fulfill the contract if request is made. Now, under anticipatory -- I should make note that that's pretty much the law in nearly all jurisdictions according to Am. Jur. And if you refer to

Davis versus Bankers Life Casualty Company, and it's 88 S.E.2d 658, South Carolina also recognizes this doctrine.

In addition to being before a request is made for performance, anticipatory breach has to be distinct, unequivocal, and absolute. And if you look in the newspaper, and it's Bates number -- Bates number -- Exhibit 12 from the Plaintiff. The school makes note that due to the wars it is struggling financially, but will continue to honor the scholarships. And I'm going to paraphrase, but it'll be hopefully close to a direct quote. "So far as the resources of the college will admit." The college is basically saying we intend to honor these certificates so long as we have the resources to do so.

Now, I'll make a point of how this intention was made notice to investors. But if an investor were to read this, he's thinking, okay, times are bad right now, but it might be later -- it might be better later. If I hold on to my investment I might be able to get them to reward me full value, not the partial value that they're restricted to doing right now due to financial hard times. That creates a non-distinct, non-unequivocal and a non-absolute repudiation of the contract. So essentially Erskine College has said we don't intend to perform as we said we would. But by the way, we're going to do the best we can so long as the resources allow. So if you're sitting with a document that

seems to give you free tuition, or 25 sub-certificates and they don't have a valid expiration date, rather than submitting them for 25 percent you'd hold on to them for a little later, keep your investment and hopefully get a full reward.

THE COURT: Well, I agree with you that they seem to be saying -- because there was somewhere in the materials, there was, I think, a newspaper article where they also offered free tuition to any person has been wounded in the war.

MR. MAYE: Yes, Your Honor.

THE COURT: And I don't know that I'm -- I think they used -- maybe they were an invalid or they were rendered an invalid or something like that. It's not -- it's not just because --

MR. MAYE: Disabled some how.

THE COURT: Yeah, disabled of some -- I can't remember how the characterized it. But it seems in that publication that they were saying, look, times are really bad for the college right now. We're trying to do right by the Confederate veterans who are returning with disability, and we're trying to do right in honoring the certificates, but we're not able to honor them at actual value. When you characterize this as an investment, I understand the reason that you're characterizing it. It would enure to your

benefit. It would enure to the Plaintiff's benefit if these items were bearer bonds, similar to what the US Treasury issues. And reading through all this I feel like I'm trying to shove a square peg into a round hole because, obviously, a lot of people bought these things. And I'm assuming that maybe Reverend Cassills bought these because he had, I don't know, five kids, or six kids, or seven kids, and just as a parent nowadays might do a prepaid tuition plan, or a 529 plan or something like that, he's trying to pay up front for college education for his kids. I don't know what happened to his kids. If he had sons, probably half of them were killed -- at least half of them were killed in the Civil War. But I'm thinking a lot of the people who bought this had two objectives; to do something nice for Erskine College and try and make it financially sound, but also in return make sure that they locked in tuition for their kids at some point in the future. That's just my thinking. What kind of animal is that. That's what I'm really getting at. I think we're dancing around what these things are and trying to characterize them as something that they're not. I think both sides might be doing that. I don't know.

MR. MAYES: Your Honor, it's not a perfect match to any single document that I'm aware of --

THE COURT: Right.

MR. MAYES: -- other than the document that is your --

that it is itself.

THE COURT: Right.

MR. MAYES: The one that we found it most closely represents is a bond, because you -- and it's not so much anymore, but in the past they used to do coupon bonds where you could submit coupons for interest. Not tuition, but for interest. But the document acted in the same way.

THE COURT: Well, okay. And that's a similar financial type instrument that existed at the time these things came into existence.

MR. MAYES: From my research, yes, Your Honor. I can't -- I don't have a document to submit that.

THE COURT: Right. But when they're using these terms and they're characterizing them -- these items as they are, I'm assuming that that has a specific meaning. A specific term of art. A specific legal meaning at the time these documents came into existence. Is that what I'm hearing from you all? That this was customary. A customary way to invest or --

MR. MAYE: Yes, Your Honor. I would --

THE COURT: -- save.

MR. MAYES: I would agree with the Court's interpretation. This is not an isolated kind of scenario for that time period.

THE COURT: Do you have anything else?

MR. MAYES: Just finishing up with --

THE COURT: Sure. Go ahead.

MR. MAYE: We've covered what anticipatory breach is. We've covered that it has to be distinct, unequivocal, absolute. I've given factual reasons why an investor would find that their statement that we're not going to honor them for full value but, by the way, we'll honor them the best we can, would take away from that absolute repudiation of a future intent to honor these things. In addition to that, South Carolina courts have stated -- and this is *Foxworth vs. Murchison National Bank*, 134 S.E. 428. It stated, "That repudiation must be communicated to the other party to the transaction and not merely to the agent." Now, as far as we know, the only way that the university put out into the public that they're not honoring the full value of these things was by a newspaper article. And under the South Carolina rule not only is that not an agent but it's even less than an agent. They would have had to -- if they really wanted to make sure that an anticipatory breach had occurred, and that that breach -- or that repudiation was absolute, then it would have had to been conveyed specifically to the investors. And that, as far as we know, has not happened. All this to say is that there was no actual anticipatory breach. It was simply a we don't intend to follow through but we're going to do the best we can,

which under the law doesn't qualify for anticipatory breach. But if the Court disagrees and believes that it is an anticipatory breach, the remedies of anticipatory breach leave us with the same conclusion. And that is if an anticipatory breach occurs -- and this is all in Am. Jur., and it's also in that South Carolina case that I've already cited. If an anticipatory breach occurs the aggrieved party has one -- or has a number of rights. One is he can treat the contract as breached immediately and sue immediately, but that is an optional avenue. He also has the equal right to treat the contract as still binding and then test that intent when he actually requests performance of the contract. And as I've stated to you, Your Honor, the suite that we filed in 2008 is the first time that any of these specific sub-certificates for this investor have ever been brought forth for redemption.

So our suit today, and this goes to stale demand and laches which are staleness for causes of action that have been sitting around for too long. This is redemption of an investment, and there was no cause of action which would have started a holding of laches or stale demand in 1960 because, one, the anticipatory breach wasn't absolute, and two, even if it was he has the option of waiting until he actually decides to bring forth a desire to redeem these, and that just happened three years ago.

THE COURT: Okay. I need to take a brief break. Before I do this, historically can somebody -- or does anyone know -- I'm assuming that the trustees of Erskine, when they came up with this -- and I'm hearing that it's -- this was a customary investment type plan. Are there other universities or other colleges that used the same method at that time-frame to raise these funds? I would like to think that the board didn't just dream this up in a vacuum. That there had to have been others.

MR. DAVIS: May I speak on that, Mr. Hemphill?

MR. HEMPHILL: Sure.

MR. DAVIS: In looking -- when we initially did the research on this we wanted to identify what the area of law in redeeming contract law. We found numerous cases from north to south where these type scholarship endowment things were done by schools. And I saw a case in Mississippi. There's lots of them in that time-frame. And I -- for whatever this is worth, being somewhat of a South Carolina history buff, and I'm not testifying myself, but I think --

THE COURT: We'll get Walter Edgar in if we need that.

MR. DAVIS: Well, and it's not going to hurt anybody, but I -- in any way, help or hurt either side. In the -- in South Carolina the private schools like Erskine, Presbyterian, and so forth, were created about this same time period because of something the University of South

Carolina professor said in regards to religion in the state. And all the denominations started forming private schools because of his religious beliefs. And all these schools got formed them and obviously they were looking for ways to fund projects. That is my belief reading the history of the University of South Carolina.

THE COURT: That's interesting.

MR. HEMPHILL: So that's -- and all of them -- if you look, and I checked. Most of them did appear in the 1850s, or -- at least, you know, Wofford, Presbyterian, and all of them are great schools, and they -- but that's my understanding.

THE COURT: Okay. Let's take a few minutes for ourselves and we'll come back on the record.

MR. MAYE: Judge.

THE COURT: Yes, sir.

MR. MAYE: I apologize.

THE COURT: No, that's okay.

MR. MAYE: I apologize. Just to go to your question about the obligation to pay, to bring it to modern times in an analogy, the state of South Carolina had a prepaid tuition program where they sold prepaid tuition. The tuition grew such that the program was going in the hole. The state didn't have the choice not to honor it. They closed it down and created a 529. But they still had to

honor what they had obligated to do.

THE COURT: And you're correct. I don't -- my understanding of the prepaid tuition program -- and I wish I had bought one of them.

MR. HEMPHILL: I bought one.

THE COURT: You bought one? Good for you.

THE COURT: My understanding is, if you actually look at the fine print, it was marketed as a way to lock in college tuition. But if you look at the fine print it really only says that we're guaranteeing that your money is going to grow at four percent a year, or something like that. So it was one of those things where the devil was in the details. And if the state really wanted to stick it to the people who had purchased those prepaid tuition plans they could have said, well, you should have read the contract. You should have realized that there was no guarantee that your, you know, investment of 10 grand was actually going to cover 10 years at USC now that tuition is $10,000 at USC, or Clemson, or wherever you go to. So that's certainly analogous. But your point is well taken. Let's take a brief break and we'll get back in just a minute.

(Whereupon, a recess was held.)

THE COURT: Mr. Hemphill, your turn.

MR. HEMPHILL: If it please the Court, Your Honor.

Your Honor, of course, I have the honor of representing Erskine College in the defense of this matter. Your Honor, I would -- I've heard Plaintiff's arguments and I will try to be as succinct as possible in addressing our various defenses as related in the brief, in the trial brief, Your Honor. So if there's something I skip over I don't intentionally mean to abandon the argument. I would want to reserve all the defenses that are set forth in the pleadings, as well as our trial brief.

THE COURT: I understand.

MR. HEMPHILL: But, Your Honor, I would start out by saying that I think one of the reasons why we are giving such a tortured analysis to the sub-certificates, the certificates, the endowment plan, the various minutes of the Synod, as well as the catalog and the 168 Bates stamped pages of archival records from the college is because of the gross lateness of this matter being presented. If this matter had been presented closer in time to when the issues were germane to both parties then it would have been more easy to determine true intent of the parties to what we contend is a contract and not a bond or a stock. As such, Your Honor -- but we're -- since this case has been filed, 155 years after the fact -- or I should say the actual claim came in in 2008 which was 155 years after the start of the endowment plan. I believe Mr. Davis indicated that Reverend

J.R. Cassills purchased his portion of the plan in 1854. So whatever -- that's 154 years when the claim was made and the suite was filed three years later. We're now 160 or so years after the fact. So, Your Honor, so we have to go back and look at the original documents, and the documents are the sub-certificates, the flagship document, I call it, that the sub-certificates were attached to known as the certificate. And I don't think that is fair, and I contend, Your Honor, that this Court is a court of equity. I say that because they filed a declaratory judgment act, and Mr. Davis indicated in his opening and is fairly evident in the pleadings they ask for specific performance that these sub-certificates be honored. That an order be issued that Erskine College honor these certificates in some capacity. Now, I don't want the Court to lose sight of the fact that the Plaintiffs in this case are two brothers who are in their 50s, so they are not, by anybody's measurement, of college age. So -- but that is what they're asking is for specific performance. That the matters -- that the sub-certificates be honored, and that is a matter of equity. So, Your Honor, as a matter of fundamental fairness, I would contend that that is the position in which Your Honor is sitting. And I will get to those equity defenses in just a minute. But when we go to the documents you see that basically you -- if you look at the certificate and the sub-

certificates you cannot tell Erskine's offer from the certificate. The sub-certificates indicate that whoever's holding the document and presenting it is entitled to the value associated therewith. The certificate says that this gentleman named Reverend J.R. Cassills. I do not think that the Court needs to lose sight of the fact that this was a Presbyterian minister. Some of the Bates stamped documents, I think, in either 1, 2 or 3, before you get to the endowment plan, it's very important to see that the college sent out -- the college or the Synod in creating the endowment plan implored upon the ministers of the area -- and I'm not certain where he was in terms of the area. But just say upstate South Carolina -- that they should not only advocate for this endowment plan from the pulpit, but also to contribute financially. Your Honor, he contributed $100 for the term of 25 years. So to say that there's no mention of a term, there's not one in the sub-certificate, but the document to which it was presumably affixed, the certificate, was term language. And term language, according to Black's Law Dictionary as cited in the brief, speaks to a duration of time. So it's not as if those two documents when read together are devoid of durational time limit. This particular one with a $100 value gave a term of 25 years. Now, back into Your Honor's question earlier. We do believe that this was something that these scholarships,

whether they be for six years, 12 years, or 25 years, or for 40, 60 or $100, was a type of scholarship plan that a parent or a grandparent, or just simply a benefactor, such as a Presbyterian minister, could buy into and plan for their child's education, or grandchild's education. It shouldn't be lost on the Court that the second endowment plan that came into being actually came into being in 1878. References were made that the college, the catalog, stopped referring to the first scholarship after 20 years. We were searching during the break to try to determine that. But we would contend that the catalog continued to reference it. But the second endowment plan came into being in 1878.

Your Honor, I would also point out that from 1861 to 1866 the college was closed. It was not open for business, because all of it -- the bulk of its students perhaps had gone off to fight a war. So, Your Honor, when the college reopened after the Civil War, to go to Your Honor's question with regard to devaluing, we would contend, Your Honor, that through these publications, especially publications that would more likely than not be read by a minister who had given to the program, through these publications Erskine College unilaterally changed the terms of the contract. They did it because of economic reasons and because, you know, the South was bankrupt. But the changed the terms and published the terms nonetheless. At that point, if Reverend

Cassills or some other holder of these sub-certificates had appeared at the tuition office to enroll at Erskine College and said they wanted to be enrolled for the certificate only, they would have been turned away, because they had to show up also with $32 in gold. To the extend this is a legal matter, because the Plaintiff's in the declaratory judgment action have asked for cash value from these certificates to the extent of that, then we would contend that a statute of limitations began running at that time when Erskine College made known to the community that it could no longer honor the original terms of the agreement. And as such, Your Honor, the statute of limitations, whatever it was back then, currently it's three years on a breach of contract, even if it was 20 years, 50 years, the statute of limitations ran as of that time.

Your Honor, I think before I -- with regards to the endowment plan, I would contend, or the Defense would contend this, Your Honor. You have to read the endowment plan. You can't be constrained to only reading the certificate and sub-certificates, because the endowment plan is Erskine's offer. It contains the terms of the offer. It would be not unlike showing up at Williams Brice Stadium and you're a half scholarship donor and you go to a particular club level and present your half scholarship donor ticket and you're in the wrong place, and you're supposed to be at

another club level. And the document doesn't say -- or the ticket doesn't say what club level you belong in. Your not a full scholarship donor. Somebody is going to pick up the phone and call somebody to try to determine, you know, what your rights are. We don't have that luxury in this situation due to the passage of time. But the college's offer is contained in the endowment plan. When you look at the endowment plan it sets forth a structure of very clearly identifying 40, 60, and $100 categories as being limited scholarships. As contrasted with a later offer contained in paragraph seven of the 1853 endowment plan which said at the $500 level, which could be purchased by an individual or church or a congregation, that they should be entitled to a perpetual scholarship. When the endowment plan is read in it's entirety, not parsed, not tortured on any particular term or paragraph, but read in it's entirety, the structure of the plan was certain limited scholarships and certain perpetual scholarships. And, Your Honor, the only thing those terms -- I would suggest the only reasonable inference to take from those terms is that it relates to time. Time to execute.

THE COURT: Let me ask you this. Isn't it reasonable, what they're basically arguing is that by allowing the certificates post-war to be redeemed, and by the different in the scholarship plans offered in the 1878 endowment where

they limit it, unlike they did with the 1853 plan, doesn't that indicate that at the time they created the '78 scholarship, 1878 endowment, they realized they had an issue or they had a problem with these other certificates that were floating around out there and they were trying to address that in some way, shape or form. One way that they tried to address it post-war is by saying we can't give you a full scholarship, like you're saying. You have to show up with $32 in gold and a certificate, or $30 in gold. So we've got a problem out here, people. We have people who have paid for this. We haven't limited these things. We're hoping that they're understanding as to why we can't give a full ride on these scholarships. But there's still a possibility that we might bet stuck with these. And it's only by the graces of -- the good graces of the people who sought to redeem the scholarships, their understanding of the situation Erskine was in. And again, it's not lost on this Court that this is a Presbyterian school. It is of the more conservative nature than other Protestant denominations. You're assuming that a lot of ministers would funnel their congregants into this school, especially in light of the history lesson we got a while ago on how the school may have been created or some of the religious reasons these schools were created within the state. So isn't it reasonable to conclude that having Presbyterian

students that belong to this particular brand of Presbyterian faith going to this school. They're going to be more understanding. They're going to say, okay, 32 dollars and certificates. Not such a bad deal, because we don't want our flagship university to completely go down the tubes because they can't afford to educate all these students for free that are going to be showing up with these certificates, but we still have to honor them. We still have to -- there was this understanding. That would seem to be maybe what was going on, which cuts both ways for you. They honored them, but they didn't honor them at full value. But they still realized there was a problem which they fixed in '78. Do you want to speak to that?

MR. HEMPHILL: Your Honor, I think that's -- that's a well thought out historical analysis and cultural analysis of the time. And I'm aware of the phrase in the minutes, or that Mr. Maye pointed out with regards to how they distinguished the prior scholarship.

Your Honor, we are -- we are -- we have to live in the world that we're in. We've had two World Wars, lots of conflicts, but not the least of which -- there was a Civil War that occurred here and there are -- I would submit to the Court there were a number of contractual obligations by various parties due to the valuation of currency and things like that that occurred. And this -- what happened here was

that they could not honor them. And I raise that historical analysis, Your Honor, to say not only do the statute of limitations run, which certainly there should have been some sort of laches that began to run in 1966.

THE COURT: Couldn't the university or the college or the board have sent out a letter? The population of South Carolina was not that large at the time compared to what it was today. A Presbyterian minister, they're going to be able to track him down, and they're going to be able to say that certificate 725, we're not going to be able to honor that. We can honor it at a quarter, but for a tenth of the scholarship value. But we cannot -- assuming that the Reverend survived the war. Why didn't they do it?

MR. HEMPHILL: Your Honor, I would encourage the Court to know the times. To take cognizant of the times in which they were living. I recognize that letters were transferred a good bit. I would suggest to the Court that the reason why it was understood that a publication in a document -- in a periodical called The American -- no, The Associate Reformed Presbyterian would get to sufficient benefactors of the church. That if you look at the periodical that we're referring to, that's the name of it. It would certainly have gotten to a Reverend J.R. Cassills.

Again, Your Honor, here we are. These matters should have been before a Chancellor of Equity in the late 1800s,

and the Court, as well as the parties, are having to assume certain events. And that goes to one of the larger defenses that we have in the case.

Your Honor, moving to that defense, specifically staleness of demand. Your Honor, I think -- I think Mr. Davis' analysis of the difference between staleness of demand and laches is fairly straightforward. I would concur largely with his interpretation of those two defenses. But I -- there's a couple. There's a case called *Bell vs. Macky* that seemed to have best stated that defense. And I think it fits the facts of this case when it says an unexplained delay of such great length as to render it difficult or impossible for the Court to ascertain the truth of the matters in controversy, and to do justice between the parties, or as to create a presumption against the existence or validity of the claim -- and this is key -- or a presumption that it has been abandoned. Your Honor, that goes to say that with such a passage of time it is -- all the witnesses are gone and the passage of time for the presentation of this claim, Erskine -- there's been no allegation that Erskine has caused this passage of time. It would be nice to have had an opportunity for a Chancellor of Equity in Abbeville County to have asked these questions of Reverend J.R. Cassills or his successor -- or his first successor. In this instance, Your Honor, we are dealing

with a situation where after 155 years they have -- they have -- the Plaintiffs have failed to present the sub-certificates for redemption. I think it's safe to assume, Your Honor, that we're talking about five to six generations of this family who have -- who have reached college age, and for whatever reason, either they didn't know they existed in a family bible, or they did, and we're having to assume because of the passage of time, but they elected not to present these. With regards to the Plaintiffs, the named Plaintiffs in this case, Your Honor, per their affidavit, they state that they are aware through their grandfather and father that they were in possession of it for roughly 80 years. That's when their knowledge of it existed. The named Plaintiffs in this case are in their 50s. Their affidavit say that since 1982 they have not taken any action. Of course, they don't say they didn't take any action. They say they came into possession of these certificates in 1982. The claim was not made until 2008 and that's a passage of 26 years. If my math is right, these two named Plaintiffs would have been in their early 20s when they came into possession. But they said they were aware that their grandfather and father had these.

Your Honor, I believe it's important to understand that context that for that length of time this family did not consider these to be enforceable or redeemable. But instead

were artifacts or relics, or ancient documents.

Your Honor, there's some key language in a case called *Hemingway vs. Mention* as it relates to laches. That cite, which I cited in the brief, is 89 S.E.2d 369. And with regards to laches, Your Honor, and there are any number of laches that you can read in South Carolina Jurisprudence that deal with passage of 20, 30, 40, 50, 60 years. But in this context we are talking about 155 years before the claim was made. The doctrine I would read this to His Honor out of that *Hemingway vs. Mention* case which states through 1955 in Jurisprudence -- there have been some more recent cases that have dealt with laches. And, "The doctrine embraced is in accordance with the principals and the practice of the court of equity which have from the beginning held themselves ready to aid suitors who come in good conscious, good faith, and with diligence, and from the beginning they have discountenanced stale demands and refused relief from the effect of negligence and inexcusable delay." They are arguing a perpetual contract, Your Honor. A perpetual contract is specifically disfavored by our South Carolina courts in the case of *Carolina Cable Network vs. Alert Cable TV, Inc.*, 447 S.E.2d 199, just cited in the brief. That was Court of Appeals 1994. That cites a 1911 case known as *Childs vs. City of Columbia*, and it said that, "It would be unreasonable to impute to the parties an intention to make a

contract binding themselves perpetually when no term is mentioned." So our South Carolina Jurisprudence says that when no term is mentioned then our courts disfavor that because of the injustices that can occur by a party sleeping on their rights. And in that vein, Your Honor, what has happened in this case is just that. If you go back and take that same analysis that our courts disfavor perpetual contracts, you can look back at the endowment plan that actually limited and used those terms limitations. And, in fact, used durational limits in describing 40, 60, and $100 limited scholarships.

Your Honor, again, in the *Hemingway vs. Mention* case, it's citing a much older case, they said that, "The plaintiff has certainly been very negligent in delaying so long to prosecute his claim. These stale demands are not to be encouraged. Nothing tends more to disturb the quiet and repose of the community."

Your Honor, the third item that I think is very evident, and we set forth in the brief, is the prejudice that is potentially resulting from this stale demand, from this -- the Plaintiff and their predecessors in interest slumbering on their rights for 155 years. The current tuition, exclusive of room and board, is $29,310, the stipulated amount. If the Court awards Plaintiffs relief, then the amount would be well over $730,000 for just these

certificates. Your Honor, it would -- that is -- we would submit to the Court that that is patently prejudicial to the Defendant. So having shown laches and its elements, Your Honor, we feel like that is the main basis we would request to the Court in denying the Plaintiff's case.

THE COURT: On that question, let me comment here. Has anyone calculated what the current -- assuming that we took the $100 investment as the Plaintiff argues and brought it current, what would that 1853 $100 represent in today's terms? Does anybody know?

MR. HEMPHILL: We have not run those calculations, Your Honor.

MR. DAVIS: It depends on what interest rate you tied to it since 1853. And there is a service on the website where you can -- where it shows what the interest rate was from 18 -- from whatever date you set up to present date, and it shows what the interest was. So there's a way of doing it. You also have to know whether you're going to compound it monthly or annually. It can go -- it can very tremendously depending upon the interest rate and how -- and when you compound the money, whether monthly or annually.

THE COURT: And my reason for asking that is kind of obviously, I think. You say it's unfair to say these things are worth $29,000 now. I know that obviously $100 in 1853 was a lot of money. I mean, that was a lot of money. And

that's all I know. I don't have any other point of reference whether that would equal an average person's one month pay or one year pay or what have you. But that kind of goes to your equitable argument. Let's assume that $100 -- where the $32 in gold was referencing after the war when the university -- when Erskine offered some value to these certificates. 32 dollars back then was -- in gold was a lot of money, and gold was probably hard to come by and sell. And you had most families that had resources -- a lot of families that had resources, they backed it and lost everything. And so, $32 in gold for a southerner in 1865 was probably an absolute fortune, I would think. But how does that play into -- well, since we don't have the numbers, I guess we can't answer that question. You've got some numbers?

MR. DAVIS: I'll just say this. That if you -- if you take at six percent averaged over 160 years. Over 160 years at six percent is $1,120,000, at six percent based on --

THE COURT: Over a hundred and --

MR. DAVIS: Sixty years.

THE COURT: So $100 at six percent interest in 1853 you'd have over a million?

MR. MAYE: And that's compounded year, not monthly, Your Honor.

THE COURT: From my calculations, if I were to rule

that these certificates had value, they'd be worth roughly three-quarters of a million dollars. In that sense, the Reverend made a rather poor investment because he could have simply held on to his $100, invested it in a Yankee bank and made six percent, and the Smiths here would be millionaires, assuming they had gone untouched. I mean, I'm just throwing that out there.

MR. HEMPHILL: I understand, Your Honor. But there are three elements to laches. The third one being prejudice. There are a lot of assumptions being made in the Court's analysis. I'm not privy to what was -- whether that took into account the Civil War and other devaluing events.

THE COURT: Sure.

MR. HEMPHILL: So I understand that you've asked that impromptu and sua sponte and I -- but, Your Honor, there's no question from the Defendant's perspective, as it stands now 160 years later, the prejudice associated with these matters being honored would be extremely prejudicial to my client, if they were presented all at once or any kind of -- in any kind of bulk manner. And the Plaintiff -- the Plaintiffs are not presenting them themselves to go to college.

THE COURT: I understand both arguments. Is there any effect to the fact that post-Civil War the college did honor a number of these certificates? And again, I am assuming --

assume the parties have stipulated that the college even though it did not operate from '61 to '65, it was still in existence as a corporate entity, for lack of a better word. Even though it was not in operation it still existed. So that entity was in existence in perpetuity. Is there -- let's assume for a second that the Court were to conclude that, yeah, it's a little unfair when the university or college didn't recognize -- is it Erskine University or --

MR: HEMPHILL It's College.

THE COURT: It's a college, right. Thank you. Erskine College didn't recognize these at full value after the war, but they did recognize these had some value. If the Court is sitting in equity, which I think I am, I think all parties agree that I am, why shouldn't the Court find that, as you pointed out, it would be reasonable for the Reverend to have been aware of the problems with Erskine. He realized that, just as if he had invested in Confederate bonds, these items are not worth as much as they were worth when he bought them, but they're still worth something. They're still worth at least a quarter of tuition. Is there any legal precedent for the Court finding that based upon the dealings of the parties since 1863 and how they've kind of dealt with these issues after the war that perhaps they don't have a value of $29,000 per year but they have a value of a quarter of that? Any precedent for that?

MR. HEMPHILL: I'm not aware of any precedent for that, Your Honor.

MR. DAVIS: I think that the Court of Equity does have the right, otherwise it wouldn't be a Court of Equity, to determine the equities of the parties, and there would be no certainty. You can't bring any mathematical certainty to those dollar figures totally mathematically, but I think the Court could obviously perform -- tackle that. They could. I would like to -- may I?

THE COURT: Certainly.

MR. DAVIS: I would like to say, you know, Counsel mentioned that we -- using the defense of laches and stale demand that we've slumbered on our rights. We really didn't slumber on our rights. You know, from what I've seen in the newspaper -- and this is commentary to a certain extent, you know. There were issues at Erskine College two or three years ago. They could have closed their doors and we'd have nothing. It works both ways. In this case it's -- they're functioning and, I assume, financially sound. But the rights that we have were created by them based on the documents they prepared. So equity for us is you gave us this and we believe we have a right to have it honored whenever the bearer redeems it. So that's equity. And you're right, $100 at that time created, in my memory, is like eight years of tuition. It's not chicken feed. It was

real money. And he gambled for his school. And he's Presbyterian. And I do know this. That the Presbyterians require their ministers to be ordained. They were intelligent people. So obviously somebody put some thought to what they did here. Put some thought to what they did here, and that's why I think the time -- there's no 25 year time limit. They said at such time as intervals. So we see it a preponderance of evidence will show it's a bond instead of just a contract and it's an investment that we have a right to rely upon what was given to us by the term. So that's our equity.

Now, in reference to the specifics of reduction, I think the Court would have to look exactly as to what -- what reduction was there by the school, but I think it'd have to tackle the equity argument for us is you had a covenant with this man and you're taking it away and the way you notified him was putting it in the newspaper. Why couldn't you do this -- as the Court said, why couldn't you send a letter to him saying, look, this -- life's changed here. They didn't go that far. And we have a case that says notifying the agent is not good enough. You've got to notify the principal. So this Court has spoken to a certain extent on that issue of how you -- how you take away a right that was granted, and use the analogy of land transactions. If you've got somebody who's an heir, you know who they are,

you know what you've got to do as a lawyer. You've got to notify them. You don't stick it in the newspaper if you know where they are. So I don't know why that wouldn't apply to this type of situation. When you're taking away not a claim but a granted recognized investment security.

THE COURT: Well, let's take the land analogy then, because I'm sympathetic to the Plaintiff in the sense that these look a lot like bearer bonds. You go to the United States Government, I've got this bond here payable on demand, here it is. Okay? Or the old silver certificates. I don't trust this paper. Give it to me in silver. On their face that's what these resemble very closely. It's hard though for the Court to ignore the historical context of what's happened. And I think that's where the Defense has a point.

MR. DAVIS: Well, my feeling for the Plaintiff would be as the Court of Equity and you have to factor that -- if you ruled -- I'm not saying what you're doing because that decision hasn't been made. But if you rule --

THE COURT: Oh, I haven't decided what I'm doing.

MR. DAVIS: I understand. I'm saying if you rule -- if you did for some reason rule for the Plaintiff I think you would have to figure in that issue in if you were going to grant them something, and I acknowledge that fact.

THE COURT: Your clients are descendants of the

Reverend?

MR. DAVIS: Yes. Yes.

THE COURT: So they are familial -

MR. DAVIS: Yes.

THE COURT: -- descendants. It's not like they just got these and found them stuck in a book.

MR. DAVIS: Oh, yes, sir. They're a direct lineal descendent.

MR. HEMPHILL: Your Honor, with regards to -- there are a lot of assumptions being made here. For instance, when this happened after -- when notice was given after the Civil War there's no indication that Reverend Cassills was still alive. A lot of assumptions are being made.

THE COURT: I understand that. And that goes to your point. Is there anything -- and I'm asking this for the purposes of the record because I'm assuming that, but is there anything in the minutes of Erskine's records where these things are specifically disavowed, a vote taken that they would not be honored, that they are hereby rendered worthless? Anything to evidence an intent on the part of Erskine that has not already been discussed?

MR. HEMPHILL: Your Honor, I know that the current position is that they have no value and things of that nature. With regards to minutes and that sort of thing, I'd have to refresh my memory. If it exists, it will be in

Bates stamp 1 through 160. I'd be happy to follow-up with the Court on that. But from a linear standpoint and a few of things, our view is when that second endowment came into place that it was over. That was in 1878. That just so happens to coincide with the 25 year term.

THE COURT: But they didn't specifically address that in '78. They didn't specifically say --

MR. HEMPHILL: It might not have been in '78, Your Honor, but I'm wondering whether it wasn't some time in the latter part of the 1890s, but I'd have to check back.

MR. DAVIS: There's an exhibit. The college, during the Civil War, the figure that they had dropped down either 13 or 18. They may have closed the doors, but they still had money there. If I'm not mistaken, and I may be wrong and I don't want to misrepresent anything, but my memory is after the war that figure went back up again in the -- in the -- the evidence is that the figure went back up as to the amount in that endowment after the war.

There is a specific exhibit where the college said we're going to do our best to honor these original certificates. That is -- that is -- it is -- it is -- I want the one that says we will honor the best we can. I need to find that exhibit.

THE COURT: While you're checking for that, Mr. Hemphill, you represent Erskine. We've got 25 here. Are

there any records as to how many others may be floating out there that are unredeemed?

MR. HEMPHILL: There are no records.

THE COURT: Clearly, equity would not want to favor a result which would result in the economic bankruptcy of Erskine College. If another 100 of these floating around out there that's -- we're not talking about a lot of money. A 100 different certificates with 25 coupons each --

MR. HEMPHILL: Your Honor, there are no records of the numbers out there. If you're asking about floodgates I would -- I would -- if the floodgates would be opened --

THE COURT: That's what I'm asking.

MR. HEMPHILL: -- and sitting in equity, I would tell you that that's a distinct possibility. I'll represent that to you, Your Honor.

THE COURT: To your knowledge, has anyone attempted since 1870 whatever to present one of these? Is there any --

MR. HEMPHILL: I'll check with my clients.

THE COURT: Go ahead.

MR. HEMPHILL: Your Honor, Defendant does know that there are certificate numbers over 725. There was some prior litigation associated with the presentation of these certificates about five, six years ago. There was a -- there was also a recent presentation since the first of the

year. It was denied. My client, throughout all that, has denied these.

THE COURT: The litigation five or six years ago, what happened there?

MR. HEMPHILL: It was settled.

MR. DAVIS: That exhibit number -- the Bates number is 71. And what it says is that it is -- the language says it's proposed to honor the certificate of the scholarship so far as the resources of the school will admit is what it says. Bates number 71.

THE COURT: As far as the resources of the school will admit?

MR. DAVIS: Yes, Your Honor.

THE COURT: Do you have any closing thoughts before we -- if y'all need to talk go ahead..

MR. DAVIS: One second, Your Honor. Your Honor, may I have just a second?

THE COURT: Sure.

MR. HEMPHILL: Nothing further, Your Honor. Thank you for your time.

THE COURT: Thank you.

(Whereupon, the proceeding was concluded.)

- - - END OF REQUESTED TRANSCRIPT OF RECORD - - -

Certificate of Reporter

I, the undersigned, Tara T. Scott, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Abbeville County, South Carolina, on the 22nd day of May, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Tara T. Scott

Tara T. Scott, CVR
Circuit Court Reporter
Greenwood, South Carolina
October 2, 2015

STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

EIGHTH JUDICIAL CIRCUIT
IN THE COURT OF COMMON PLEAS

ROBERT E. SMITH and WILLIAM K. SMITH,

PLAINTIFFS,

-VS-

ERSKINE COLLEGE,

DEFENDANT.

2011-CP-01-109
TRANSCRIPT OF RECORD

MAY 18, 2015
ABBEVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

A P P E A R A N C E S:

ATTORNEY FOR PLAINTIFF:

W. JOSEPH MAYE, ESQUIRE
JAMES RANDALL DAVIS, ESQUIRE

ATTORNEY FOR DEFENDANTS:

ROY HEMPHILL, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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EXHIBITS

NO	DESCRIPTION	ID	EVIDENCE

NO EXHIBITS INTRODUCED

THE COURT: We're going to go back on the record on *Smith vs. Erskine College*. This is case 11-CP-01-109 and this case is -- or the hearing that we're assembled in today concerns a motion for reconsideration of the Court's previous order. I've read the motions for both the Plaintiff and the Defendant, Erskine College. I have reviewed those. I reviewed them when they came in back in January. I looked at the them again last night, so I'm up to speed, and it's a motion to reconsider the Court's order of January 2, 2015. So I believe you all are the moving parties and I'm happy to hear from you.

MR. MAYE: Yes, sir, Your Honor. May it please the Court.

THE COURT: Yes, sir.

MR. MAYE: My name is Joseph Maye. I argued before you at trial.

THE COURT: Right.

MR. MAYE: Thank you for hearing us today. It's listed as number six in our motion, but I wanted to start with it. It's the meat of our argument. And that is based on the contention that in order for the Court to rule against the Plaintiff on the basis of laches there has to be some kind of determination as to what the certificate of scholarship really is, and without that determination the defense of laches might not even apply. And that's going to be most of

what I talk about today.

Just to the basic summary. The Court's ruling essentially was that the Plaintiff had waited too long to seek redemption of the certificate of scholarship. But again, in the order there was no determination if this was a certificate -- or, excuse me, if this was a bearer bond or if this was a promissory note. There was no determination of that issue. And if this is -- if this certificate is a bond, the Plaintiff argues that it runs contrary to the ruling in *Morgan vs. U.S.* And I beg the Court's indulgence. I'm going to read the excerpts that applies in that matter. The Court in *U.S. vs. Morgan* held that, "The rule as to ordinary negotiable paper payable on demand is that it is not due without demand until after the last of a reasonable time within which to make the demand. And what the length of that reasonable time is may vary according to the circumstances of a particular case and must be governed very largely by the intentions of the party as manifested in the character of the paper itself and the purpose for which it is known to have been created and put into circulation."

Your Honor, if this is a bond, this is a bearer bond created by Erskine College and the character of that bond is one that has no time restrictions. As we've discussed at trial there's no expiration date, there's no date stamp or when it was issued. There's no limitation on the duration

of these documents. And if that's the case, then the defense of laches, as it applies to a bearer bond, comes into issue as opposed to whether it is some other kind of negotiable paper such as a promissory note argued by the Defendant in this matter. As for the proof that was put forth at trial as to this being a bond and nothing else, there's quite a number of instances or examples of why this is a bond as opposed to a note or some other negotiable instrument.

First of all, it looks like a stock or bond certificate. It has the flowery borders around it. The document looks like the old bonds that are issued by companies and institutes.

Second, the plan of endowment, which is essentially the board's resolution, as argued by -- as the Plaintiffs, calls this scholarship bond. It even uses the term in the creation of this idea.

Third, the secretary J.I. Bonner, who signed the certificates of scholarship that are owned by our clients, refers to investors from the 1853 endowment as original stockholders in the old endowment. So even the person who's issuing this document to its investors is referring to these people as stockholders. Not debtors or not creditors. Nothing like that. They're calling them stockholders.

Four, the value has fluctuated over time with the --

based on the prosperity of the college both up and down before and after the Civil War. And this shows the recognition by the college that these are investments, not notes. A note you're entitled to a certain amount of interest and there's a principal base of the note which you -- that amount doesn't change based on how well you're doing. You pay it or you don't. This was in relation to how the college was doing.

Number five, the language and instruction for redemption says that surrender of a sub-certificate by bearer entitles the bearer to one year of tuition. Notes don't operate on a bearer system. Notes are made with individuals and the transfer of such is quite a tedious process as opposed to bearer bonds.

And lastly, the procedure for handing out a sub-certificate required that remainder certificates be burnt, not thrown away. So as far back as 1853 when they're handing these things out they know that these little tiny little slips of paper, these little sub-certificates, carry quite a bit of bearer bond weight in the actual piece of paper with them. They're not just a record of promise. And compared to the dirth of evidence that was provided by the Defendant in this matter we really believe that on this issue of saying this is a bond -- a bearer bond, that we are well over the preponderance of evidence standard. And

following that determination you then come to the question of, well, how -- are these bearer bonds limited in some way. And we discussed this at length, but just to recap it. These bearer bonds don't have an expiration date, an issue date. They don't have a limitation duration. You can't find on any of the documents, including the board's resolution which we argue isn't part of the contract. I'll get to that later. But you can't find any of that language anywhere. In addition, Erskine's own catalog discussing the endowment certificate in comparison to the second endowment acknowledges the fact that these first endowments were not limited and they corrected that when they did their second endowment.

Lastly, the actual nature of a bearer document is one that is perpetual unless it's created and given terms to not be so.

Now, the big question is in discussing whether this is a bearer bond or whether this is a promissory note and why it matters as to laches is why does the distinction matter. And I will try and sum that up as best I can for the Court.

Promissory notes are governed by the terms of the note, but also by statutory language in South Carolina. There are statutes that provide statutes of limitations for promissory notes that would ultimately eliminate it if not collected at a certain time. We have found no statutes that limit bearer

bonds in that nature. Promissory notes are not investments, so to speak. They are essentially contracts between creditor and debtor, and promissory notes are a promise to repay a debt. It is not related to the ultimate success or standing of the entity. It's -- it is not directly related to how well the entity that's giving it out is doing. It's just a debt to be collected.

Now, the Defendant would suggest that these are promissory notes. I've given reasons why this is clearly not a promissory note. It doesn't indicate a promise to be repaid. And a -- and when you're looking at a promissory note, if a creditor were to lose a promissory note but has a copy of it, the copy can show that the parties have signed to it and it's dated, and if it's notarized there's no argument that the debt is still open. The note is just a record of the promise. The note itself, the paper, doesn't have any actual value. The same goes for saying that -- you know, something like a check. If a check is written, that is a command to make payment but it's not valuable in and of itself. If you lose the check, they void the check and reissue another one. The debt still has to be paid. That's not the case when you make the payment with a bearer bond. If you submit a bearer bond to someone who owes you money or if you're transferring it for value, that bearer bond, the physical piece of paper, is the value. There's no

distinguishing between the paper itself and the value you're trying to transfer. There's no other next stop. And once you've done so the debt is paid. Now, if a creditor receives it's bearer bond and says, okay, the debts been paid but, hey, we lost the bearer bond or it got destroyed, the creditor is out of luck. There's no, well, let me reissue some more bearer bonds. These things don't operate like that. Our clients knew full well that if they had lost these certificates or if they had been destroyed they would have no arguments to seek redemption back. But they have the actual original bearer bonds. And with original bearer bonds, since the value attaches to the original piece of paper, that value endures.

I've got just one more point to make on this particular argument. Just to try and make it a little clearer as to how we see this document. I've got a penny from 1950 and it was issued by the United States government. And if I were to say I want to submit this penny back to the U.S. government to pay my taxes the government is not going to be able to tell me, we're sorry, you waited 65 years to redeem that penny. It's now worthless, but -- and we just assumed you didn't want to spend it at this point. Sorry, you're out of luck. Likewise, if I were to give this penny to someone else, the government wouldn't tell that person, I'm sorry. That's not your penny. These certificates act in

the exact same way. And based on the report in *Morgan*, that report actually noted that bearer bonds are all equivalence to legal purposes act just like currency. And that's -- I've got a copy of that case if the court would like to see it and read that. But it's essentially saying that if that physical piece of paper still exists it acts just like currency specific to the entity that created it, and so long as that entity exists the currency is still valid for that entity.

And that's the crux of our argument. But I want to, for the sake of the record, go through the other points of our motion just so we've covered everything.

THE COURT: Sure, go right ahead.

MR. MAYE: Thank you. The first legal error discussed in our motion was that the element of laches, the first element, requires a negligence on the part of the party trying to defeat laches. As I've discussed, these certificates didn't have a term which required a party to redeem them under a certain time or inquire to the college as to the validity. As I've argued, they represent a type of currency, so to speak, with the college and there's no duty to seek to -- there's no obligation, no duty to make these things -- to check on the validity of these. And the failure to do so can't be a breach of that duty. If there is no duty there's no way to breach the duty, therefore

there can't be a negligence against the Plaintiff in this matter. Likewise, the third element where the Court discusses the knowledge of the rights by a party. If there is some kind of duty on the part of Plaintiff to check on the validity of the certificate of scholarship, there's no way for that party, our clients or their past relatives, to know of that obligation and to seek some kind of validation for something that is valid on its face.

The Court had ruled that the terms of the first endowment had been altered by the second endowment, and after research I'm not aware of a legal precedence that allows a subsequent contract to amend the terms of the first contract unless there's some kind of acquiescence of the parties involved. And without Erskine College giving some kind of proper notice to all of these investors, we're number 725, there's no way for them to say, well, we're doing a second endowment now and we're going to change the terms of the first. They've got hundreds of people back in the 1800s that would have been completely unaware of anything else going on with the college, and there can't be a change of the terms in that way.

And then just to address the factual matters. The Court referenced that there was no reference to the scholarships since 1870. I think it's more like 1895, but we don't consider that a substantial issue. And then the

Court ruled that the plan of endowment, which was the board's resolution, constituted part of the contract, and at trial there wasn't any evidence produced showing that that particular document was incorporated into the contract or was distributed to its investors, and without one or the other there's no -- there's no basis to find that the plan of endowment, the board's resolution, was an incorporating the terms of the contract for individual investors.

And, Your Honor, that's the entirety of our motion. I'll let Mr. Hemphill discuss. Thank you.

THE COURT: Very good. Mr. Hemphill, if you want to go ahead, please, sir.

THE HEMPHILL: Beg the Court's indulgence. May it please the Court, Your Honor.

THE COURT: Yes, sir.

MR. HEMPHILL: In response on this Rule 59(e) -- of course, I represent Erskine College in this matter. His Honor issued a well thought out order at the first of the year after the hearing had occurred back in 2014. Your Honor, as it relates to -- if you read -- as Your Honor has done, gone back and reviewed your own order. It's very -- well thought out. It's very straightforward and it's abundantly clear that His Honor seized upon the substantial delays associated with the presentation of this demand. When we structured out defense in this case, quite honestly,

Your Honor, we put -- we put the most glaring and obvious defense forward first without trying to -- that was in our pretrial brief. And that's generally how we structured our defense when we had a very lengthy hearing last year, Your Honor. And that was -- what was very glaring in this case is statute of limitations issues, as well as laches issues, and this motion, and this very clear theory of staleness of demand. Your Honor, we repose the other side asking that the Court label whatever this is, because what it was was a potential right that the Plaintiff's ancestors -- and we're talking, Your Honor, five or six generations prior to them that they had, that they had in the 1850s and in the 19th century, we'll say, or a certain period of time. But then, Your Honor, historical events such as the Civil War occurred and circumstances changed. And Your Honor addressed those in the Court's order. Your Honor, as it relates to those issues you very clearly said that the passage of time has -- you've gone through the elements of laches and you've gone through the little bit less clear elements, the staleness of demand. Your Honor, whether it was a bearer bond, or whether it was a promissory note, or whether it was some other contract for the performance of some act, we do not feel like it's necessary that you give it a name or you make particular findings one way or the other. It's very clear, Your Honor, that you weighed all the evidence and you sat in

equity as a judge in equity, and you cited in your order the equitable maxim of equity only aids the vigilant. Those who have slumbered on their rights should not look to the court in equity to resurrect those rights. Your Honor, 160 years have gone by since these certificates have been presented. We feel like it's not been necessary to identify or make any particular findings in this order associated with, you know, how to label these rights, because whatever it's called it was -- it was extinguished by the passage of time and the very clear prejudice on my client for this very, very, very late assertion of whatever right it was. Your Honor spent a good bit of time in the order addressing prejudice to my client which is -- which is abundantly clear in the record. All the elements of laches have been satisfied. You also have an independent ground in this order that deals with staleness of demand, and you very clearly say that it's way, way late to be presenting this and the prejudice to my client is, indeed, palpable.

Your Honor, these references that my client was somehow issuing shares of stock on one instance, but yet, perhaps we would call it a bond in that it's some sort of debt instrument, you know, my client was -- in the 1800s was incorporated as a nonprofit organization. I know that counsel has argued in their motion that has tried to equate this to issuance of stock for some large corporation. Your

Honor, the facts in this case are that these instruments, these documents, these certificates were issued to a Reverend Cassills who -- you know, it can't -- I just don't see how it can be equated that this is a for profit situation. I suppose if you had to stretch it and say that it was, at some point in time if they're stock certificates and there had been multiple buyouts, multiple mergers, and someone comes up with an old stock certificate 150 years later and says, hey, I needed to have been included in all of these mergers and my stock is worth whatever in the successor corporation, a court would step in and use these equitable principals that His Honor has used for purposes of bringing about fairness. And I believe His Honor has used equitable maxim that is within your favor, your power to use in order to bring about justice in this case. Your Honor, we would ask that the order not be amended in any way and that the response given to Petitioner's and Plaintiff's efforts on this Rule 59 motion be denied.

THE COURT: As an initial matter, gentlemen, there's a reason it took me six or seven months to get you folks a 10 page order and it wasn't that I was trying to write it one page per month. One of the things that the Court really did struggle with is how to define -- and we touched on this at the initial hearing in late May or July, January, whenever it was that we did it last year. To say that it is a bearer

bond similar to that operated by the United States Treasury I don't know is a perfect comparison. That's part of what I have a problem with. But at the same time the Plaintiff is correct that certainly these documents, these instruments, had characteristics similar to a bearer bond. To characterize it as an investment vehicle I don't know is necessarily fair either, because in my mind there were probably multiple motivations for both Erskine selling these instruments and for people purchasing the instruments. It's not lost on the Court that Reverend Cassills was a Presbyterian minister. I think that that's pretty much agreed to, or at least by implication in all likelihood he's a Presbyterian minister. And the Presbyterian Church is trying to endow a school in South Carolina. So part of the Reverend's objective, and perhaps other purchasers' objectives, would be to perform a charitable act to provide funding to create a school that's going to teach and it's going to educate college kids pursuant to Presbyterian theology. Consistent with Presbyterian theology. In short, parents didn't have to worry about their kids going off to school and deviating from Presbyterian beliefs. Okay? And that's very common with a lot of the evangelical faiths, even non-evangelical faiths. A lot of schools. You've got Notre Dame. You've got Presbyterian College. You've got Erskine. You've got others that were created specifically

to try and funnel these kids from the church into higher learning and people could be assured that the teachings would be consistent with the faith that they were brought up in. So there's an eleemosynary aspect to someone purchasing these items that the Court cannot ignore. I don't have that same eleemosynary feeling if I'm buying a United States bearer bond. My only purpose is not to prop up the United States government or provide additional debt relief to the country. My purpose is to make money down the line, and that's my only objective. At the same time, Erskine had a desire to make sure that its school was filled with students. It wanted to be a viable going concern, for lack of a better characterization. It wanted to make sure that kids would be coming in waves or periodically seeking admission to Erskine, and this was a good way to encourage a pipeline of students for at least a certain number of years. Daddy or granddaddy buys the -- buys the bonds, buys the coupons, however you characterize them. That's paid for college. That encourages students to enroll. That helps support the institution and grow the institution. So that's something that Erskine benefitted from. And clearly there's the third aspect of this. The benefit to the student that you're getting an education from a school of higher learning. So that's why the Court struggled to define this. I cannot -- and I'm unfamiliar with any particular species

that incorporates all three of those particular motivators. The closest thing I think I came to back in May or June was the analogy with the USC football scholarships where you have to sponsor a scholarship which, of course, is an act of generosity. It's tax deductible. You're helping the college. You're helping a student. But you're also, by doing that, buying a right, or acquiring the right to purchase football tickets for a certain value. So I'm getting a feel good feeling by giving money to the University and to help with the scholarship programs. At the same time I'm also receiving a benefit and that I can pay additional money and get the seats that I usually get for the games. So maybe -- again, that would be more in the way of a lease perhaps. They'll keep giving me my same seats every year. But, of course, I have to pay every year. That's more in the way of a lease than this. Than this case in front of us.

You did raise one interesting point though. You mentioned -- and I know what the short answer to this question is. But you had mentioned the penny from 1950. What if it was a silver certificate. Because the government for a while issued silver certificates where you could actually go to the Department of the Treasury and say I want to redeem this two dollar bill, this five dollars, or 10 dollars or whatever it is. I want 10 dollars in silver.

And it was in the 60s or 70s that they quit doing that. That they quit allowing redemption of the silver certificates. They're very rare at the time in circulation. I've got a couple that my grandfather had, just two dollar silver certificates. They're worth two dollars. And clearly at the time that these things were issued they had a greater value because you can go and physically acquire two dollars worth of silver that would have been worth a lot more today than they were when the certificates were issued in the 40s or the 50s. So that bit of silver would be much more valuable today. Nowadays you can't redeem it. It's two dollars on its face, which obviously two dollars has got a lot less value today than it does before Nixon took us off the gold standard.

The short answer to my response is, well, it's the United States government. They can do whatever they want to do. But is it unreasonable to say that because of passage of time and intervening events like the Civil War, a couple World Wars, and the War with Spain, and everything that's happened since this scholarship or this program was implemented, is it unreasonable to say that passage of time combined with historical events -- and the historical events that I'm focusing on would be reconstruction, the Civil War, the devastation to the state economically and, of course, in terms of college aged young men. That's typically who was

being educated back then. Most of the college aged young men were probably killed in the Civil War from South Carolina, so there wasn't that pool to draw on. Is it so unreasonable to suggest that historical events could change or force Erskine to take the unilateral position, which arguably they may have taken, in refusing to allow the certificates to be redeemed at full value. At trial there was evidence that they gave partial credit after the war to people who wanted to redeem them. But is it unreasonable to suggest that intervening events should allow -- so that an institution may remain viable, should allow an institution like Erskine to unilaterally change the terms and conditions so that the institution itself could remain viable. Pre-bankruptcy/bankruptcy of a charitable institution is what I'm asking. I'm just throwing that out there for discussion.

MR. MAYE: Your Honor, if I could respond to the points you've brought up. In terms of the historical events. If this matter had been brought to a court in 1865 or 1870 I imagine every court would probably have the exact same sentiment you would and would uphold a unilateral alteration of this contract. But in a way it's kind of a Catch 22 because the Defendant is saying that 160 years is too long to bring this forward, but at the same time it's been 140 years since the Civil War, and the prosperity of Erskine

College has had 140 years to recover from that historical event. And their own documents in the newspaper at the time said that they would continue to honor these certificates of scholarship, so far as their means would allow. So a reasonable investor would say I understand times are bad right now. I'll keep mine until later until the time is -- until the college has recovered. And I would say that --

THE COURT: I'll run the risk that Erskine might go under because there's not enough revenue there to support it and it goes under, and if that's the case then I get zero. But I'm going to run that risk and decide to hold on to these things in the hopes that maybe at some point in the future my grandkids or great-grandkids could use them.

MR. MAYE: Exactly.

THE COURT: In a nutshell.

MR. MAYE: Exactly, Your Honor. And just to address the issue of the Court's concern for the close relationship that Reverend -- that the Reverend would have had with Erskine. We don't disagree that he was a Presbyterian minister and was probably very close related to the attempt to create this college, and probably had a morally vested interest in it, so to speak. But we would argue that just because you have a greater desire to invest in company A because you're closely connected to it doesn't -- as opposed to company B that you don't, doesn't mean that you're not

entitled to receive exactly what you've contracted to receive. I mean, $100 was a lot of money in 1853. Probably a couple months salary at minimum.

THE COURT: I think my clerk ran the numbers, and I cannot -- I think I may have said on the record last year what the present value a $100 gold piece would be in today's money, accounting for inflation and everything else. But go ahead. Yeah, it was a lot of money.

MR. MAYE: Right. And that really -- that really addresses -- that's why I wanted to address the Court's concern that the charitable relationship aspect that you brought to light. And that's all to address the Court's concerns. I'd like to address Mr. Hemphill's at a later time, if you would like.

THE COURT: If you want to touch on it now, that's fine.

MR. MAYE: Just to address a couple of things. Counsel has brought up the defense of stale demand. Stale demand is an affirmative defense and it wasn't pled in the pleadings which is why we didn't respond to it directly and stuck with laches. And on that basis we don't find it to be a proper defense at this time.

And secondly, they brought up the question of intermingling between the corporations and how that might create confusion for a stockholder trying to redeem

certificates. There's been no intermingling with Erskine or any other university, or college. It's the same college as it was back then, just older. It's still a party A to party B transaction. The question is strictly time. And as we've addressed, the documents were designed to handle the issue of time. That's all I have.

THE COURT: Very good. Anything to follow, Mr. Hemphill?

MR. HEMPHILL: Your Honor, as it relates to this 140 years that's been laid out there since the Civil War, I do think that it -- that you cannot -- that the Court in Equity cannot use such things in a vacuum. That 140 years, Mr. Maye has indicated that during that time Erskine has had the benefit of this $100 since that time.

Your Honor, the flip side of that. The other side has had 140 years to present this and present these certificates for purposes of educating a young person. For purposes of educating someone of college age. It's in the record that these -- that Plaintiffs in this case are actually in their 50s and actually knew about this when they inherited it from their prior generation in the early 1980s. So, Your Honor, there's plenty of cases that indicate that sitting on their rights and not doing anything since the 1980s, some 35 or so years, would be -- would be laches in and of itself. But, Your Honor, during that entire time that's just unreasonable

and it's a -- the Court seized upon it when you wrote that order in the first part of the year.

Your Honor, as it relates to -- my client informs me that due -- that Erskine actually merged with a female college that was located in Due West in 1900. I know that's not in the record, but I could not say that -- my client wanted it to be known that there has been somewhat of a merger during those -- under those terms.

THE COURT: Fair enough. I don't think that necessarily affects what we're here on, so -- but thank you for correcting the record on that point.

What about the argument staleness of demand constituting a affirmative defense and that wasn't pled?

MR. HEMPHILL: Your Honor, that's the first I've heard of this and it was not in the Rule 59 motion. So I have not gone back to determine whether it was and I will trust counsel's representations in that regard. Your Honor, to that extent, we certainly brought it up, as I recall, in a pretrial brief prior to the hearing in May of last year, and we certainly argued it in that. And we would argue, Your Honor, that we -- I do not recall there being an objection at trial at that time. So I would say that that position is now -- is now stale, because that would -- we could go back and look at the record. I don't recall that having been addressed before, Your Honor, at the trial of this case. So

we feel like, in effect, our pleadings are therefore amended.

MR. DAVIS: Your Honor, may it please the Court.

THE COURT: Yes, sir.

MR. DAVIS: The arguments at trial, that was raised in the argument presented by me as to -- as to what was pled or not pled. The record, I think, will reflect that.

THE COURT: Fair enough. Fair enough, gentlemen. Let me and my law clerk reflect upon what you've argued. I'll have an order out by the end of this week though. This will not be a situation where it's going to -- I don't believe it's going to take an inordinate amount of time for me to do what I intend to do. But it's always a pleasure to see you folks again.

(Whereupon, the proceeding was concluded.)

- - - END OF TRANSCRIPT OF RECORD - - -

Certificate of Reporter

I, the undersigned, Tara T. Scott, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Abbeville County, South Carolina, on the 18th day of May, 2015.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Tara T. Scott

Tara T. Scott, CVR
Circuit Court Reporter
Abbeville, South Carolina
October 2, 2015

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ABBEVILLE	)	IN THE EIGHTH JUDICIAL CIRCUIT
Robert E. Smith, and William K. Smith,	)	Civil Action No. 2011-CP-01-109
Plaintiffs,	)	
vs.	)	
Erskine College	)	
Defendants.	)	

MOTION PURSUANT TO RULE 59(e), SCRCP

Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, Plaintiffs William and Robert Smith (hereafter referred to as Plaintiffs) hereby move for an Order altering and amending the Court's Order, dated January 2, 2015 so as to recognize the Certificates of Scholarship and Sub-certificates as a fully valid and redeemable investment coupon bonds worth one year of tuition each at Erskine College. Plaintiffs received written notice of the entry of this Court's Order via mail on January 13, 2015. The grounds for this Motion are as follows:

Factual Errors

1. The Court erred in its finding of fact that there is no reference to the disputed Certificates of Scholarship since 1870's. Erskine Catalogues reference these Certificates of Scholarship and the first Endowment at least as far back as 1895. (see Plaintiffs' Exhibit 5; This

page is an excerpt from Erskine's 1895 Catalogue and discusses the two Endowment efforts in contrast to one another.)

2. The Court erred in its factual finding that the Plan of Endowment laid out the terms of the agreement between Reverend Castles and Erskine College. The Plan of Endowment is not referenced or incorporated into the agreement by the Certificate of Service and Sub-Certificates. No evidence was set forth indicating the Plan of Endowment was distributed to investors at the time a Scholarship was purchased. Consequently, there is no legal basis to conclude that the Plan of Endowment language serves as the source of the contract terms reached between investors and Erskine College; only the express language of the Certificate and Sub-Certificates constitutes the terms of the agreement.

Legal Errors

1. The Court errs in its recitation of the first element of laches. Laches requires not just a "delay by one party" but requires a *negligent* delay by a party. *Appeal of Brown*, 343 S.E.2d 649, 288 S.C. 530 (S.C. App., 1986); *Burnett v. Holliday Brothers, Inc.*, 279 S.C. 222, 305 S.E.2d 238 (1983); *Provident Life and Acc. Ins. Co. v. Driver*, 451 S.E.2d 924, 317 S.C. 471 (S.C. App., 1994) (stating laches as a negligent failure to act); *Gibbs v. Kimbrell*, 311 S.C. 261, 428 S.E.2d 725, 730 (S.C. App., 1993); *Gray v. South Carolina Public Service Authority*, 284 S.C. 397, 325 S.E.2d 547, 549 (S.C., 1985)) The Court indicates that redemption had not be sought for 160 years, but does not indicate how this is a negligent act on behalf of Plaintiffs or their ancestors. Plaintiffs set forth the argument that these Certificates of Scholarship with Sub-certificates are equivalent to coupon bonds that have no expiration or durational limit, on that basis we showed that the saving of such an investment, by its nature, cannot be negligent. The

Court remained silent as to what these Certificates are, and failed to counter Plaintiffs' argument in this regard.

2. The Court in addressing the second element of laches, cites the lack of explanation for why the Sub-Certificates remained "unredeemed from 1854 to 2008." Plaintiffs argue again that the terms of these Certificates of Scholarship and their coupon bond nature create a scenario where an investor is never *obligated* to come forth and redeem his sub-certificates if he does not desire to do so. The Court errs in imposing an express duty upon an Scholarship investor which cannot be identified in the terms of the Certificate, the terms of the Sub-certificates, the language of the Endowment Plan resolution, or in any supporting evidence. This imposed duty by the Court runs contrary to the numerous documents provided by Plaintiffs. (See Plaintiffs' Exhibits: 1, 2, 3, 5, 8, 9, 10, 11) The nature of the Certificate and Sub-Certificates provide clear explanation as to why they might be held by a family for so long, and demonstrates why 160 years in this particular investment is not unreasonable.

3. The Court cites the third element of laches to be "knowledge of the rights by a party." To this end, Plaintiffs argues that Reverend Castles and his progeny knew full well their rights, but specifically recognized the *unrestricted* nature of the investment and the opportunity for the Scholarship's value to increase substantially over time. Alternatively, and at the very least, the absence of any reference by the Certificate of Scholarship to the Court's suggested *duty* to seek redemption would confirm the lack of knowledge of such a requirement to the bearer of the Certificate.

4. The Court also erred in its discussion of the fourth element of laches by concluding that "the new endowment fund entirely altered the terms of the original 1853 endowment." The Court concludes that the second endowment altered the terms and

expectations of the parties of the first endowment, but fails to indicate the legal basis in which this was accomplished. Without the express consent of the parties involved, there is no basis in which a separate and subsequent contract can alter the terms of an earlier contract.

Since the end of the Civil War, Erskine College has fluctuated in what value a sub-certificate could be redeemed for. Such variation is indicative of the sub-certificates continued validity, as well as their distinction from the terms of the second endowment. Immediately following the war, Erskine valued a sub-certificate as being $8 of the total $40 it cost for yearly tuition. (See Plaintiffs' Exhibit 7). This alone indicates that the war has no affect on *validity* of sub-certificates. By the time the second endowment effort was underway, Erskine College had rebounded enough to offer sub-certificate redemption at a value of $10 each, equivalent to half of the value of the new scholarships being sold. (See Plaintiffs' Exhibit 8). This indicates the College's recognition of the ability for sub-certificates to *rise* in value, even after its civil war losses. It further demonstrates the distinctly separate redemption of the first scholarship endowment from the second. This fact demonstrates the Court's error in concluding that the second endowment entirely altered the first. The College has consistently recognized and valued the two scholarships separately.

The Court also errs in its legal conclusion that Defendant has rightfully relied on these Certificates of Scholarship expiring or being subject to durational limit. All of the physical evidence provided at trial demonstrates the perpetual nature of these Certificates of Scholarship, and Defendants attempt to execute the new endowment under expressly restrictive terms only amounts to an acknowledgement of the first Endowment Plan's perpetuity. As stated above, it is a legal fallacy to suggest that the the terms of one contract can effectively alter a completely separate contract without the acquiescence of the particular parties involved. Such is merely an

anticipatory repudiation, and Plaintiffs discussed anticipatory repudiation at length in their Trial Brief. Thus, there is no evidence before the Court to suggest that Defendant created a post hoc expiration to documents that the Court has expressly recognized to be lacking an expiration or durational limit.

Further, it is error for the Court to consider Erskine's repudiation as a basis in which to find a justifiable reliance on Plaintiffs' abandonment of their Certificate rights. '[O]ne who openly defies known rights, in the absence of anything to mislead him or to indicate assent or abandonment of intent to oppose on the part of others, is not in a position to urge as a bar [to relief in equity] failure [of the plaintiff] to take the most instant conceivable resort to the courts.' *Timms v. Timms*, 290 S.C. 133, 348 S.E.2d 386, 389 (S.C. App. 1986) (citing *Archambault v. Sprouse*, [290 S.C. 139] 215 S.C. 336, 341, 55 S.E.2d 70, 77, 12 A.L.R.2d 388 (1949). "Equity will deny the defense of laches to a defendant where delay in asserting a right was induced by defendant's acts, representations or conduct, the repudiation of which would amount to breach of good faith." *Id.* (citing Nowell v. Great Atlantic & Pacific Tea Co., 250 N.C. 575, 108 S.E.2d 889 (1959). "Laches is found on right conduct and fair dealing. *Id.* (citing *Premium Investment Corp. v. Green*, 283 S.C. 464, 324 S.E.2d 72 (Ct.App.1984). The Court's Order acknowledges that the only basis in which Defendant bases its reliance, is on a repudiation and separate subsequent contract.

5. The Court errs in finding that prejudice against Defendant would result from the validation of this Certificate of Scholarship. The payment of $100 for a Certificate of Scholarship represents an investment with risks and rewards for each party. There is no denying that tuition is worth considerably more than it was in 1853. However, this was the exact *expectation* behind the Certificates of Scholarship that Erskine College offered to investors. They

sought large sum advance payments from investors, in return for that investors ability to have free tuition in future years when the tuition fee will likely have increased. An investor's risk came from the very real possibility that a young College in Due West, South Carolina may not survive for twenty-five years, drastically reducing the profit of their investment or even eliminating their investment entirely.

There is no prejudice in the College's expectation of the Endowment Plan, nor is there prejudice in the end result of the Endowment Plan. As is submitted in Plaintiffs' Trial Brief, $100 dollars in principle, and the opportunity for gaining compound interest for 160 years was an investment opportunity for Erskine College that could have easily amounted to hundreds of thousands of dollars in profit. The simple fact that tuition costs have risen since 1853 is not sufficient prejudice for laches to defeat a perpetual Certificate of Scholarship, especially given that the Endowment Plan marketed the prospect of increased tuition costs as the selling point for their Certificates of Scholarship.

6. The Court commits an error of law in failing to identify the legal nature of Plaintiffs Certificate of Scholarship. Aside from a descriptive reference to Reverend Castle's "investment" the Court's Order is silent as to whether Plaintiffs' Certificate of Scholarship constitutes a simple contract, or whether they constitute an investment bond with attached coupons. The nature of the document is a crucial aspect of the case because it determines whether laches is even an available defense. The doctrine of Laches cannot be applied to bond investments; they are an investment with inherent perpetuity so long as the issuing institution still exists to honor them.

The evidence submitted to the Court all points to these documents being an investment

bond with attached coupons. Defendant's governing body recognized the Certificate of Scholarship investors to be "stockholders". (See Plaintiffs' Exhibit 10). The document looks like a Coupon Bond, the nature of the Sub-Certificate language entitling *bearer* to the stated tuition lends itself to bearer bonds, and the Defendant's acknowledgment of the need to burn any remaining coupons, as opposed to throwing them away, indicates their bond nature and the unrestricted ability to redeem these coupons. Furthermore, in the years following the Civil War, the redeemable value Erskine permitted declined, but later rose back up. Such is the nature of stocks and bonds. Collectively, this evidence along with the additional evidence provided at trial meets the preponderance of the evidence burden, and the Court's ruling in favor of Defendant is in error.

Laches can only apply to legal interests that remain "negligently" unasserted. *Appeal of Brown*, 343 S.E.2d 649, 288 S.C. 530 (S.C. App., 1986). Here there is no affirmative obligation on an investor to bring forth his Certificate of Scholarship for redemption, just as a stock or bond holder could continue to save his investment in the hope of increased future value. By way of example, an original purchaser of bonds or stock from a company like General Electric cannot be refused simply because their investment is old. That is essentially the ruling this Court has come to, and such a ruling is in error.

7. For the above reasons, Plaintiffs requests that this Court reconsider and/or alter and amend its Order dated January 2, 2015.

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BY: _____
James Randall Davis
ATTORNEYS FOR PLAINTIFFS

Lexington, South Carolina
January 21, 2015

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**EIGHTH JUDICIAL CIRCUIT**
COUNTY OF ABBEVILLE	)	**CIVIL ACTION NO. 2011-CP-01-109**
	)	
Robert E. Smith and William K. Smith,	)	
	)	
Plaintiff,	)	
	)	**DEFENDANT'S RESPONSE TO**
vs.	)	**PLAINTIFFS' MOTION PURSUANT TO**
	)	**RULE 59(e), SCRCP**
Erskine College,	)	
	)	
Defendant.	)	

The Defendant, Erskine College ("Erskine"), responds to the Rule 59(e), SCRCP, motion filed by Plaintiffs, Robert E. Smith and William K. Smith, as follows:

A Rule 59(e) motion is reserved to those situations where a judgment should be altered or amended because the trial court failed to consider a material issue which was properly raised before the court. If the trial court has effectively addressed all material issues, then such a motion should be denied. Wilder Corp. v. Wilkes, 330 S.C. 71, 497 S.E.2d 731 (1998). Erskine submits that the Court has effectively addressed all material issues raised by the parties as set forth below:

1. The Court properly considered all the evidence presented and found the evidence presented by Erskine to be more credible. These findings should not be disturbed.

2. As to Factual Error 1 raised by Plaintiffs, the Court properly found that there is no reference in Erskine's catalogs after the 1870s indicating that the Certificates issued under the 1853 Plan of Endowment may be used to pay tuition or that Erskine would recognize the validity of such Certificates.

3. As to Factual Error 2 raised by Plaintiffs, the Court properly found that the 1853 Plan of Endowment laid out the terms of the agreement between Reverend Castles, Plaintiffs'

predecessor-in-interest, and Erskine. The printed words found on the Certificate and Sub-certificates do not fully state the offer made by Erskine. Instead, the Endowment Plan of Erskine's Board of Trustees stands as a complete statement of the offer, and the payment made by Reverend Castles constitutes his acceptance of the offer. In fact, the Endowment Plan states that "On the payment of Scholarships, subscribers or purchasers of the same shall be furnished with a certificate, signed by the President and Secretary of the Board of Trustees of the said Erskine College, guaranteeing to the said subscribers the **privileges enumerated by the resolutions of the Board**, according to their relative subscriptions." See Defendant's Exhibit 1, Erskine 00004-00006 (bold emphasis added). The Endowment Plan contemplates that the Scholarship Certificate and Sub-certificates were merely evidence of the offeree's acceptance of Erskine's offer and the terms of the offer were set forth in the resolutions of the Board of Erskine. The Certificate and Sub-certificates are only evidence of Reverend Castles' acceptance of Erskine's offer and of the amount of the consideration exchanged. They do not constitute the entire contract between the parties. The terms of the contract are found in the Endowment Plan. See generally Columbia East Associates v. Bi-Lo, Inc., 299 S.C. 515, 519, 386 S.E.2d 259, 261 (Ct. App. 1989) (finding once a contract is before the court for interpretation, the main concern of the court is to give effect to the intention of the parties); Maccaro v. Andrick Development Corp., 280 S.C. 96, 100, 311 S.E.2d 91, 94 (Ct. App. 1984) (finding courts may look to the circumstances surrounding the bargain as an aid to ascertaining the intention of the parties).

4. As to the Legal Errors raised by Plaintiffs, the Court properly set forth the elements of laches and properly determined that the Plaintiff's claim is barred by laches. (Order pp.5-9). The elements of laches are: delay by a party, unreasonably or unexplained length of time, knowledge of rights by the party, reliance on non-assertion by the other party, and prejudice to that other party if the right is now asserted. Eldridge v. Eldridge, 398 S.C. 113, 121-22, 728 S.E.2d 24, 28 (2012).

Laches connotes not only an undue lapse of time, which is unreasonable and unexplainable, but also negligence and opportunity to have acted sooner. Id. The doctrine of laches may bar claims even though the statute of limitations period has not year expired on those claims. Bell v. Mackey, 191 S.C. 105, 3 S.E.2d 816, 824 (Sup. Ct. 1939). Erskine maintains that the statute of limitations has run on Plaintiffs' claim, but assuming arguendo it has not as Plaintiffs maintain, then laches still bars Plaintiffs' claim in this case as a matter of public policy. See Lyerly v. Yeadon, 199 S.C. 363, 19 S.E.2d 648, 654 (1942) ("In matters of account, where they are not barred by the act of limitations, courts of equity refuse to interfere after a considerable lapse of time, from considerations of public policy, and from the difficulty of doing entire justice when the original transactions have become obscure by time, and the evidence may be lost."). Laches "is based on the injustice that might result from the enforcement of long neglected rights, the difficulty, if not the impossibility, of ascertaining the truth of the matters in controversy and doing justice between the parties, and on grounds of public policy, its aim being the discouragement, for the peace and repose of society, of stale and antiquated demands." Hemingway v. Mention, 228 S.C. 211, 217, 89 S.E.2d 369, 371-72 (1955).

The Court properly found that160 years is more than sufficient time for Plaintiffs or their predecessors-in-interest to have asserted a claim under the Sub-certificates and their failure to do so was negligent, unreasonable, and greatly prejudicial to Erskine. Plaintiffs admit that they and their predecessors knew they had a right under the Sub-certificates and they admit that 160 years have elapsed since the issuance of the Certificate. "[A] long lapse of time, . . . especially when taken with other circumstances, may create a presumption that a valid right never existed; or that if it existed it has been satisfied, or lost by abandonment, waiver, acquiescence, or equitable estoppel." Lyerly, 199 S.C. at 363, 19 S.E.2d at 654. Further, the Court correctly found that Erskine has not honored these types of Certificates since the 1870s and that the Civil War almost depleted the Endowment Funds,

causing Erskine to honor the certificates on a reduced basis. In addition, Erskine would be greatly prejudiced if these types of Certificates were honored. Erskine has no records or knowledge of how many Certificates from the 1853 Endowment Plan may still exist and the discrepancy between the 1854 tuition rate and today's tuition rate could cause Erskine to shut its doors or at the very least cause a significant financial strain on Erskine. Equity cannot allow parties such as the Plaintiffs to sleep on their rights for almost 160 years. "Equity aids the vigilant, not those who slumber on their rights." Eldridge, 398 S.C. at 121, 728 S.E.2d at 28 (quoting Hemingway, 228 S.C. at 211, 89 S.E.2d at 369). Plaintiffs were not vigilant and Erskine relied on their abandonment of the Certificate and Sub-certificates for the past 160 years and would be unduly harmed if the Certificate and Sub-certificates were honored. The Court properly applied the doctrine of laches to this case.

The Court also properly found that Erskine has not honored these certificates in over 140 years, and that Reverend Castles and the original authors of the Endowment have long since passed and no one remains to explain the intent of Erskine or Reverend Castles. (Order p. 7). The only just result in this case, where Plaintiffs and their predecessors-in-interest sat on their rights for 160 years, where all of the witnesses to the transaction are deceased, and where Erskine would be extremely prejudiced in having to accept 25 Sub-certificates that were initially secured for $100 but which can be viewed as being collectively worth approximately $750,000 is to affirm the Court's decision that the doctrine of laches applies.

5. For the reasons above and based on the Court's ruling on staleness, which was not addressed in Plaintiffs' motion, the Court's Order dated January 2, 2015, should be affirmed in its entirety.

Respectfully submitted,

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May 14, 2015
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PLAINTIFFS' EXHIBIT 1

ERSKINE COLLEGE,

PLAN OF ENDOWMENT.

Whereas, a number of Colleges in the country are adopting the plan of Endowment by Scholarships; and whereas, it is important that Erskine College should be placed on an equal footing, in this respect, with other colleges, and in circumstances to afford an education not only as thorough, but also as cheap as any other Institution in the land; therefore

Resolved, That the following plan of Endowment be adopted by the Board of Trustees for Erskine College, viz:

An Endowment Fund of a Hundred Thousand Dollars shall be created by the sale of Scholarships, which Scholarships shall be offered on the following terms and conditions:

1. The payment of forty dollars ($40) shall endow a *single scholarship*, which shall entitle the subscriber to the tuition of *one student* during the term of six years.

2. The payment of sixty dollars ($60) shall endow a Scholarship which shall entitle the subscriber to the tuition of one or more of his own sons, or of any students he may select, amounting in the aggregate to *twelve years*.

3. Any person paying or securing to the Trustees of said College the sum of one hundred dollars ($100) shall be entitled to the education, free of tuition expenses, of one son or nominee for the term of *twenty five years*, or of two or more pupils at the same time, amounting in the aggregate to twenty five years.

4. No sales of limited scholarships shall be binding, either on the purchaser or on the Board of Trustees, until scholarships amounting to *fifty thousand dollars* are sold, (due notice whereof shall be given in the public prints,) after which time all contracts for scholarships, made previous to that date, shall be binding on the parties concerned, shall become due, and bear interest. On the payment of Scholarships, subscribers or purchasers of the same shall be

Erskine00004

furnished, with a certificate, signed by the President and Secretary of the Board of Trustees of the said Erskine College, guaranteeing to the said subscribers the privileges enumerated by the resolutions of the Board, according to their respective subscriptions.

5. All sales of scholarships which shall be made after the fifty thousand dollars specified in section fourth is obtained, shall be for cash.

6. The purchaser of a limited scholarship may enjoy the advantages of the same at such time, and at such intervals, as may suit his convenience.

7. Any individual, association of individuals, or congregation, who shall pay or secure to the Trustees of Erskine College, the sum of five hundred dollars ($500), shall be entitled to a perpetual scholarship, to which the party or parties may appoint any pupil he or they may think proper.

8. The funds arising from the sale of scholarships shall be invested in bonds or stocks of the State, or of the United States, the Banks of the State of South Carolina, or well secured individual bonds, and the interest or income only arising from such investment shall be appropriated to increase the advantages of Education in said College.

9. All scholarships created by these proceedings, both limited and perpetual, may be transferred by bargain or sale, or assigned, or devised by Will: and in the case of intestacy, they shall pass to the administrators as other property.

10. Unless the sum of fifty thousand dollars ($50,000) be raised by the 1st of August, 1855, the above scheme of Endowment shall be abandoned.

11. All students sent to said College on any of these scholarships shall be subject to the regulations and discipline of the Institution.

12. Subscriptions to the perpetual scholarships shall in all cases be binding; but the subscribers will not be required to make payment until one year after the date of their subscriptions: and whenever the money is paid, they shall receive Certificates securing to them the benefit of their scholarship.

Resolved, That the following form of Bond be adopted by the Board of Trustees to carry out the foregoing act establishing scholarships in Erskine College:

SCHOLARSHIP BOND.

Whereas, the Board of Trustees of Erskine College, Abbeville District, South Carolina, in order to raise the sum of Fifty Thousand Dollars, and upwards, for the purposes of education, did on the 8th day of April, A. D. 1853, pass certain resolutions to the effect that the subscription and payment of certain sums should entitle the person or persons so subscribing, to the privilege of so many years School-

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arship in the said Erskine College, as by said Resolutions will more fully and particularly appear.

Now, know all men, that we, the subscribers in order to entitle ourselves to said privilege, and in order to contribute towards raising said sum, do hereby acknowledge ourselves held and firmly bound unto John L. Ellis, the Treasurer of said Board, his executors, administrators or assigns, in the sums of money annexed to our names, to be paid to the said treasurer, his successor in the office of treasurer, or assigns; for which payment, well and truly to be made, we severally bind ourselves, our executors and administrators, firmly by these presents.

The condition of the above is, that if said sum of Fifty Thousand Dollars be raised on or before the first day of August, 1855, then the sums subscribed by us below, are to be paid as aforesaid, to bear interest from the time the said sum of Fifty Thousand Dollars is raised by subscription: but in the event the said sum of Fifty Thousand Dollars shall not be raised on or before the first of August, A. D. 1855, then the subscriptions below are to be null and void.

Given under our hands this the day respectively on which we hereunto subscribed the sums severally annexed to our names.

Done at Lindsay Hall, Erskine College, April 8, 1858.

E. E. PRESSLY, President.

J. I. BONNER, Secretary.

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PLAINTIFFS' EXHIBIT 2

PLAINTIFFS' EXHIBIT 2

FURMAN COLLEGE, SOUTH CAROLINA.

No.

CERTIFICATE OF SCHOLARSHIP.

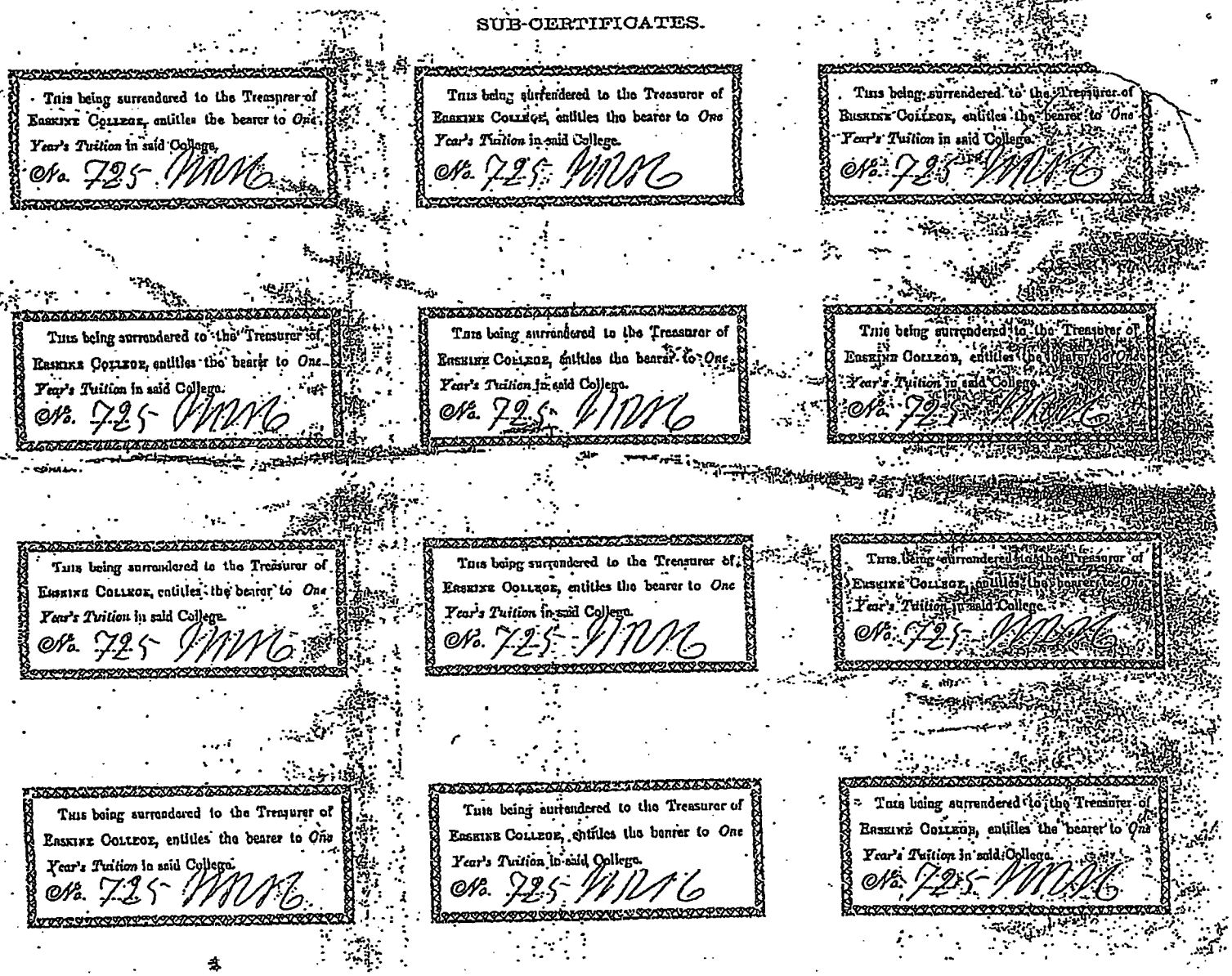
THIS CERTIFIES that, for and in consideration of One Hundred Dollars, paid to JOHN N. YOUNG, Treasurer of the Board of Trustees of Furman College, or to his successor in office, Rev. J. R. Castles is entitled to Twenty Five Years of Tuition in said College; which Tuition is to be obtained on the surrender of the accompanying Sub-Certificates—each Sub-Certificate entitling to One Year's Tuition.

E. E. Prestley, President

J. F. Hamner, Secretary

PRINTED BY J. J. KELLAND & CO. GREENVILLE, S. C.

PLAINTIFFS' EXHIBIT 3



SUB-CERTIFICATES.

This being surrendered to the Treasurer of Erskine College, entitles the bearer to *One Year's Tuition* in said College.
No. 725 WMM

This being surrendered to the Treasurer of Erskine College, entitles the bearer to *One Year's Tuition* in said College.
No. 725 WMM

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No. 725 WMM

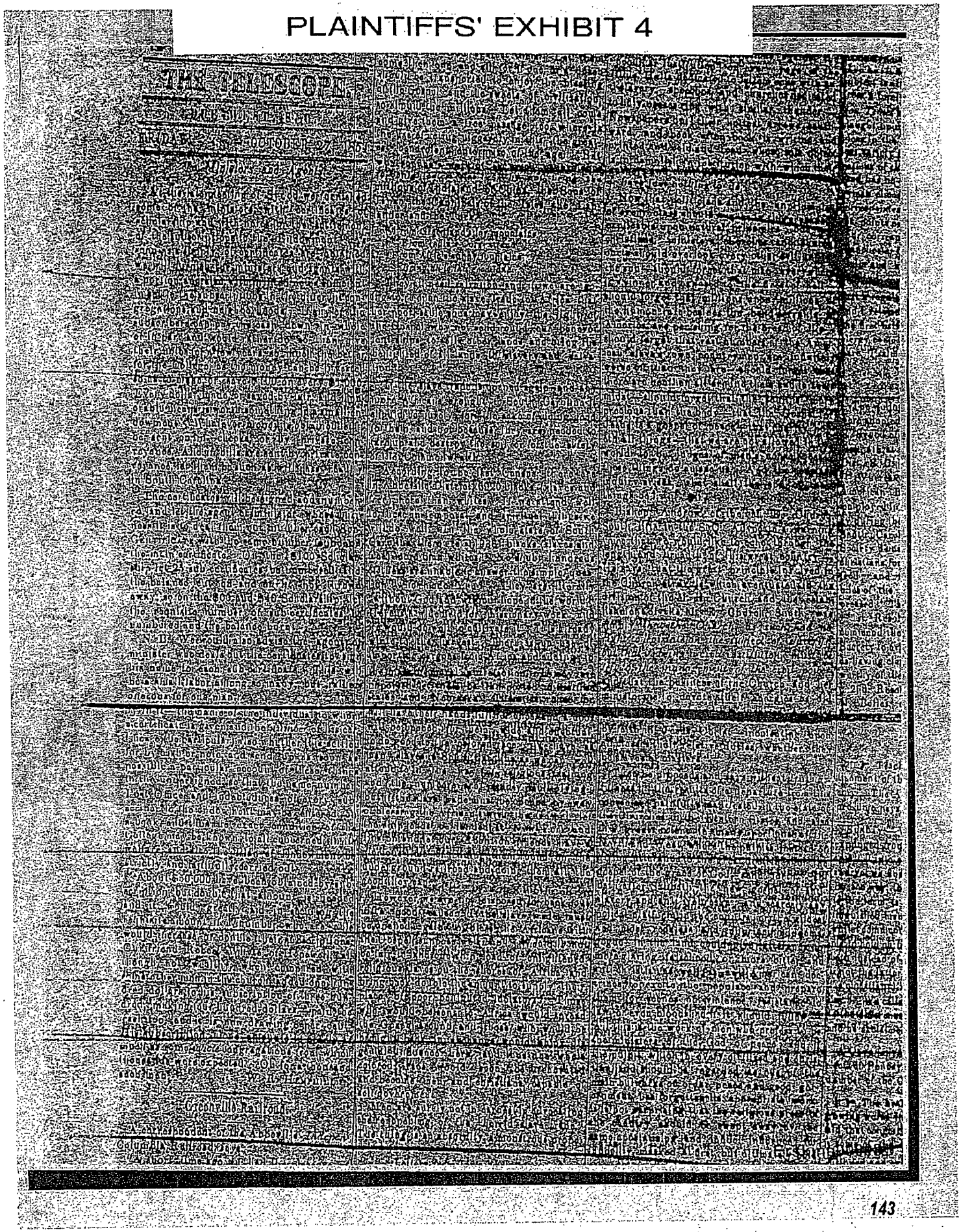
This being surrendered to the Treasurer of Erskine College, entitles the bearer to *One Year's Tuition* in said College.
No. 725 WMM

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This being surrendered to the Treasurer of Erskine College, entitles the bearer to *One Year's Tuition* in said College.
No. 725 WMM

PLAINTIFFS' EXHIBIT 4



raised towards the endowment of the College." This, in connection with funds previously received from Captain Blair and others, and more recently from Christopher Strong, Esq., of Tennessee, and Col. Wm. Wright, of Yorkville, S. C., raised the endowment to about $70,000.

The result of the late war swept away all of this endowment, excepting about $18,000. Having tried some temporary expedients, the Synod, in 1871, entered on a second effort to secure a permanent endowment. The plan was similar to the one of 1853, except that the price of scholarships was raised to $20 each, and the term of the College obligation limited to 1895. Though the friends of the College were impoverished and discouraged by the disasters of the war, this effort met a liberal response, and the sale of scholarships, together with a few additional donations and bequests, raised the endowment to about $80,000. The largest donation was $15,000 by Mrs. Ann Wallace of Kentucky, and the largest bequest the College has received was by the will of the late Dr. Hearst, of Abbeville, S. C. He left two-thirds of his estate to the College. About $11,000 was realized on it.

Location.—Erskine College is located in the upper part of Abbeville County, South Carolina, four miles from Donnald's Station, on the Columbia and Greenville railroad. The location is high and healthful; the population intelligent and moral. There are few temptations to vice compared with those that exist in larger cities. The village has a population of about 800. Mails are received twice a day, and there is a telegraph office connecting with the lines of the Western Union.

Buildings.—The first College building was burned in January, 1892. Before this, active measures had been taken for the erection of a new building. This building is now complete and was formally dedicated in June, 1893. It is of modern style and one of the handsomest college buildings in the State. The rooms are large and well ventilated and admirably suited for recitation and lecture

PLAINTIFFS' EXHIBIT 6

Session and Vacation.

The College Session commences on the First Monday of November, and closes on the Second Wednesday of August. The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the Third Monday of March.

It is very important that Students should enter or return to College at the beginning of the Session, since an absence of a few days at a time when a branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

Expenses.

Tuition in the Preparatory Department, (per term,) –12,50.
Tuition in the College Classes, (per term,) $16,00.
Boarding, Lodging and Washing, $9 to $12 per month.
Fuel and Light to each room, $8 to $10 per annum.
Contingent expenses, $1 per term.

Those who have Scholarships, can, of course, pay their tuition with Sub-Certificates.

Tuition, whether in Cash or Sub-Certificates, invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a Student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

PLAINTIFFS' EXHIBIT 7

TUESDAY, 10 A. M., September 18, 186

Synod met. Opened with prayer by the Moderator. Members present as before.

Dr. J. P. Pressly, from the committee on Overtures, submitted a report to the effect that certain persons in Ohio had applied to be received under the care of this Synod; the committee recommend that this petition be referred to the Presbytery of Kentucky. This report was adopted.

Mr. Bonner submitted the following report on Erskine College, which was adopted:

REPORT OF COMMITTEE ON ERSKINE COLLEGE.

From the report of the Board of Trustees we learn that Rev. E. L. Patton has tendered his resignation of the Presidency, and Prof. J. P. Kennedy of the Professorship of Latin in the Institution, and that these resignations have been accepted by the Board. That Rev. R. C. Grier, D.D., has been re-elected to the Presidency, Rev. J. P. Pressly, D.D., to the Professorship of Greek, and Rev. E. L. Patton to the Professorship of Latin. The two former of these have accepted the positions to which they have been called.

That about two-thirds of the endowment fund have been lost by the reverses of war, and that in consequence it has been determined to charge tuition at the rate of $40 per annum in gold or $32 in gold and one certificate of scholarship per annum.

That Dr. George W. Pressly was at a late meeting appointed an agent to solicit funds for the benefit of the College. Your committee would recommend that the action of the Board in several matters referred to be approved by Synod.

In the report of the treasurer it is stated that there are about twelve thousand dollars in the shape of private notes, still due to this College. Your committee would recommend that the treasurer be directed to solicit at least the interest on said notes.

In view of the present state of the College and the increasing demand for ministers it seems to your committee important that the attention of the churches should be called to the Institution. And as the Synod has no common medium of communication the pastors must do the work. The importance of the College to the Church will not be questioned—the history of the Synod, its increase and prosperity since the College was founded and being a feeder of our Theological Seminary, and thus has continued to supply the church with ministers of her own training, and therefore in full sympathy with her, these things show too plainly the need further development the claims of the College upon the Church.

For the last five years the exercises of the College have

PLAINTIFFS' EXHIBIT 8

Expenses.

Tuition per year, $40.
Boarding and Lodging, $12 per month.
Fuel and Lights to each room, $10 to $13 per year.
Washing can be procured at 60 cents per dozen.
Contingent Fee, $3 per year.
Those who have paid-up Scholarships can pay $10 of their tuition with a sub-certificate.
One Scholarship of $100, in the new endowment, pays tuition for five years.
Tuition invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

MODERN LANGUAGES.

Prof. E. L. Patton is well qualified to give instruction, to those who may desire it, in the French and Italian languages; for which a reasonable compensation will be demanded.

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PLAINTIFFS' EXHIBIT 9

More
s not l

omes from every part of the wide-spread field, and from every branch f the church, "come over and help us." n no case have we observed the sup-ly equal to the demands: but many nportant fields have been left neces upied, or, at least, only partially cul-rated. At the same time, wicked-ess abounds and the enemies of the ord come in like a flood—conse-nently, we need more agents to ield the sword of the spirit against em. Therefore, "pray ye the Lord the harvest that he would thrust t laborers into the harvest, for the rvest is great, but the laborers are ira[illegible] But as this is not an era of [illegible] to h[illegible] carry talents and treasures of ie church at any time [illegible] his great ork; yet, as we can only expect an dequate supply of ministerial force hrough the ordinary channels. The ous and hopeful must be sought out, ncouraged and directed to the great ork of preaching the gospel. Pa-nts must dedicate their sons to the ork. If they cannot educate all, ey must fall back upon the custom f the olden time, and select one, the rst born, or the most promising, per-aps, and direct all the energies of the mily for the furnishing of this Sam-l to minister before the Lord.—econd, another great want of the urch is the re-establishment of mething like Parochial Schools and denominational Colleges. These ave long proved to be nurseries for e church. They furnish facilities hich other institutions do not—and ing founded in the prayers and lib-rality of the church, and surrounded ith a religious atmosphere, God has en pleased to bless them, and they turn have been a blessing round out.

at to select only one more want mong so many, a religious press and ured literature is likewise a grand ideratum. In this age of progress denomination can be expected to urish that will not support a reli-ous press—something is wanted as common medium of communication, mouth-piece for the whole church, ying its weekly visits to every fam-, where parent and child can read gether the wonderful works of the rd in the distant parts of his king m, and rise from the perusal, glow-g with love and zeal for the glory d and the good of souls. You may pense with your coffee or choco-e or tea, your cloths and silks, as u have so recently done, without y diminution of real happiness; t with your religious newspaper, r—no, never. S. N. N.

REENSBORO, ALA.—A correspondent ites: "The University has opened h a good number of students, and ers are expected. From seventy-to eighty have matriculated in several schools, which, consider-the short crop of cotton and gen-l despondency of the people, is en-encouraging."

sleeping in the dust has been anticipated I think. * * * The little Bible you gave him when he separated from you is at my house with all its precious treasures within—by your own hand for his comfort and consolation during his absence.

He parted with this Bible last of all earthly things. His wife was upon his lips all the time waking or sleeping in the delirium of fever or in his freedom from it, still he talked of her. * * * No more manly spirit fell in his country's cause than that of Capt. Prather. * * *

P. S. Since writing the foregoing I looked at that little Bible. The plaited hair of yourself and child is there—a number of sweet momentoes that tell the story, [illegible] is there. * * * I received several letters from him whilst a prisoner at Johnson's Island, and furnished him a full and complete outfit of clothing whilst there. I would be pleased to hear from you at any time my dear Madam, and believe me most respectfully the Southern widow and orphan's friend,

S. G. K.

ERSKINE COLLEGE.

THE friends of this Institution will be gratified to learn that it is again in operation. Since the summer of 1861 it has not enjoyed its former prosperity, owing to the withdrawal of the students, then in attendance, to connect themselves with the army and the continued demand for the services of all the young men of our country until the close of the war. It is believed that now both the Church, by whose instrumentality the College was established, and the country call for its services in sustaining the banner of LIBERAL EDUCATION. In conformity with this conviction it has been re-organized and opened for the reception of students, and has met that degree of public confidence that warrants the hope that ere long it will resume its former career of distinguished usefulness. Rev. R. C. GRIER, D. D., its former President, and a corps of experienced Professors are employed in conducting its operations.

The disasters of the late war have imposed the necessity of a change of the terms of admission, a large part of the funds of the College having been lost, in the failure of the Confederate Government. It is proposed to honor the certificates of the scholarship so far as the resources of the College will admit.

Tuition per year, $40 in specie, or its equivalent in currency, or $32 and one sub-certificate of scholarship and $8 College Fee, both half yearly, in advance. Fuel, lights, and washing charged extra.

Notice is extended that indigent young men who have been maimed in the war will be admitted free of tuition on application and presentation of certificate of good moral character. A similar certificate is demanded of all applicants for admission.

The Collegiate Year begins on the First Monday of October and ends on the 2d Wednesday of July. In ordinary circumstances it is better for students to enter at the beginning of the Collegiate Year, yet they will be admitted and classed according to attainments at any time.

By order of the Faculty.

JOSEPH F. LEE, Sec'y.

Due West, S. C., January 1, 1867.

FOR PALATKA,

Fernandina, Jacksonville, and all Landings on the

ST. JOHN'S RIVER.

THE SPLENDID STEAMSHIP

DICTATOR,

(1,000 *Tons Burthen*)

CAPT. LOUIS M. COXETTER, will sail from Adger's Wharf for the above places every FRIDAY NIGHT, at 10 o'clock, until further notice.

For Freight or Passage, apply on board or to Office of the Agency, 17 Vanderhorst's Wharf.

J. D. AIKEN & CO., Agents.

Jan. 7 1867, 1, 3m.

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begins 1st March. But pupils are received at any time, and will be charged from the time of entering.

For further particulars address the subscriber.

J. L. BONNER.

Due West, S. C., January 7, 1867, 1, 3m

College of Charleston, S. C.

THE FACULTY of the College of Charleston would respectfully inform parents and guardians of young gentlemen desirous of obtaining a College Education, that this Institution has been re-opened under very favorable auspices and at a greatly reduced rate of which are only Forty Dollars per Annum, payable quarterly. Students from the interior can obtain board at reasonable rates, in respectable private families residing in the city.

ADMISSION.

[illegible] will be expected to possess a thorough knowledge of Cæsar's Commentaries, Virgil, Cicero's Select Orations, and Sallust. They must also possess accurate and minute knowledge of the Latin Grammar and Prosody.

In Greek, they will be expected to possess a thorough knowledge of Valpy's Greek Grammar, Author's edition, and be able to translate and parse with readiness any portion of Jacobs's Greek Reader, the first two books of Xenophon's Anabasis, and the first two books Homer's Iliad.

In Mathematics, their knowledge will be expected to include Arithmetic (including Fractions, Vulgar and Decimal,) Extraction of Square and Cube Root's, Young's Algebra through simple Equations, and first three books of Legendre's Geometry.

Geography, both Ancient and Modern, will be the subject of rigid examination.

N. B.—Students will be admitted to a partial course, upon special application.

FACULTY.

N. R. MIDDLETON, LL D., Pres't
Professor of Logic, Political Economy, and the Evidences of Christianity, and Horry Professor of Moral and Political Philosophy.

REV. JAMES W. MILES, A. M.,
Professor of the Latin and Greek Languages and Literature, and of Roman and Greek Antiquities.

LEWIS R. GIBBES, M. D.,
Professor of Astronomy, Physics and Chemistry.

JOHN McCRADY, A. M.,
Professor of Mathematics.

F. A. PORCHER, A. M.,
Professor of History, Ancient and Modern, Rhetoric, Belles Lettres, English Composition and Elocution.

F. S. HOLMES, A. M.,
Professor of Geology, Palæontology and Zoology, and Curator of the Museum;

LEWIS R. GIBBES, A. M.,
Secretary of the Faculty.

Jan. 1, 1866, 1, 2t.

J. J. CUNNINGHAM,

NO. 2, WHITE'S BLOCK,

ABBEVILLE C. H., S. C.,

DEALER IN

DRY GOODS,

MILLINERY GOODS,

Notions,

Clothing, Hats and Caps,

BOOTS, SHOES, GROCERIES,

Wood and Willow Ware,

Hollow Ware;

CROCKERY and GLASS WARE

SADDLERY, &c., &c.

☞ Goods will be given in exchange for all kinds of country produce, and the highest market price allowed for the same.

J. J. CUNNINGHAM.

Jan. 7, 1867, 1, tf

The Associate Reformed Presbyterian
V. 1, # 1 Jan 7, 1867

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PLAINTIFFS' EXHIBIT 10

REPORT OF THE COMMITTEE ON ERSKINE COLLEGE.

The Committee on Erskine College beg leave to say that they have had before them the report of the Board of Trustees, embodying the report of the Treasurer, and an earnest memorial from the Alumni Association of Erskine College.

These papers contain some things to which the attention of Synod is directed.

1. The operations of the College were attended with some degree of success during the last year. The services of three members of the Faculty were required for the whole year, and the services of a fourth for a part of the time. The number of students in attendance was 39.

2. The salaries of members of the Faculty employed, have been paid to date out of tuition received, and the interest which had accumulated during the war, on invested funds.

3. From the Treasurer's report we learn that there are available of invested funds of the old endowment $13,018.50; of accumulated interest there remains in the hands of the Treasurer, $1,008.18; tuition due to date and unpaid, $440.

The Treasurer hopes that something may be realised from other funds in the future.

From other sources we learn that there remains of the invested funds of the Theological Seminary, including principal and interest, the sum of $2,300.

4. The attention of Synod is called to the fact, that the following members of the Board of Trustees go out of office at this time, to wit: Rev. J. P. Pressly, D. D., Dr. Jas. L. Miller, Dr. George W. Pressly, Dr. John W. Hoarst, Col. W. S. Chalmers, Gen. P. H. Bradley, Maj. W. K. Bradley, Col. Samuel Dounald, and D. O. Hawthorne.

We recommend the re-appointment of all the above-named members of that Board, with the addition of Rev. R. W. Brice, Rev. J. C. Williams, Rev. J. O. Lindsay, Professor J. P. Kennedy, and Dr. R. P. Clarke.

5. The report of the Board contains the fact, that the Faculty of the College, including President and all the Professors, have tendered their resignations. Your Committee recommend that these resignations be accepted, and, for the purpose of reorganising the Faculty, an election be held to-morrow morning, at 11 o'clock, for a president and four professors, to wit: a Professor of Greek; Professor of Latin; Professor of Mathematics, and a Professor of History and Belles Lettres.

6. The Board submit the following arrangement for the College in future, which we recommend to be adopted:

(a) That the President of the College receive as a salary, $1,000, and that each Professor receive $900.

(b) That an association be immediately formed of two hundred or more persons, who shall each agree to pay twenty dollars annually, for five years: every member of said association being entitled to tuition free, for one student, for every twenty dollars so paid, or for fifteen dollars and one sub-certificate, if he be an original stockholder in the old Endowment. This scheme shall go into operation so soon as two hundred names shall have been obtained—the tuition to be enjoyed as the money is paid.

(c) That an annual collection be taken up in December in each year, in all the churches for the benefit of the College and Seminary—any congregation to be allowed the tuition of one beneficiary for every twenty-five dollars collected and paid annually into the Treasury of the College.

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(d) That tuition be fixed at forty dollars per annum, but any one holding sub-certificates, or perpetual scholarships, on the presentation of one of these, shall be allowed ten dollars per annum in the payment of tuition.

(e) That an agent be appointed to visit the churches under the care of this Synod, raise subscribers to the Twenty Dollar Association, and enlist the interest of the people in the enterprises of the Church; the said agent to receive a salary of nine hundred dollars and his expenses paid.

(f) That the College and Seminary be combined for the present, and the same corps of Professors serve both.

Your Committee notice with pleasure the memorial of the Alumni Association, addressed to the Synod, earnestly urging upon her attention the interests of the College, and generously offering to co-operate in sustaining and advancing their *Alma Mater*.

We recognise this as an encouraging fact in connexion with the College in its present depressed condition, and would recommend that Synod cordially accept the proffered assistance, and that each alumnus be requested to interest himself in carrying out the above scheme of sustentation.

Your Committee have had their attention called to the fact that there are a number of subscribers to the old Endowment whose notes are yet unpaid.

In view of the changed circumstances of the country, we recommend that those claims be settled by a fair and generous compromise; and that the treasurer and agent be fully empowered to make said settlements.

J. I. BONNER, Chairman.

Dr. Hemphill submitted a report on Presbyterial Reports, which was adopted, and is as follows:

REPORT ON PRESBYTERIAL REPORTS.

The Committee, to whom was referred the Presbyterial reports, have had the same under examination, and are pleased to notice the encouraging accounts of the work of the Lord in the congregations under the care of Synod.

The blessing of God has rested on the labors of the husbandman, as well as upon the work of the ministry.

Sickness has prevailed in some sections—death in others. Three ministers have been removed by death, we trust to the heavenly inheritance, viz., Revs. J. L. Young, J. M. Young, and Josiah Moffatt.

Your Committee recommend that Rev. John Miller prepare a biographical sketch of Rev. J. M. Young; that Rev. David Pressly prepare a sketch of Rev. J. L. Young, and Rev. R. C. Grier write a sketch of Rev. Josiah Moffatt, and that these sketches be published in the *Associate Reformed Presbyterian*.

The report from the Memphis Presbytery states that four ruling elders of that Presbytery departed this life since the last meeting of Synod. The names of these officers are not given, which we consider an oversight.

Two Presbyterial reports direct the attention of Synod to the condition of the colored population. The report of the First Presbytery says: "There ought to be a more general and direct effort on the part of the Church to enlighten and convert this people."

The Memphis report "urges a more vigorous and persevering effort in behalf of this people having claims upon us."

Your Committee recommend that a committee be appointed to devise some plan for the better instruction of the freedmen.

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PLAINTIFFS' EXHIBIT 11

One Hundred Thousand Dollar Endowment Bond.

$_____

On or before the 25th day of December, 1882, I promise to pay to the Treasurer of Erskine College the sum of $, with interest payable annually at the legal rate.

This obligation is given on the condition that for every TWENTY DOLLARS paid the subscriber is to receive a CERTIFICATE OF SCHOLARSHIP entitling the holder to ONE YEAR'S TUITION in Erskine College, if presented before the year 1895.

IN WITNESS whereof I have hereunto affixed my hand and seal, this day of , in the year of our Lord, One Thousand Eight Hundred and Seventy

_____ {L. S.}

_____

After p.m. in Bond Dec. 25, 1882

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PLAINTIFFS' EXHIBIT 12

EXPENSES.

Tuition in the Preparatory Department, (per term,) $12 50.
Tuition in the College Classes, (per term.) $16 00.
Boarding, Lodging and Washing, $8 to $10 per month.
Fuel and Light to each room, $8 to $10 per annum.
Contingent expenses $1. per term.

Those who have Scholarships can of course pay their Tuition with Sub-Certificates.

Tuition, whether in cash or Sub-Certificates, invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a Student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If Parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

MODERN LANGUAGES.

Prof. E. L. Patton is well qualified to give instruction, to those who may desire it, in the French and Italian Languages—for which a reasonable compensation will be demanded.

Minutes of Synod - 1853

menting out of his small salary. And out of his own funds too, with commendable zeal, he has spent two vacations at chemical schools in the North to fit himself for the duties of his professorship. Should such a man be left withour the means to supply completely his laboratory! Now what method shall be adopted, to secure funds not only to procure a library, aparatus and other necessary things, but also to pay professors what may be lacking to meet their salary?

WHAT SHALL BE THE REMEDY?

"Shall there be annual contributions made or collections taken up to meet the wants of college, or will the Synod with open hand aid in endowing the college on the plan of scholarship adopted by the Board of Trustees?

THE BOARD RECOMMENDS THE SALE OF SCHOLARSHIPS:

"The Board of Trustees deeming it necessary tp do something to sustain the College and place it on an equal footing with other colleges, so far as this could be done by ample funds, RESOLVED on the 'th day of April last, to make an attempt to endow the college by the sales of scholarships. The plan adopted has been published for months in the Telescope, and has been seen, no doubt, by all the members of the Synod, it is not necessary here to present the plan.

$8,0000 SUBSCRIBED IN ABBEVILLE DISTRICT:

"The plan commends itself to the community generally. The Agent appointed has not visited half the District of Abbeville, and in that half he has obtained a subscription of nearly, $8,000.He felt constrained by the severe drought to suspend his agency for a while. It is believed that the success which has already attended the effort to endow the College on this plan warrents a the contimuation of the effort.

THE MINISTERS SHOULD HELP.

""But the work of endowment should not be left to one agent. Every minister in the Synod should lend a helping hand and complete the endowment at least as early as the coming spring. But will they help in this work? We have reason to fear that they will not. Twenty-five bonds have

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been sent to different ministers to secure subscriptions; and but two or three have been heard ffom.

NOTHING BAHDOON COLLEGE DEBT:

"Probably not $1000 have been subscribed out of Asheville District, and as far as known not one cent has been subscribed to pay the college debt out of the District, although the debt is large and increasing rapidly. It is left to Synod to say whether she will sustain the effort that the Board is making to endow the college, and pay the debt or not, and sustain it too, not by words but by deeds.

$100,000 the goal.

"Mere resolutions will accomplish but little., it will require long subscriptions to raise $100,00, in which the ministers and elders should set the example and encourage the people to follow that example. Will they do it?

W. R. HEMPHILL, Chairman."

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THE

ANNUAL CATALOGUE

OF THE

OFFICERS AND STUDENTS

OF

ERSKINE COLLEGE,

DUE WEST,

ABBEVILLE DISTRICT, SOUTH CAROLINA,

1853.

DUE WEST, S. C.
PRINTED AT THE TELESCOPE OFFICE.
1853.

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ERSKINE COLLEGE,

PLAN OF ENDOWMENT.

Whereas, a number of Colleges in the country are adopting the plan of Endowment by Scholarships; and whereas, it is important that Erskine College should be placed on an equal footing, in this respect, with other colleges, and in circumstances to afford an education, not only as thorough, but also as cheap as any other Institution in the land; therefore,

Resolved, That the following plan of Endowment be adopted by the Board of Trustees for Erskine College, viz:

An Endowment Fund of a Hundred Thousand Dollars shall be created by the sale of Scholarships; which Scholarships shall be offered on the following terms and conditions:

1. The payment of forty dollars ($40) shall endow a *single scholarship*, which shall entitle the subscriber to the tuition of *one student* during the term of six years.

2. The payment of sixty dollars ($60) shall endow a Scholarship which shall entitle the subscriber to the tuition of one or more of his own sons, or of any students he may select, amounting in the aggregate to twelve years.

3. Any person paying or securing to the Trustees of said College the sum of one hundred dollars ($100) shall be entitled to the education, free of tuition expenses, of one son or nominee for the term of *twenty five years*, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years.

4. No sales of limited scholarships shall be binding either on the purchaser, or on the Board of Trustees, until scholarships amounting to *fifty thousand dollars* are sold, (due notice whereof shall be given in the public prints,) after which time all contracts for scholarships, made previous to that date, shall be binding on the parties concerned, shall become due, and bear interest. On the payment of Scholarships, subscribers or purchasers of the same shall be

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furnished, with a certificate, signed by the President and Secretary of the Board of Trustees of the said Erskine College, guaranteeing to the said subscribers the privileges enumerated by the resolutions of the Board, according to their respective subscriptions.

5. All sales of scholarships which shall be made after the fifty thousand dollars specified in section fourth is obtained, shall be for cash.

6. The purchaser of a limited scholarship may enjoy the advantages of the same at such time, and at such intervals, as may suit his convenience.

7. Any individual, association of individuals, or congregation, who shall pay or secure to the Trustees of Erskine College, the sum of five hundred dollars ($500), shall be entitled to a perpetual scholarship, to which the party or parties may appoint any pupil he or they may think proper.

8. The funds arising from the sale of scholarships shall be invested in bonds or stocks of the State, or of the United States, the Banks of the State of South Carolina, or well secured individual bonds, and the interest or income only arising from such investment shall be appropriated to increase the advantages of Education in said College.

9. All scholarships created by these proceedings, both limited and perpetual, may be transferred by bargain or sale, or assigned or devised by Will: and in the case of intestacy, they shall pass to the administrators as other property.

10. Unless the sum of fifty thousand dollars ($50,000) be raised by the 1st of August, 1855, the above scheme of Endowment shall be abandoned.

11. All students sent to said College on any of these scholarships shall be subject to the regulations and discipline of the Institution.

12. Subscriptions to the perpetual scholarships shall in all cases be binding; but the subscribers will not be required to make payment until one year after the date of their subscriptions: and whenever the money is paid, they shall receive Certificates securing to them the benefit of their scholarship.

Resolved, That the following form of Bond be adopted by the Board of Trustees to carry out the foregoing act establishing scholarships in Erskine College:

SCHOLARSHIP BOND.

Whereas, the Board of Trustees of Erskine College, Abbeville District, South Carolina, in order to raise the sum of Fifty Thousand Dollars, and upwards, for the purposes of education, did on the 8th day of April, A. D. 1853, pass certain resolutions to the effect that the subscription and payment of certain sums should entitle the person or persons so subscribing, to the privilege of so many years' Schol-

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arship in the said Erskine College, as by said Resolutions will more fully and particularly appear.

Now, know all men, that we, the subscribers in order to entitle ourselves to said privilege, and in order to contribute towards raising said sum, do hereby acknowledge ourselves held and firmly bound unto John L. Ellis, the Treasurer of said Board, his executors, administrators or assigns, in the sums of money annexed to our names, to be paid to the said treasurer, his successor in the office of treasurer, or assigns, for which payment, well and truly to be made, we severally bind ourselves, our executors and administrators, firmly by these presents.

The condition of the above is, that, if said sum of Fifty Thousand Dollars be raised on or before the first day of August, 1855, then the sums subscribed by us below, are to be paid as aforesaid, to bear interest from the time the said sum of Fifty Thousand Dollars is raised by subscription: but in the event the said sum of Fifty Thousand Dollars shall not be raised on or before the first of August, A. D. 1855, then the subscriptions below are to be null and void.

Given under our hands this tha day respectively on which we hereunto subscribed the sums severally annexed to our names.

Done at Lindsay Hall, Erskine College, April 8, 1853.

E. E. PRESSLY, President.

J. I. BONNER, Secretary.

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1855

MINUTES.

CEDAR SPRING, ABBEVILLE DIST. S. C.
Monday, Oct., 8ht, 1855, 11 *A. M.*

The Synod met agreeably to adjournment, and, after a sermon by Rev. L. McDonald, the retiring Moderator, was constituted with prayer. The following Roll was made out and called:

FIRST PRESBYTERY.

MINISTERS.	ELDERS.
John Patrick,	
James Boyce, D. D.	
L. McDonald,	
S. C. Millen,	
A. R. Ross,	T. K. McKnight,
J. B. Watt,	Hugh Kirkpatrick,
John Hunter, (a.)	
E. E. Boyce,	Francis Beattie,
D. P. Robinson, (a.)	William Nelson,
R. W. Brice,	Andrew Blain,
J. R. Castles,	
J. E. Pressly,	
R. F. Taylor,	
J. M. Walker,	
A. F. Quay,	
C. B. Betts.	William Sloan.

Probationers.—W. B. Pressly, S. C. Boyce.
Students.—Robt. Lathan, J. C. Boyd, R. L. Grier.

SECOND PRESBYTERY.

MINISTERS.	ELDERS.
E. E. Pressly, D. D.,	D. O. Hawthorn,
J. P. Pressly, D. D.,	
John S. Pressly,	
Jonathan Galloway,	James Sloan.
W. R. Hemphill,	
J. N. Young,	
J. C. Chalmers,	D. A. Pressly.

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paid toward the salary and expenses of J. C. Chalmers, as agent—There seems to be in the hands of the Treasurer, in Notes, Bank Stock, and R. R. Bonds, the amount of $35,100,00. The R.R. Bonds were purchased it seems at about 12½ per cent. discount. This discount, we learn, was employed in settling the claims of the professors, arising previous to the maturity of the Endowment Funds; in which action we advise that Synod acquiesce. These R. R. Bonds are paying interest punctually at the rate of 7 per cent. semi-annually. This report also shows that a sum was borrowed to pay balance due by contract on the College Chapel, the interest and principal of which amount to $2615,95. The Board earnestly urges the payment of this debt, and it of course becomes Synod's duty to take early measures to meet her responsibility in the premises. By order of the Committee.

G. GORDON, Chairman.

It was resolved that the several Presbyteries take action in reference to our College debt, and adopt the most efficient measures to raise money to enable Synod to meet that debt without further delay.

Mr. Bonner, the Administrator of James Lindsay dec'd., having proposed to accept the sum of six hundred Dollars in cash, and two certificates of Perpetual Scholarship in Erskine College, in full of claims of that Estate against the Synod for Two Thousand Dollars which Synod had agreed to pay the late James Lindsay for a loss he sustained in the building of College chapel—Messrs Neil and Caldwell (Elders) were appointed a committee to confer with the Administrator in reference to this proposal.

Mr. Ross from the Committee to audit the report of the Treasurer of Foreign Missions submitted the following report, which was adopted:

The committee to whom was referred the report of the Treasurer of Foreign Missions, report: That, as to the receipts into the treasury, we had no means of determining the correctness of the report, but presume they were reported correctly. As to the amount of interest accruing on funds in the Treasurer's hands, deducting 2 per cent, the report is correct.

The disbursements tally with the vouchers put into our hands. All of which is respectfully submitted.

R. A. Ross, Chairman.

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Mr. Brice, Treasurer of the Domestic Missionary Fund, offered the following, which was adopted.

REPORT OF THE TREASURER OF DOMESTIC MISSIONARY FUND.

Strong Bequest.

Oct. 11th 1854, Received of Rev. J. B. Watt,	$1132,94
" " " " of Rev. J. N. Young, remainder,	871,85
Interest on the above sums, less the commissions,	100,23
The whole amount on hand is	2105,02
The original sum of the Strong Bequest,	1971,85
The amount available for present use,	133,17

Of other Funds.

Feb. 9th 1855, Received of Rev. J. N. Young, Interest on Strong Bequest for 1854,	$53,60
March 10th, S. S. Ralstons charge	6,00
" " Rev. A. McElroys charge	22,50
" " Mrs. McElroy,	1,00
April 17th, Rev. E. E. Boyce, for Bethany,	8,00
	96,10
April 23d, Paid Rev. G. Gordon, as a part of Synods appropriation to the Louisville Mission for 1855,	96,10
Received Sept. 6th from Rev. J. Hunters charge, '54	10,00
Sept. 22nd, Josiah Moffatt,	5,00
Oct. 8th, Steel Creek, Rev. J. B. Watt,	14,50
" " Sardis and Smyrna, Rev. J. R. Castles,	8,00
New Hope, Rev. J. Boyce, D. D.,	22,00
Tirzah, Rev. S. C. Millen,	10,00
Coddle Creek and Perth, Rev. J. E. Pressly,	19,15
Rev. A. McElroys charge,	20,00
Generostee, Rev. J. C. Chalmers,	10,00
Prosperity, Rev. A. E. Ellis,	3,60
Bethel and Ebenezer, Rev. D. G. Phillips,	60,00
Hopewell, Newton Co. Ga.,	12,00
Newberry & Kings Creek, Rev. H. L. Murphy,	29,30
Winnsboro, Rev. C. B. Betts,	20,00
Ebenezer, " " " "	12,05
Shiloh and Tirzah, Rev D. P. Robinson,	23,60
Sharon and Olivet, Rev. R. A Ross,	17,00
	206,20

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PREPARATORY DEPARTMENT.

This Department is under the immediate direction of the Faculty. In it instruction is given in everything indispensable for admission into the lowest College class. The course of instruction in this department occupies two years; and no individual ought to expect to be conducted through it within a shorter period of time.

TERMS OF ADMISSION.

Candidates for admission into any one of the College Classes will be required to stand an examination satisfactory to the Faculty on the previous studies of the cour or on what may be deemed an equivalent. Applicants will be examined during the first week of the session. Those coming from other schools must present certificates of their character from their former instructors.

SESSION AND VACATION.

The College Session commences on the first Monday of November, and closes on the second Wednesday of August. The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the third Monday of March.

It is very important that Students should enter or return to College at the beginning of the Session, since an absence of a few days at a time, when a new branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

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EXPENSES.

Tuition in the Preparatory Department, (per term,) $12 50.
Tuition in the College Classes, (per term.) $16 00.
Boarding, Lodging and Washing, $8 to $10 per month.
Fuel and Light to each room, $8 to $10 per annum.
Contingent expenses $1. per term.

Those who have Scholarships can of course pay their Tuition with Sub-Certificates.

Tuition, whether in cash or Sub-Certificates, invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a Student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If Parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

MODERN LANGUAGES.

Prof. E. L. Patton is well qualified to give instruction, to those who may desire it, in the French and Italian Languages—for which a reasonable compensation will be demanded.

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MINUTES

OF THE

ASSOCIATE REFORMED SYNOD

OF THE SOUTH,

HELD AT

STARKVILLE, MISSISSIPPI,

OCTOBER 13th, 14th, & 15th, 1856.



DUE-WEST, S. C.:
DUE-WEST TELESCOPE OFFICE.

1856.

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sive manner in reference to the relations subsisting between the two Bodies, to which the Moderator responded in a corresponding spirit and language. It was resolved that this Synod cordially reciprocate the feelings and wishes expressed by the Rev. Mr. Peden.

Rev. H. T. Sloan was appointed to open Synod next year with a sermon, in the event of the Moderator's absence.

Old Providence (Dr Thompson's charge,) Augusta County, Virginia, and Head' Spring, (Mr. Parkinson's charge,) Tennessee were put in nomination for the next meeting of Synod. The election decided in favor of Old Providence.

The minutes of this night's transactions were read and corrected.

Adjourned to meet at Old Providence, Augusta County, Virginia, on the second Monday of Oct. next—with prayer by Dr. Boyce, by singing the concluding part of the 122nd psalm, and by pronouncing the Apostolical Benediction.

D. G. PHILLIPS, } Mod.
J. BOYCE, } Cl'k.

Starkville, Miss., October 15, 1856.

ANNUAL REPORT OF TREASURER OF E. COLLEGE.

Amount of Theological and Literary Fund by last report, $4,696 86. This may be presented as follows: The Strong bequest for the education of young men, which is included in the above sum, was $1000; but by costs of suit, &c., was reduced to $826 28. Sufficient interest has accumulated on this to restore it to $1000, the original bequest. Since the act of Synod in 1849, the interest of one-half of the remaining fund has been applied to the support of the Professors of College. Hence:

Strong Bequest,	$1,000 00	
One half $3,693 83	1,848 42	
		2,848 42
Interest to 15th Oct., $199 28; com. $4 98 off,		194 40
Rev. J. I. Bonner, adm'r of James Lindsay, dec'd, balance of dividends of (Blair) S. C. R. R. Stock, $117 78; com. $2 94 off,		114 84
		$3157 66

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	Amount brought forward,	$3,157 66
Two dividends on $2,000 (Blair) S. C. R. R. Stock, $182 60; com. $4 56 off,		178 04
Other half $3,696 83 Theo. Lit. Fund,		1,848 42
(Interest of this half transferred to Fund for salaries.)		
		$5,184 12

CONTRA.

April 19, 1856.	Loaned to Endowment Fund,	876 30
	Interest to 15th October,	30 00
Sept. 4. "	Dr. E. E. Pressly, boarding one beneficiary,	60 00
		$966 30
	Balance in Treasury,	$4,217 82

ENDOWMENT FUNDS, (Principal.)

1855.			
Oct. 6,	Jno. M'Clintock, Rev. D. F. Haddon,	$20 00	
" "	J. R. Todd,	20 00	
" "	Margaret Fleming,	40 00	
" 8.	William Donaldson, (Rev. A. McElroy,)	100 00	
" "	Mrs. A. J. Walace, (Rev. T. S. Lee,) $1000—diminished $5, premium for check,	995 00	
			1,175 00
" "	Balance on congregational scholarship, Rev. W. M. McElwee,	80 00	
" "	E. M. Mills, Rev. R. W. Brice,	60 00	
" 19.	Rev. W. R. Hemphill,	643 45	
Nov. 3.	Rev. D. Pressly,	200 00	
" 7.	Rev. J. M. Young, (Rev. W. R. H.,)	320 00	
			1,363 45
			$2,538 45

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	Amount brought forward,		$2,538 45
" "	T. Pitts,	40 00	
" 21.	Alfred Agnew, (Rev. J. L. Young,)	40 00	
			80 00
			$2,618 45
1856.			
March 7.	Certificate of deposite in B. of Virginia, $40—75c. discount off, (Rev. W. M. McElwee,)	39 25	
" 15.	Rev. L. M'Donald, (Rev. W. R. Hemphill,)	40 00	
Ap'l 12.	Rev. J. Boyce, (J. Moffatt,)	60 00	
July 20.	Rev. W. R. Hemphill,	15 00	
Aug. 29.	" " "	60 00	
" "	Rev. D. Pressly,	4 00	
			218 25
	Notes in Treas's hand collected,	580 00	
	Principal restored from Fund for salaries,	600 00	
	Loan by Theo. and Lit. Fund,	876 30	
			2,056 30
			$4,893 00

CONTRA.

1855.			
Oct. 19.	Settlement with Agent for services in Agency,	643 45	
" "	Rev. W. R. Hemphill, agent, to be vested,	100 00	
Nov. 20.	Rev. W. R. Hemphill, vested in Chester Bank,	133 19	
Dec. 1.	Rev. W. R. Hemphill, to be vested,	1,170 00	
" "	Rev. W. R. Hemphill, to be vested,	324 00	
			2,370 64
			$2,370 64

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	Amount brought forward,		$2,370 64
1856.			
Jan. 18,	Rev. W. R. Hemphill, to be vested,	548 14	
M'ch 24.	James Hemphill, Esq., balance due,	27 97	
Ap'l 19.	Rev. W. R. Hemphill, to be vested,	1,250 00	
Aug. 12.	Rev. J. I. Bonner, Secretary and Treasurer's books,	14 25	
" "	J. Y. Mills, to be vested in Bank Stock,	180 00	
" 26.	J. Y. Mills, to be vested in Bank Stock,	502 00	
			2,522 26
			$4,893 00

STOCK AND INDIVIDUAL NOTES.

	Notes by last report,		11,100
1855.			
Oct. 9,	Rev. J. Galloway,	140 00	
" "	Rev. W. M. McElwee,	100 00	
" "	Rev. J. C. Chalmers,	60 00	
1856.			
Feb. 26,	Rev. W. R. Hemphill,	2,800 00	
M'ch 1,	Esq. W. Pressly,	100 00	
			3,200
			14,300

CONTRA.

	Returned Rev. W. R. Hemphill,	180 00	
	Collected,	580 00	
			760
	Notes in Treasurer's hands,		13,540 00

R. R. BONDS.

By last report G. & C. R. R.,		19,500
" " Lexington and Danville R. R.,		1,000

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	Amount brought forward,		$34,040 00
1855.			
Nov. 1,	One bond G. & C. R. R.	500 00	
" "	One certificate of assessment G. & C. R. R.,	20 00	
			520 00
			34,560 00

BANK STOCK.

	By last Report, Chester Bank,		3,500	
1855.				
Nov. 1,	60 shares,	1500		
1856.				
M'ch 15,	20 shares People's Bank,	500		
" 21.	20 " " "	500		
May 1.	80 " " "	2000		
July 18.	60 " " "	1500		
			6,000	9,500 00
				$44,060 00

SUB-CERTIFICATES.

By last report taken up,	100	
During the last Col. year,	108	
		208

COLLEGE DEBT FOR CHAPEL AND OBSERVATORY.

As stated in last report,	2,615 95	
Interest up to 15th October,	183 11	
		2,799 06
Estate of James Lindsay, dec'd, by action of Synod,	600	
Interest to 15th October,	42	
		642 00
		3,441 06

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	Amount brought forward,		8,441 06
	CONTRA.		
1855.			
Oct. 8,	Mt. Olivet, Rev. A. Ranson,	7 00	
	Interest to 15th Oct. 1856,	49	
" "	Tho. McDill, Rev. R. W. Brice,	2 00	
	Interest to 15th Oct. 1856,	14	
1856.			
Feb. 16,	Rev. R. A. Ross,	18 06	
	Interst to Oct. 15th,	84	
M'ch 6.	Misses Mitchel, Rev. J. I. B.	5 00	
	Interest to October 15th,	20	
May 10.	Rev. D. F. Haddon,	10 00	
	Interest,	28	
Sept. 4.	A. Giles,	10 00	
			54 01
	Debt at 15th October 1856,		$8,387 05

INTEREST RECEIVED SINCE LAST REPORT.

1855.			
Oct. 5.	J. Pickens and H. Purvine, by Rev. T. Turner,	$4 20	
" "	T. A. W. and J. C. Chalmers,	7 00	
" "	W. J. Bryson, by Rev. D. F. H.	4 50	
" "	W. Bryson, S'r. "	2 80	
" "	S. Blakely, "	2 80	
" "	J. McClintock, "	4 20	
" "	J. R. Todd, "	4 20	
" "	M. Bryson, "	4 20	
" "	Rev. D. F. Haddon, "	2 80	
" "	M. Fleming, "	2 10	
			38 80
" "	Rev. R. F. Taylor, by Rev. R. F. T.	6 00	
" "	R. B. Hunter, "	3 60	
" "	A. Hunter, "	3 60	
" "	A. M. C. Hunter, "	3 60	
			16 80

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		Amount brought forward,		$55 60
"	"	J. Fleming,	2 80	
				2 80
"	"	Dr. A. A. Wilkins, by Rev. A. Mc.	7 00	
"	"	McElroy & Chesnut, "	7 00	
"	"	James Gibson, "	7 00	
"	"	J. H. Gibson, "	7 00	
				28 00
"	"	Rev. T. Turner,	7 00	
"	"	W. McCaslan,	2 20	
"	"	R. Richey,	7 00	
"	"	D. McClain,	2 80	
"	"	T. B. Chalmers,	4 20	
"	"	P. Martin,	2 80	
				28 00
"	"	J. A. Brice,	7 00	
"	"	J. Douglass,	7 00	
"	"	Sam. Johnson,	4 20	
"	"	G. W. Williams,	7 00	
"	"	J. G. Enloe,	4 20	
"	"	Dr. A. J. Barron,	7 00	
"	"	J. B. Adamson,	4 20	
"	"	Mrs. A. J. Wallace,	30 00	
				70 60
1855				
Oct 9.				
"	"	Wm. McDill, by Rev. R. W. B.	4 20	
"	"	R. N. Hemphill, "	12 00	
"	"	E. M. Mills, "	4 00	
"	"	J. B. Wylie, "	2 80	
"	"	David Wilson, "	7 00	
				30 20
"	"	Gilbert Shaw, by Rev. S. C. M.	2 80	
"	"	J. Cathcart, "	2 80	
"	"	Dr. Hichlon, "	2 80	
"	"	J. Barron, "	7 00	

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		Amount brought forward,		230 60
"	"	J. Miller, "	7 00	
"	"	D. Webb, "	7 00	
"	"	W. L. Killian, "	7 00	
"	"	Hugh Warren, "	4 20	
"	"	Rev. S. C. Millen, "	7 00	
				32 20
"	"	J. P. White, by Rev. J. Patrick,	6 00	
"	"	A. M. Walker, "	3 25	
"	"	Sharp & McDonald, "	3 12	
"	"	A. Crotwell, by Rev. J. G.	4 20	
				16 57
"	"	Rev. W. M. McElwee,	6 00	
"	"	W. Gibson,	2 80	
Oct.	10			
"	"	W. S. Lowry,	7 00	
"	"	Mrs. M. Lowry,	2 80	
"	"	J. L. Morrow,	7 00	
"	"	R. Lindsay, by Rev. R. A. Ross,	2 80	
"	"	J. McKnight,	6 00	
"	"	J. Harbinson,	2 33	
"	"	W. Scott,	2 33	
"	"	J. Kennedy,	11 20	
				50 26
"	"	B. Jordan,	7 00	
"	"	A. J. Weed,	7 00	
				14 00
Oct.	11,			
"	"	D. W. C. Tillotson, by Rev. W. R. H.	7 00	
"	"	J. Elliot, "	14 00	
"	"	H. L. Elliot, "	9 00	
"	"	R. S. Kitchen, "	4 20	
"	"	Rev. C. B. Betts, "	7 00	
"	"	S. B. McClinton, 2 years int.	14 00	
"	"	T. F. Lanier, "	2 80	
"	"	Dr. G. W. Pressly, "	35 00	
"	"	W. K. Bradly, "	7 00	
"	"	Robt. Brady, "	4 20	

Erskine00022

		Amount brought forward,		$447 83
"	"	D. G. Wardlaw, by Rev. W. R. H.,	2 80	
				2 80
"	"	Rev. H. Quigg, "	28 00	
"	"	Rev. J. B. Watt, "	106 40	
"	"	Rev. A. Quay and Pressly, "	18 00	
"	"	Rev. T. W. Parkinson, "	22 40	
				174 80
"	"	Rev. J. M. Walker, "	1 00	
"	"	Rev. I. G. McLaughlin, "	3 60	
"	"	Rev. L. McDonald, "	33 00	
"	"	Rev. A. S. Sloan, "	34 65	
				74 25
"	"	Rev. J. R. Castles, "	18 66	
"	"	F. Bates, "	1 60	
"	"	Rev. G. Gordon, "	2 80	
"	"	H. Kirkpatrick, "	7 00	
"	"	Rev. A. S. Montgomery, "	4 20	
"	"	S. Brice, "	6 60	
"	"	Bryson & others, "	28 50	
"	"	Rev. J. Wilson, "	57 00	
"	"	Brick Church, "	18 20	
"	"	Rev. Bryson, "	41 00	
				185 56
Oct 13 1855.				
"	"	G. M. Chesnut, by Rev. A. E. Ellis,	7 00	
"	"	W. R. Chesnut,	4 20	
"	"	S. B. Wylie,	4 20	
"	"	Rev. A. E. Ellis,	4 20	
				19 60
"	"	S. McElroy, sr.,	2 80	
"	"	A. Young,	7 00	
"	"	Rev. J. L. McDaniel,	4 20	
"	"	A. Johnston,	4 20	
				18 20

Erskine00023

		Amount brought forward,		923 84
Nov. 2	1855			
"	"	E. Willbanks,	4 20	
"	"	Rev. D. Pressly,	43 70	
"	"	Rev. W. R. Hemphill,	60 30	
"	"	" " "	2 25	
"	"	A. W. Haddon,	34 95	
"	"	W. Butler,	4 20	
"	"	D. Morrow,	4 20	
"	"	L. Purdy,	2 80	
"	"	B. Latimer,	4 20	
"	"	A. P. Conner,	7 00	
"	"	J. T. Moore,	7 00	
"	"	J. A. Hunter,	4 20	
"	"	William Truit,	4 20	
"	"	Robinson and Link,	2 10	183 20
"	"	J. P. Kennedy,	4 20	
"	"	J. M. Perrin, Esq.	9 80	
"	"	John Brice, jr.,	3 50	
"	"	W. P. Young,	7 00	
"	"	A. S. Wallace,	4 20	
"	"	Rev. R. W. Brice,	7 00	
"	8th.	" "	45 50	
"	"	Gen. S. McGowan,	8 40	91 70
"	"	H. Robinson,	4 20	
"	"	R. Brownlee,	7 00	
"	"	Dr. A. Archer,	2 80	
"	12th	J. M. Browne,	4 20	
"	16th	R. A. Fair,	2 80	
			7 00	28 00
Nov. 21.		John Walker, by Rev. J. L. Young,	4 20	
"	"	R. G. Davis, "	7 00	
"	"	A. Jones. "	7 00	
"	"	Rev. H. H. Robinson, "	7 00	
"	"	H. Wiseman, "	4 20	
"	"	J. M. Jones, "	2 80	
				32 20

Erskine00024

	Amount brought forward,		$1258 94
Nov. 26.	Rev. J. C. Chalmers,	4 20	
" "	J. Reid,	7 00	
" "	James Dawson,	2 80	
Dec. 1,	W. S. Chalmers,	4 20	
" "	Rev. W. R. Hemphill,	34 00	
" "	Z. Haddon,	2 45	
			54 65
" 3.	C. C. Pucket,	4 20	
" "	Samuel Jordan,	2 80	
" "	Rev. H. T. Sloan,	2 80	
" "	J. J. Cunningham,	4 20	
" "	H. S. Kerr,	4 20	
" 6.	J. S. and D. W. Reid,	7 00	
" "	James Caldwell,	7 00	
			32 20
1856.			
Jan. 7,	Jacob Martin,	3 00	
" "	W. T. Drennen,	4 25	
" "	J. W. Lessly,	5 00	
" 30.	D. W. Nelson,	30 80	
" "	Rev. R. W. Brice,	18 90	
			61 95
Dec. & Jan.	A. M. McFall, Rev. W. R. H.,	7 00	
" " "	R. R. Seawright,	2 80	
" " "	James Seawright,	2 80	
" " "	T. M. Pitts,	2 80	
" " "	J. A. Lyon,	2 80	
" " "	J. Ellis,	4 20	
" " "	Sarah Kennedy,	4 20	
" " "	J. F. Clinkscales,	4 20	
			30 80
Dec. & Jan.	W. S. Mc'Bride, by Rev. W. R. H.,	2 80	
	William Dickson,	4 20	
	J. T. Haddon,	4 20	
	W. A. Pressly,	5 00	
	A. Hunter,	7 00	
	J. C. Cook,	2 80	
			26 00

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	Amount brought forward,		$1404 54
	John Simpson,	7 00	
	Francis Moore,	8 00	
			15 00
	D. W. Hawthorn,	7 00	
	W. Agnew,	4 20	
	A. C. Hawthorn,	7 00	
	William Welch,	7 00	
	J. T. P. Crossen,	4 20	
			29 40
	Rev. W. R. Hemphill,	54 55	
	Col. W. Wright,	24 80	
	Carmical, Hunter & Carmical, by Rev. J. L. McDaniel,	7 00	
			86 35
	Rev. R. A. Ross,	35 93	
	R. P. Little,	4 20	
	Rev. D. G. Phillips,	7 00	
	Dr. S. C. Belt,	7 00	
			54 13
	J. Reid,	2 80	
	Rev. W. R. Hemphill,	33 00	
	D. P. Lowry,	2 80	
	T. A. McBride,	2 80	
	R. B. McBride,	2 80	
	Rev. J. B. Watt, by Rev W. R. H.	10 00	
	Rev. L. McDonald, "	68 95	
			123 15
	W. Clinkscales,	7 00	
	J. B. Wilson,	10 00	
	W. J. Houston,	1 00	
	T. T. Cunningham,	4 00	
	Rev. J. Boyce,	5 75	
	W. Duff, for R. Cochran,	3 00	
1856.			31 05
May 1.	Rev. W. B. Pressly,		2 40
			1806 32

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	Amount brought forward,		$1,806 02
June 1.	J. Baskins' estate,	2 70	
July 8.	Rev. W. R. Hemphill,	20 60	
			23 30
Aug. 13.	R. F. Connelly, W. S. Lowry,	7 00	
	T. H. Pelhill, "	7 00	
	Jos. F. Bell, "	2 80	
	Rev. W. R. Hemphill,	3 00	
			19 80
	C. Philson, Tuition, old debt,	32 00	
	Jos. Moffat, "	32 00	
	E. D. Rogers, "	12 00	
			76 00
	Sum of Interest and Tuition fees,		1,925 12

Dividends on Stock.

1855.			
Oct. 10.	30 Coupons, G. & C. R. R.,	525 00	
	1 " L. & D. R. R.,	35 00	
	Chester Bank, Rev. R. W. Brice,	184 00	
1856.			
Jan. 16.	S. C. R. R. dividend on $1,767,	81 20	
	10 Coupons, G. & C. R. R.,	175 00	
March 1.	1 " L. & D. R. R.,	35 00	
			1,035 20
7.	30 " G. & C. R. R.,	525 00	
12.	Chester Bank, J. Hemphill,	250 00	
29.	1 Coupon, L. & D. R. R.,	35 00	
July 10.	Dividend on $1,767, S. C. R. R.,	81 20	
	10 Coupons, G. & C. R. R.,	175 00	
24.	People's Bank,	180 00	
			1,246 20
	Interest of $1,848 42, one half Theological & Literary fund,		129 30

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Amount brought forward,		$4335 00
Balance of dividends of (Blair)] S. C. R. R. stock, from estate of James Lindsay, dec'd,		291 14
		4,627 04
Treasurer's com. for receiving,		115 67
		4,511 37
Balance in Treasurer's hand by last report,		762 35
		5,273 72

CONTRA.

Paid Professors since last report,	4,300	
Prof. Lee for chemicals,	24 50	
Principal of Endowment refunded,	600 00	
		4,924 50
In Treasury,		349 22

There is now due to Professors $1,150. But there are dividends on stock enough also due with the Balance in Treasury to meet this.

It will be proper to state that there has not been any thing paid to Dr. E. E. Pressly for services in the department of Hebrew. The attention of Synod is invited to this subject.

At the meeting of Synod in 1848, the Professors, in view of the condition of the funds of the College, voluntarily relinquished one hundred dollars each on the amount of their annual salaries. It is the opinion of the Treasurer, that the funds of College will now allow the restoration of the hundred dollars, and he therefore suggests that Synod order that they be each paid six hundred dollars per annum. This he believes the increased expenses of living in this section of country, for several years past, also demand.

This report exhibits a debt of disquieting magnitude still resting upon College. As action was taken for its removal at the last meeting, it is hoped that it will by the efforts now being put forth, be greatly reduced, if not entirely cancelled.

J. N. YOUNG, Treasurer.

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EXPENSES.

Tuition in the Preparatory Department, (per term,) $12,50.
Tuition in the College Classes, (per term,) $16,00.
Boarding, Lodging and Washing, $8 to $10 per month.
Fuel and Light to each room, $8 to $10 per annum.
Contingent expenses $1 per term.

Those who have Scholarships can of course pay their Tuition with Sub-Certificates.

Tuition, whether in Cash or Sub-Certificates, invariably in advance.

This statement may be sufficient to satisfy inquiries which frequently made in respect to the necessary expenses of a S at this place. Every one knows that clothing, pocket mo all matters of this sort, depend entirely on the indulgence o and the habits of their sons.

If parents would deposit funds in the hands of some me Faculty, with directions respecting its economical d there would be less occasion to complain of extravagant

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MODERN LANGUAGES.

Prof. E. L. Patton is well qualified to give instruction, who may desire it, in the French and Italian Languages—fo a reasonable compensation will be demanded.

Erskine00029

REMARKS.

ERSKINE COLLEGE is located in the Village of Due West, eleven miles north of Abbeville Court House, and four miles from Donnald's Depot, on the Greenville and Columbia Railroad. The location is high and healthy, the population around generally moral and correct; the temptations to vice and crime are few, compared with those that exist in large towns and cities. By a clause in the Charter of the Institution no one is allowed to open a shop or store for the retail of ardent spirits within two miles of the College.

The government of the College is mild and parental. Severe acts discipline are avoided as much as possible;—appeals are made to honor, self-respect, or sense of duty of the Students, or to the re- they have for their character and wishes of parents and Information is lodged with parents and guardians against wayward.

ttention to the exercises of the recitation room is required, reckoning is had with those who fail in duty.

Composition and Declamation are, from time to time, the Students. There are also two Literary Societies, able and select Libraries, which afford additional opportunity improvement in declamation, composition, and forensic

Exercises of the College consist in the daily read- ptures and Prayer in the Chapel, Bible-class exercises morning, and a public religious service in the evening— with the opportunity of attending the Village Church, or es of worship in the vicinity during the day.

College Edifices are stately and commodious, containing a g Room, supplied with papers and periodicals—Rooms for Literary Societies richly and tastefully furnished—a small, well ted Geological Cabinet—a Philosophical and Chemical Appa- ratus, together with an excellent Equatorial Aromatic Refracting Telescope, mounted on an Observatory which overlooks the whole surrounding country, and affords a magnificent view of the starry firmament above.

The "Course of Study," together with other advantages connected with Erskine College, indicate that it is well adapted to secure the object for which it was instituted—a correct, substantial, thorough education.

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MINUTES

OF THE

Associate Reformed Synod of the South,

HELD AT

OLD PROVIDENCE,

Augusta County, Virginia,

OCTOBER 12---15, 1857.

DUE-WEST, S. C.:
PRINTED AT THE OFFICE OF "THE DUE-WEST TELESCOPE."

1857.

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Faculty and students, yet, in one or two instances, the expectations of the Committee were not fully realized. But justice requires us to state, that, in the instances referred to, we learned that the classes had not devoted the same amount of time to those departments, that had been usual.

We have abundant evidence that our Institution, is accomplishing a glorious work for the Church and the world, and is worthy of the fostering care of Synod.

Respectfully submited,

L. McDONALD,
D. P. ROBINSON,
D. F. HADDON. } Com.

Here, too, is the Report of the Board of Trustees:

The Board of Trustees of Erskine College beg leave to submit the following Report:

Your Institution has not only retained her former prosperity, but is manifestly growing in importance and influence, both with the church and the world. One hundred and thirty students were matriculated during the past year, which is more than in any former year. All entered with sub-certificates of scholarships, save two paying tuition, three on Perpetual scholarships, and five exempt by act of Synod. The late Commencement of August 12th, was regarded fully equal to any which has preceded. Fourteen young men received the title of A. B.; some of whom are expected to enter upon Theological studies, preparatory to the gospel ministry. The Faculty, we believe, have taught with fidelity, and governed with ease and efficiency, winning reputation for themselves and patronage for the College. We are not only satisfied, but highly gratified with the present administration, and would regret to see any change. Nevertheless, it becomes our painful duty to inform you that your worthy and esteemed President, Rev. R. C. Grier, D. D., tendered his resignation to the Board at their late meeting of August 11th., to take effect as early as practicable. But, believing that such a change would be highly detrimentral to the interests of the College, and unwilling to incur the responsibility of severing the tie which binds him to a sphere of so much importance and usefulness, or of electing a successor, the Board refused to act on his resignation, and would respect-

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fully refer the whole matter to Synod, hoping that your Body, by the blessing of God, may be able to take such action in the case, as will best promote the welfare of the Institution and the church at large.

At the same meeting of the Board, a favourable report on the bestowment of honors, was submitted by a Committee previously appointed to consider the subject, which, after some discussion, was adopted, and needs but your sanction to become a law of the College.

From the Report of the Treasurer, which accompanies this report, it will be seen that the Finances are in a prosperous condition. The investment of the funds in permanent stock is still going on; from which handsome dividends are being realized to the College. After deducting all expenses and the payment of Professors' salaries for the last year, there remains a balance in Treasury of $576 09. The present condition of the several funds is as follows: The Theological and Literary fund amounts to $5278 82. The Endowment fund has $41770 00 vested in Bank Stock and R. R. Bonds, $13000 00 in individual notes in hands of Treasurer, and $9943 00 in hands of Agents, making a sum total of $64713 00. The College debt has been reduced $2372,01, leaving an out standing debt of only $1086 81. The contingent fund also has a balance in Treasury of $93 02.

The suggestion of the Treasurer respecting the collection of the individual notes deserves special attention.

Now may the friends and patrons of Erskine College congratulate themselves for the success of their efforts, under God, in establishing and fostering an institution of learning which promises to yield such rich and lasting benefits both to Church and State. They have done much, but very much remains to be done. Erskine still needs their fostering care, their prayers, and their most liberal offerings.

Respectfully submitted,

H. T. SLOAN, Chair'n. Com.

Turner, J. N. McCain, and John S. Pressly, were appointed to nominate suitable persons to fill the vacancies in the Board of Trustees.

Dr. McFarland finding it inconvenient to remain, with the per-

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OLD PROVIDENCE, Thursday, 9, A. M. }
Oct. 15, 1857. }

Synod met. Opened with prayer. Prof. Young was added to the Committe to nominate suitable porsons to fill vacancies in the Board of Trustees.

Mr. McDonald, Treasurer pro. tem., of the Domestic Missionary fund, submitted the following Report.

REPORT OF THE TREASURER OF DOMESTIC MISSIONARY FUND.

Oct. 12, 1857.

Remainder from last Report,	20 59
Pisgah, N. C., Rev. E. E. Boyce, '56,	8 80
Shiloh, S. C., Rev. D. P. Robinson, for '56,	9 85
Hopewell, Ga., Rev. H. Quigg, for '56,	20 45
Rev. S. S. Ralston's charge, for '56,	11 00
Bethel, S. C., Rev. D. F. Haddon, for '56,	25 00
Bethel and Ebenezer, Rev. D. G. Phillips, for '56,	45 00
Newberry, C. H., S. C., Rev. H. L. Murphy,	18 00
Josiah Moffatt, Chester Dist., S. C.	30 00
Winnsboro', Rev. C. B. Betts,	12 00
Gilead and Prosperity, N. C.,	6 00
Generostee and Concord, Rev. J. C. Chalmers,	7 00

The above sums being received early in the Synodical year, were paid out as follows, viz:

Rev. J. M. Walker in full for his services in Nashville, in '56,	150 00
Rev. J. C. Chalmers, as part pay for his services in Nashville this year,	63 69
	213 69

Amounts received since the above payments:

Troy, Tenn., Rev. J. P. Weed, for '56,	10 00
Hopewell, S. C., R. W. Brice, '57,	31 65
Perth and Coddle Creek, Rev. J. E. Pressly, '57,	23 00
Sharon and Olivet, Rev. A. R. Ross, for '57,	28 00
Interest on the Strong Bequest (1971 85)	138 02
Interest on the Devlin Bequest, (50)	3 50
	234 17

Which amount I forward to you by the hands of Rev. L. McDonald.

R. W. BRICE, Treas.

Oct. 3d, 1857.

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REPORT OF TREASURER PRO. TEM.

Rev. R. W. Brice, as pr. Report,	234 17	
" J. M. Young, Prosperity,	60 00	
" D. Pressly, Starkville,	25 00	
" H. L. Murphy, Kings' Creek,	35 50	
" H. L. Murphy, Newberrry C. H.	5 35	
" C. B. Betts' charge,	30 00	—390 02
" W. M. McElwee, Ebenezer,	75 00	
" W. B. Pressly's charge,	22 00	
" H. T. Sloan's charge,	70 00	
" D. F. Haddon's charge,	25 50	
A friend,	10 00	
" J. R. Castles' charge,	7 00	—209 50
" J. N. McCain's charge,	4 00	
" D. G. Phillip's charge,	82 50	
" J. H. Bryson's charge,	42 00	
" T. S. Lee's charge,	18 00	
" N. M. Gordon, Ebenezer,	30 00	—166 60
Newhope, Ky.,	7 50	
W. Berry, Ky.,	5 00	
J. H. Berry, Ky.,	6 90	
Mary A. Cunningham and sister,	1 00	
" W. R. Hemphill,	4 00	
" H. H. Robison, Ebenezer, Miss.,	22 75	
" J. L. Young, Bethany,	22 00	—67 25
" J. Wilson's charge,	87 00	
" H. Thompson, Old Providence,	12 70	
Virginia Pres'l Fund,	3 52	
" J. B. Watt's charge,	25 00	
" S. S. Ralston, Mt. Zion,	12 00	
" A. R. Ross, Olivet,	14 00	
" D. P. Robinson's charge,	40 00	
" E. E. Boyce, Mt. Nebo,	9 00	—203 22
" J. Boyce, Newhope,	21 15	
" L. McDonald, Neely's Creek,	17 68	
" " " Union,	16 05	
Generostee,	4 25	
Due West,	20 00	
Mrs. A. Johnson, N. C.,	8 00	
Cannon's Creek,	5 00	
" T. Turner,	1 00	—93 13
Whole amount received,		1129 72

CONTRA.

Rev. G. Gordon, pr. Rev. T. S. Lee,	400 00

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Rev. J. C. Chalmers,	471 00	
Rev. T. Turner,	105 00	
Rev. J. G. Miller,	48 00	
J. H. Strong, pr. Rev. Wilson,	90 00	
Rev. W. W. Spence, pr.		
Rev. J. M. Young,	7 97	
Whole amount paid out,		1121 97
Leaving a Balance of		7 75

There is yet due Missionaries:

Rev. T. Turner,	100 00
Rev. J. G. Miller, (supposed,)	137 00
Rev. W. W. Spence, a small balance.	

L. McDONALD, Treas. Pro. Tem.

Here is the report of Prof. Young, Treasurer of Erskine College.

REPORT OF TREASURER OF ERSKINE COLLEGE.

INTEREST.

Balance by last Report,	$221 38	
Oct. 12th, '56, Int. from Prof. Fund,	345 02	
Total Interest on notes,	1644 65	
Tuition Fees,	48 00	
Dividends on vested Funds,	2852 19	$5111 24

CONTRA.

Premiums on checks,	$3 42	
Commission on receiving Interest,	41 01	
Commission on receiving dividends,	80 12	
Paid Professors,	4000 00	$4124 55
Due Professors,		986 69
		400 00
Balance,		$586 69

THEOLOGICAL AND LITERARY FUND.

By last Report,	$4217 82	
Interest 15th Oct.,	295 24	
Int. on amount loaned Endowment Fund,	61 34	
2 Dividends on $2,000 S. C. R. R. Stock,	184 00	$4758 40

CONTRA.

Commission on receiving Int.,	$8 91	
Loaned to Endowment Fund,	2047 37	

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Interest on Loan to 15th Oct.,	107 47	
3 Beneficiaries, $80 each,	240 00	$2403 75
Balance in Treasury,		$2354-65

LOANED ENDOWMENT FUND.

By last Report,	$876 30	
Since last Report,	2047 37	$2923 67
Present amount of this Fund,		$5278 32
Which includes $1,000 of the Strong Bequest.		

PRINCIPAL OF ENDOWMENT FUND.

Balance by last Report,	$240 25	
Received since last Report,	1997 73	
Of Theological and Literary Fund,	2047 37	4285 35

CONTRA.

Paid for R. R. Bonds,	$6095 39	
Paid for Exchange,	4 27	6099 66
Deduct,		4285 25
Balance in favor of Treasurer,		$1814 31

STOCK PURCHASED SINCE LAST REPORT.

4 Greenville & Columbia R. R. Bonds,	$2000 00	
5 Memphis & Charleston R. R. Bonds,	5000 00	7000 00

SUMMARY OF STOCK.

Bank of Chester,	$5000 00	
People's Bank,	5000 00	
G. & C. R. R. Bonds,	22000 00	
M. & C. R. R. Bonds,	5000 00	
Lexington & Danville R. R. Bonds,	1000 00	
G. & C. R. R. As.	20 00	
Blair Bequest, S. C. R. R,	3750 00	$41770 00

INDIVIDUAL NOTES.

In hand of Treasurer,	13000 00	
In hand of Agents,	9943 00	22943 00
		64713 00

DEDUCT.

Amount Loaned Endowment,	$2923 67

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Amount Due Treasurer,	1814 31	
2000 of Blair Bequest,	2000 00	6737 98
Present Amount of Endowment,		$57975 02

This does not include the "Professorship Fund."

FUNDS FOR COLLEGE DEBT.

Balance at last Report,	$307 16	
Received since last Report,	2064 85	
Applied to the Debt,	2372 01	
Which leaves yet unpaid,		$1086 81

CONTINGENT FUND.

Received since last Report,		$247 00
Due Treasurer at last Report,	$113 83	
Paid since last Report,	40 15	153 98
Balance,		93 02

SUB-CERTIFICATES.

By last Report,	$208 00	
Received since last Report	120 00	328 00
Mrs. Alexander's Donation,		6 00
Total,		334 00

The Treasurer, in concluding this report, would call attention to the importance of having the entire Endowment fund vested in permanent stock. All persons indebted to this Fund, will be promoting the interest of our College by making payment as soon as may at all consist with their convenience. Our vested Funds yield a better per cent than the individual notes.

J. N. YOUNG, Treas'r.

Sloan and Patrick presented the following on the Nashville Church debt, which was adopted:

The Committee to whom was referred the matter of suggesting a plan to raise funds to liquidate the debt of $900, still remaining on the Nashville Church Enterprize, would submit the following;

Whereas, there appears to be a considerable amount of the funds subscribed, still uncollected, and whereas these subscriptions are scattered over Synod in the hands of agents, Ministers and others, Therefore,

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Resolved 1*st.* That all persons holding such subscriptions be requested to give special attention to their collection, and forward the amounts to Rev. J. H. Bryson, Agent, as early as practicable.

Resolved 2*nd.* That we hereby appeal to the liberality of persons generally throughout the Synod, to send up contributions for this purpose, and that Ministers make known the same to their congregations.

Respectfully submitted.

H. T. SLOAN, } Com.
J. PATRICK. }

Mr. Hemphill, from the Committee on Foreign Missions, submitted a report recommending, 1st, that $500, of the Foreign Mission fund be placed in the hands of Dr. Fairchild, Secretary of the American and Foreign Christian Union, to be employed by that association in evangelizing the Papal countries.

2nd, That the Board of Foreign Missions be discharged, believing that there is no necessity for its continuance.

The first item of this report was lost by a small majority; the second prevailed.

Mr. Turner, from the Committee to nominate suitable persons to fill the vacancies in the Board of Trustees, recommended the following names: Rev. James P. Pressly, D. D., J. L. Miller, M. D., George W. Pressly, M. D., Mathew Elder, J. W. Hearst, M. D., A. W. Chalmers, M. D., Gen. P. H. Bradley, Maj. W. K Bradley, Col. S. Donnald, Col. D. O. Hawthorn, Henry L. Elliot, James Hemphill Esq., Robt. Drennen, Rev. W. R. Hemphill, W. S. Lowry.

Betts, Wilson, and McCain, submitted the following report in reference to the appeal of Mr. Jobe, from the decision of the Tennessee Presbytery, which was adopted:

"The Committee are of opinion that no action can be taken by this Synod.

1. Because he (Mr. Jobe,) had not notified the Presbytery of his intention to appeal within the constitutional time.

2. No proof accompanies his allegations of irregularity on the part of the Presbytery. And, therefore, the Committee recommend that the appeal be dismissed."

It was resolved that the amount of interest incurred by Rev. J. C. Chalmers, for moneys borrowed from the Foreign Missionary

MINUTES

OF THE

ASSOCIATE REFORMED SYNOD

OF THE SOUTH,

HELD AT

Due West, Abbeville District, S. C.,

OCTOBER 11—14, 1858.

DUE WEST, S. C.
PRINTED AT THE OFFICE OF "THE DUE WEST TELESCOPE."
1858.

Erskine00040

It is our wish that S. A. Agnew be continued in the North Mississippi field. Mr. Dickson is to spend the Winter in study and then to return to South Mississippi, with a view of settlement, and Mr Davis, at his own request, has received a dismission from Presbytery, and he expects to repair to the Seminary at Monmouth, Illinois.

At our late meeting, the relation between brother Weed and the Troy congregation was dissolved by mutual consent. The dissolution to take effect at the end of the year. Brother Weed expects to labor as health will permit, in the region of country around Troy; there being a great scarcity of evangelical preaching in that section of country.

That the King and Head of the church may direct you in all your deliberations for the advancement of His kingdom, is the prayer of your brethren in Christ,

J. WILSON,
J. L. YOUNG,
Committee.

REPORT OF VIRGINIA PRESBYTERY.

To the Associate Reformed Synod of the South, to meet at Due West Corner, on the 11th, October, 1858, the Presbytery of Virginia would submit her annual Report:

In the good Providence of our God, the lives of our ministers have been spared; and with the exception of our Probationer, A. B. Beamer, whose health for several months has been precarious, there has been nothing to hinder our ministers from the habitual discharge of their appropriate duties.

In all our bounds we have been afflicted with a severe drought, and the earth has not brought forth her fruits with her wonted exuberance. But though we have been corrected, and sensibly admonished of our dependence and helplessness, yet we have abundant reasons for thankfulness, that we have neither had "a famine of bread," nor "of hearing the words of the Lord." On the contrary, we must "mention the loving-kindness of the Lord, and the great goodness which He hath bestowed upon us, according to His mercies, and according to the multitude of His loving-kindnesses." In several of our congregations we have had indications unusually cheering of God's gracious presence in our midst.

Flourishing Sabbath Schools are reported in most of our churches; and in some, delightful prayer-meetings are regularly held, upon which God has poured out in an evident manner "the spirit of grace and supplications." In those congregations where these means are observed, there is an increased attendance upon the ordinances. And though there have been no great awakenings, or powerful revivals of religion, such as

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have been enjoyed in many portions of our land; yet these are evident tokens of the presence of God's quickening spirit; and larger numbers have been added to the church than we have ever reported heretofore.

Our people generally manifest a commendable liberality in giving to the support of the gospel at home, and to its propagation abroad. It is believed that the relations between pastors and people are entirely harmonious.

Your Probationer, Mr. Lathan, whom you appointed to labor in our bounds, appeared amongst us about the first of May, and preached with much acceptance for four months in New Lebanon Congregation. This Congregation is taking steps to call this young brother to be their Pastor. And we are earnestly requested to have him assigned to them for the ensuing year. Having granted their petition for the moderation of a call, we desire that he be now transferred to our Presbytery, in order to facilitate his settlement among us if it be agreeable to his feelings.

As already mentioned, Brother Beamer's health has been such as to disqualify him for active usefulness, as a preacher.—He has not attended our meetings of Presbytery during the year; nor has he signified to us his plans, or his wishes in reference to any future disposition of him.

May the King and Head of the church preside in your deliberations, that His name may be glorified in the peace and prosperity of the Church.

Respectfully submitted.

WM. M. McELWEE,
JOHN McKEMY.
Committee.

REV. J. N. YOUNG'S REPORT, AS TREASURER.

		INTEREST.		
Oct. 14, 1857.	Rev. J H Bryson,	$32	66	
"	" "	2	19	
"	Rev. R F Taylor,	6	00	
"	Hugh Wiseman, (Rev H H R),	4	20	
"	E E Cochran, (Rev J Hunter),	6	00	
"	Rev T Turner,	7	00	
"	McKinstry & Harper, (Rev J Wilson),	14	00	
Nov. 2, 1857.	T A W Chalmers, (Rev J C C),	7	00	
				79 05
"	J A Brice, (Prof J F Lee),	7	00	
Nov. 3, 1857.	A J Weed,	7	00	
"	A N McFall,	7	00	
Nov. 5, 1857.	Rev S P Davis, (Jas McGill),	5	00	

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Nov. 5, 1857.	J L Morrow,		7 00	
Nov. 6, 1857.	J P Kennedy, (Rev J I Bonner),		9 80	
"	H Kirkpatrick,		7 00	
				49 80
Nov. 7, 1857.	Rev W M McElwee, (Rev H T Sloan),		12 00	
"	W S McCormick,	"	7 20	
"	J & W Harris,	"	2 40	
Nov. 9, 1857.	Mary Bryson, (Rev D F Haddon),		4 20	
"	Rev D F Haddon,		2 80	
"	John McClarkin, (Dr Boyce),		7 00	
Nov. 10, 1857.	Dr R Devlin, (R Drennan),		14 00	
Nov. 12, 1857.	J B & T Whitesides, (Rev J R Castles),		7 00	
Nov. 13, 1857.	R N Freeland, (Rev W B P),		6 00	
"	David Webb, (J Hemphill, Esq),		7 00	
				69 60
"	John Davidson, (J Young, Esq),		6 00	
"	Rev A S Sloan, (Rev J I B),		8 50	
Nov. 20, 1857.	Joseph Reid,		7 00	
Dec. 2, 1857.	Clark W Moore, (Rev R A R),		7 00	
Dec. 3, 1857.	W R Chesnut, (Rev H Q),		4 20	
"	G M Chesnut,	"	7 00	
"	S B Wylie,	"	4 20	
Dec. 7, 1857.	John McClintock, (Rev D F H),		1 40	
				45 30
"	Samuel Link, (D W H),		4 00	
"	W T Drennen,		4 00	
"	A P Connar,		7 00	
"	David Morrow,		2 80	
"	M B Latimer,		7 00	
"	Rev S P Davis, (Rev W R H),		2 00	
				26 80
Dec. 9, 1857.	H L Elliot, (Rev C B Betts),		11 20	
"	Rev C B Betts,		7 00	
Dec. 12, 1857.	J T Haddon, (D W H),		4 20	
"	Albert Johnson,		4 00	
Dec. 18, 1857.	T B Chalmers, (Rev J I B),		4 20	
Dec. 22, 1857.	Rev H L Murphy,		22 00	
"	Rev R W Brice, (Bank Chester),		47 60	
"	Gaston & Melton, (Rev R W B),		7 00	
Jan. 1, 1858.	Rev R W Brice,	"	7 00	
"	H C Brawly,	"	4 20	
"	J T Walker,	"	4 20	
"	Rev R W Brice,	"	2 80	
				125 40

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Jan. 1, 1858.	Samuel Allen, (J T Castles),		6 00	
"	Rev J C Chalmers, (E Willbanks),		4 20	
"	E Willbanks,		4 20	
Jan. 5, 1858.	S B McClinton, (W B Morrow),		7 00	
"	John Brice, Jr, (J M B),		7 00	
"	W J Bryson, (Rev D F H),		4 20	
Dec. 7, 1857.	J A Hunter, (D W H),		4 20	
"	D W Hawthorn,		7 00	
"	A C Hawthorn,		7 00	
"	Wm McCaslan,		4 20	
Jan. 12, 1858.	R Brownlee,		2 80	
"	J A Cratwell,		4 20	
Jan. 12, 1858.	Rev J B Watt,			62 00
"	W H Neal, (Rev J B W,)		9 00	
"	Jona Reid, "		6 00	
"	Tho P Grier, "		6 00	
"	H C Harris, "		3 60	
"	Zenas Grier, "		3 60	
"	Tho H Grier, "		6 00	
"	Est W J Watt, "		3 60	
"	E Y Hutchison, "		4 20	
"	W M Grier, "		3 60	
"	S W Reid, "		30 00	
"	Jno M Porter,		3 60	
"	Dr J M Strong,		2 40	
"	Est of Dr Harris,		3 60	
"	R W McDowell,		2 40	
"	Alex Grier,		2 40	
"	Wm S Grier,		3 60	
"			2 40	
"	Rev A S Sloan, (Rev J I B),			96 60
"	Rev A S Sloan,		14 14	
"	R S Ketchin, (Rev J I B),		17 25	
"	Rev D G Phillips,		4 20	
Jan. 20, 1858.	John Douglass, (Dr Boyce),		8 55	
Jan. 29, 1858.	Andrew Jones, (T Hawthorn),		7 00	
"	J Gibson and J Kirkpatrick,		7 00	
"	A W Haddon, (Rev J I B),		7 20	
"			4 20	
"	Col A Sharp, (Rev W B P),			69 54
Feb. 1, 1858.	S S Blakely, (Rev J I B),		1 90	
"	Henry Castles, (Dr J Boyce),		2 80	
"	James Dawson, (Rev J C C),		4 20	
"	Maj W Dickson,		2 80	
			4 20	
				15 90

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Feb. 16, 1858.	W Agnew, (B Haythorn,)	4 20	
"	John Kennedy, (Rev R A Ross),	11 20	
"	Samuel Blair, "	7 00	
"	R E Gettys, "	2 80	
"	A S Wallace, "	7 00	
"	W Scott, "	2 33	
		———	34 53
Feb. 20, 1858.	Col Thos J Grier, (S W R),	7 00	
"	J P White, (Rev W B P),	12 00	
March 1, 1858.	W A Pressly, Esq	5 00	
"	A Hunter, Esq,	6 50	
"	Robert Lindsay, (Rev R A R),	2 00	
March 5, 1858.	J B Wylie, (Rev R W B),	2 80	
"	W W Duff, (Rev J I Bonner),	8 00	
"	John McDonald, (Rev H Quigg),	7 00	
"	J W Aikon, "	7 00	
"	J Wear, J Miller & Co, "	5 25	
		———	57 55
March 10, 1858.	James Elliott, (Rev C B Betts)	14 00	
March 18, 1858.	R A Fair, Esq,	7 00	
"	Jno F Clinkscales, "	4 20	
"	J A Martin, (Rev J I B),	10 00	
March 20, 1858.	D M Nelson, "	7 00	
"	Jas D Craig, "	4 20	
		———	46 40
March 31, 1858.	Thos Torbit, (Rev L McD),	17 00	
"	Matthew Elder, "	7 00	
"	Robert Miller, "	7 00	
"	Dr W Brice, "	7 00	
"	Nath'l Lessly, "	2 80	
"	L McDonald,	7 00	
"	J W McKinstry, (Rev J A S),	4 20	
"	Rev J A Sloan,	11 25	
		———	37 80
April 5, 1858.	B Jordan,	7 00	
"	John A Mars,	24 64	
"	W Batler,	6 00	
		———	52 09
April 6, 1858.	James Fleming, (Rev J I B),	2 80	
"	W K Bradley, "	7 00	
May 6, 1858.	Col W Clinkscales,	7 00	
May 10, 1858.	G Jenkins, (Rev R A R),	7 00	
"	R Lindsay,	80	
"	Rev A McElroy, (J H Gibson),	21 00	
"	Rev D P Robison,	11 30	
May 26, 1858.	Capt Jas Moffatt, (Rev J C B),	8 00	
		———	64 90

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June 7, 1858.	Dr G W Pressly, (A C H),	35 00	
"	W A Lee, Esq.,	4 20	
"	Maj T Rosch, (Rev R A R),	7 00	
July 10, 1858.	Dr H C Castles, (Rev R W B),	4 20	
July 20, 1858.	James Seawright,	2 80	
July 26, 1858.	Leroy Purdy, (R Drennen),	4 20	
			57 40
Rev L McDonald, in Bank of Chester:			
May 10, 1858.	Joseph Wylie, "	7 00	
"	J H Moffatt, "	7 00	
"	W A Burns, "	4 20	
"	Capt Jno Smith, "	4 20	
"	Wm Cherry, "	4 20	
			26 60
J G Enloe, in Bank of Chester:			
April 15, 1858.	John Barron,	7 00	
"	W B Wilson,	3 50	
"	Gilbert Shaw,	2 80	
"	J G Enloe,	4 20	
			17 50
			1034 76
Interest not included in last report,			62 85
			1097 11

CONTRA.

Feb 16, 1858.	Rev J I Bonner, for acknowledgments in Telescope,	5 15	
	Treasurer's Commissions, (2½ pr ct.)	25 87	
			31 02
			$1066 09
Aug. 12, 1858.	W S Lowry,	7 00	
Aug. 25, 1858.	J T Boyd, (Rev J I B),	3 00	
Aug. 30, 1858.	F G Simril, (Rev J B W),	3 60	
"	Rev J B Watt,	8 00	
			21 60
Sept. 20, 1858.	Dr J M Miller, (Rev J C C),	10 00	
"	Rev T Turner,	4 20	
			14 20
			$35 80
Oct. 14, 1857.	Rev J H Bryson,	31 33	
"	Rev John Miller,	330 00	
Nov. 10, 1857.	W H Story, (Rev W R H),	18 00	
"	J C Bell, "	18 00	

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Nov. 10, 1858.	J W Mathews, (Rev J H B),	50 00	
Dec. 7, 1858.	John McClintock, (Rev D F H),	20 00	
Dec. 22, 1857.	Rev H L Murphy,	100 00	
Jan. 2, 1858.	W J Bryson, (Rev D F H),	60 00	
Jan. 18, 1858.	Rev A S Sloan,	12 75	
"	Rev D G Phillips, (J W Lowry),	100 00	
			749 08
March 1, 1858.	J M Brown,	40 00	
"	A Hunter,	100 00	
March 18, 1858.	J A Martin, (Rev J I B);	100 00	
April 5, 1858.	John A Mars,	100 00	
May 6, 1858.	Rev J A Sloan, ($100—$2 exc.)	98 00	
July 10, 1858.	Rev T Turner, (Rev R W B),	88 55	
July 28, 1858.	Dr G W Pressly, (J P Kenn'y,)	500 00	
Aug. 12, 1858.	M Elder, (Rev L McDonald),	30 00	
"	Rev T Turner, (Rev R W B),	11 45	
"	Rev J B Watt, $160—$1 60,	158 40	
			1226 40
			$1966 48

CONTRA.

Sept. 11, 1858.	One bond Mississippi Central Rail Road, Bank of Chester,	725 47
	Balance,	$1241 01

DIVIDEND ON STOCK, &c.

1857.			
	Balance by last report,	$586 69	
Oct. 16.	Treas. of Professorship fund,	337 63	
			924 32
Nov. 9.	5 Coupons M & C R R Bonds,	175 00	
1858.			
Jan. 1.	1 Coupon L & D R R Bond,	35 00	
Jan. 20.	Dividend on $1700 S C R R stock,	41 35	
"	12 Coupons G & C R R Bonds,	210 00	
			461 35
March 9.	Dividend People's Bank,	200 00	
March 28.	32 Coupons G & C R R Bonds,	560 00	
May 5.	Dividend Bank of Chester,	250 00	
"	5 Coupons M & C R R Bonds,	175 00	
			1185 00
July 12.	12 G & C R R Bonds,	210 00	
July 28.	Dividend on $1700 S C R R Stock,	65 47	
"	Dividend People's Bank of S C	200 00	
"	Tuition Fees since Nov. 1857,	51 36	
			526 83

Erskine00047

1858.		
Sept. 15. 32 Coupons G & C R R Bonds,	560 00	
Oct. 5. Dividend Bank of Chester,	250 00	
		810 00
		3907 50
DEDUCT.		
Treasurer's Commission,	97 68	
Interest on $4737 98, Theological and Literary Fund,	331 65	
		429 33
		3478 28
Interest as above exhibited,		1066 19
		4544 42
Interest since 11th August,		35 80
		$4580 22
CONTRA.		
In addition to the $400 then due, paid Professors since last report,	3500 00	
Balance of College debt,	970 52	
		4470 52
Balance in Treasury.		$109 70

THEOLOGICAL AND LITERARY FUND.

Balance by last report,		2354 65
Loaned to Endowment Fund,		2923 67
		5278 32
Jan. 20, 1858. Dividend on $2000, S C R R,	48 65	
July 28, 1858. Dividend on $2000 S C R R,	77 03	
Interest up to Oct. 15,	369 48	
		495 16
		5773 48
CONTRA.		
Aug. 12, 1858. One Beneficiary for two years,	180 00	
" One Beneficiary for one year,	100 00	
Treasurer's Commission,	9 23	
		289 23
Present amount of the fund,		5484 25

$746 27 of the above fund remains yet to be invested in stock.

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COLLEGE DEBT.

Oct. 14, 1857.	Rev D P Robinson, (Dr Boyce),	50 00	
May 4, 1858.	" Rev D P Robinson, (Dr Boyce),	1 70	
"	" Rev I G McLaughlin, (Dr Boyce),	1 25	
"	" M B Wallace, Sardis,	49 00	
May 10, 1858.	Wm Patterson, (Rev D G Phillips),	10 00	
			111 95
Oct. 15, 1857.	Current funds of College,		970 52
	Which discharges the debt.		1082 47

SUMMARY OF STOCK.

Bank of Chester,	5000	
People's Bank of S C,	5000	
G & C R R Bonds	22000	
M & C R R Bonds,	5000	
L & D R R Bonds,	1000	
G & C R R As Bonds,	20	
Blair Bequest, S C R R,	3750	
Miss. Central R R Bonds,	1000	
		42,770

INDIVIDUAL NOTES.

In hands of Treasurer,	$11700	
In hands of Agents,	9669	
		21,369

Since last Report $1500 has been collected on notes in Treasurer's hand, and $274 on notes in Agents hands, which sums, added to the above, make $22,943, as reported last year.

During the year one Bond of $1000 has been purchased on Mississippi Central R. R., and four others are under contract, two of which will be secured in a few days.

Total amount of Endowment fund is as follows:

Stock,	42,770	
Soon to be added,	2,000	
Notes,	21,369	
		66,139

DEDUCT,

Loan from Theological and Literary Fund,	4737 98	
Part of Blair Bequest,	2000	
		6747 98
		$59,391 02

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CONTINGENT FUND.

Balance by last report,	98 02	
Sessional Fees,	245 00	
		337 02

CONTRA.

Paid out in behalf of College,	337 02

There is still a debt on this department of the College Treasury, owing to recent extensive repairs of College enclosure. The exact amount of the debt is not yet fully ascertained, and will therefore be deferred until another report is presented.

SUB-CERTIFICATES.

Since last Report,	121
By last Report,	328
Total,	449

5 Students exempt by act of Synod. 1 Tuition in money, 3 perpetual Scholarships.

The Treasurer would reiterate the recommendation that all those who are indebted to the endowment would make payment as soon as may be at all convenient. The trouble of the management of the funds will thereby be much diminished and the income increased.

J. N. YOUNG, *Treasurer.*

Due West, Oct. 1858.

A. C. HAWTHORN'S REPORT AS TREASURER OF PROFESSORSHIP FUND.

Amount on hand 1st October, 1857,	$4823 42	
Interest from 1st October, 1857, until 1st October, 1858,	337 63	
		5161 05
Amount interest paid Rev. J. N. Young,		337 63
Amount on hand 1st October, 1858,		$4823 42

No Commission taken.

A. C. HAWTHORN, *Treasurer.*

MISSIONARY REPORT OF WM. S. MOFFATT.

To the A. R. P. Synod, assembled at Due West, S. C.

I would respectfully report that I have in part fulfilled the appointments given me at the preceding Synodical meeting. I was directed to spend 9 months of the year in Arkansas, and 3 months in Alabama. The latter appointment I did not fulfil for the reason that it would have subjected me to very great inconvenience to have complied therewith.

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ANNUAL CATALOGUE

1858–1859

OF THE

OFFICERS AND STUDENTS

OF

ERSKINE COLLEGE,

AT

DUE WEST, ABBEVILLE DISTRICT, S. C.

FOR THE COLLEGIATE YEAR

1858–'9.

DUE WEST, S. C.:
PRINTED FOR THE COLLEGE, AT THE TELESCOPE OFFICE.
1859.

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Preparatory Department.

This department is under the immediate direction of the Faculty. In it, instruction is given in everything indispensable for admission into the lowest College Class. The course of instruction in this department occupies two years; and no individual ought to expect to be conducted through it within a shorter period of time.

Terms of Admission.

Candidates for admission into any one of the College Classes will be required to stand an examination, satisfactory to the Faculty, on the previous studies of the course, or on what may be deemed an equivalent. Applicants will be examined during the first week of the session. Those coming from other schools must present certificates of their character from their former Instructors.

Session and Vacation.

The College Session commences on the First Monday of November, and closes on the Second Wednesday of August.

Erskine00052

The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the Third Monday of March.

It is very important that Students should enter or return to College at the beginning of the Session, since an absence of a few days at a time when a branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

Expenses.

Tuition in the Preparatory Department, (per term,)$12,50.
Tuition in the College Classes, (per term,) $16,00.
Boarding, Lodging and Washing, $9 to $12 per month.
Fuel and Light to each room, $8 to $10 per annum.
Contingent expenses, $1 per term.

Those who have Scholarships, can of course, pay their tuition with Sub-Certificates.

Tuition, whether in Cash or Sub-Certificates, invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a Student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

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MINUTES

OF THE

A. R. SYNOD OF THE SOUTH,

HELD AT

Hopewell, Maury Co., Tenn.

OCTOBER, 10-18, 1859.

DUE WEST, S. C.:
PRINTED AT THE TELESCOPE OFFICE.
1859.

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The Treasurer's Report which accompanies the Report of the Board, presents the Funds of the College in a prosperous state. It may not be out of place to remark—that while the funds are reported to be in a safe condition, and also to be furnishing an income sufficient to meet the immediate wants of the College; that yet the amount of the endowment Fund remaining unpaid is large; and it is very desirable that payment may be made as soon as practicable, that the whole may be converted into permanent stock. And we recommend that the Synod approve the judgment of the Board in regard to the outstanding bonds in the hands of Treasurers and Agents; that all persons failing to pay up the interest annually, forfeit the condition of discretionary time as to the payment of the principal; and directing the Treasurer to exercise discretion in all such cases of collecting both principal and interest, that no loss may be sustained by the College.

As far as we are able to judge from the reports referred to us, the appropriations of Synod to the departments of Professors Hemphill and Lee, for supplies of Books, Chemicals, &c., have been judiciously expended.

(The reference to Synod of the separation of the Preparatory Department was disposed of by a resolution which will follow the preceding.)

JOHN PATRICK, Char'n.

In connection with the above report the following resolution was offered by Dr. E. E. Pressly, and adopted—namely, that a Committee be appointed to prepare and to present to next Synod a plan for the organization and support of an Academy in each of the Presbytories with a view of superseding the necessity of a Preparatory department in Erskine College.

On motion of Rev. J. H. Bryson, 3 o'clock this afternoon was made the order of the day to receive Rev. R. C. Matthews who is present as a delegate to the Synod from the O. S. General Assembly.

Mr. E. L. Patton was asked in reference to the election to the Presidency of Erskine College, who responded by signifying his acceptance of that office. Dr. Grier signified his willingness to accept the professorship in the theological Seminary to which he was elected on yesterday. The Committee to whom were referred the affairs of the Seminary presented the following report which was adopted:

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Erskine00055

The Committee to which was referred the subject of the Theological Seminary would report: That having taken the matter assigned them under consideration they would recommend the following items.

1st. That the term of Theological study embrace a period of three years.

2d. That there be but one session in each year consisting of seven months—the Session to commence on the 1st. Monday of Nov. and close on the last Thursday of May.

3d. That the course of study as to Text Books and subject matter be the same as that heretofore pursued in our Seminary.

4th. That the Theological Professor receive a salary of one Thousand Dollars, for his Services in that Department.

5th. That for the present the funds for the sustentation of the Seminary be left in the hands of the Treasurer of Synod.

6th. That D. G. Phillips, W. D. Stone, and D. Montgomery, be a committee to consider the propriety of appointing a Board of Directors and a transfer of the funds designed for the benefit of the Seminary, to report at the next meeting of Synod.

TREASURER'S REPORT

Theological and Literary Fund.

Amount Loaned Endowment Fund,	$4737 98	
Balance not vested,	746 27	
Blair Bequest (S. C. R. R. Stock)	2000 00	
Jan. 10, 1859. Dividend on $2000 (R R St)	80 00	
July " " " " " "	80 00	
Interest on $4737 98 up to Oct. 15,	331 65	
" " 746 27 " " " "	52 24	
		$8028 14
Contra.		
Allowance to one beneficiary,	$100 00	
Treasurer's Commission,	12 57	
Int. on Blair Beq. $2000 and Strong Beq. $1000, subject to Synod's order for Domestic Missions.	230 00	
		342 57
Which will leave of this fund,		$7085 57
The part not vested in Stock is	$746 27	
Unexpended interest,	201 32	
	$947 59	

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ENDOWMENT FUNDS REPORTED TO THE BOARD OF TRUSTEES OF ERSKINE COLLEGE.

PRINCIPAL.

Received since last annual report up to Aug 1st.		$2980 00
Balance by last Report,		1241 01
		$4221 91

CONTRA.

Vested in Mississippi Central R. R. Bonds,		3610 00
Balance,		611 91

There was on these Bonds of accumulated interest $70 23 which amount is deducted from dividends when collected as shown in the report following.

AMOUNT OF STOCK.

Bank of Chester,	$5000	
People's Bank of S. C.	5000	
G. & C. R. R. Bonds,	22000	
Mem. & C. R. R. Bonds, (Bank of Chester)	5000	
L. & D. R. R. Bonds, (" " ")	1000	
Miss. Cen'l R. R. Bonds, (" " ")	6000	
G. & C. R. R. Assessment,	20	
S. C. R. R. Stock,	1750	
		$45770 00

INDIVIDUAL NOTES.

In Treasurer's hands,	$11142	
In Agent's hands,	8302	
		$19444 00
Total Stock and Notes,		$65214 00
Belonging Theological and Literary Fund,		4737 98
		$60476 02

DIVIDENDS ON STOCK.

Dividends and one years Interest on Professorship Fund,	$2820 82	
Interest on Notes,	1559 08	
		$4379 90

CONTRA.

Salaries paid Professors,	$2200 00	
Int. on $4737 98 of Theo. and Lit. Fund,	331 65	
Treasurers Com. on Dividends,	70 75	
" " " Interest on Notes,	38 97	
Premiums on Checks,	2 00	
Interest accumulated on Bonds when purchased,	70 23	
		$2713 60

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Ballance on hand, $1666 30

SUPPLIMENT TO REPORT TO BOARD.

Dividends received, $810 00

Making, $2476 30

CONTRA.

Paid Professors, $2500 00

Balance in favor of Treasurer, 23 70

ENDOWMENT OF THEOLOGICAL SEMINARY.

$5000 of the amount pledged to Synod at her last meeting for this purpose were loaned out on the first of January last in safe hands by the Donor and the notes placed subject to the order of the Trustees of Erskine College

$1000 pledged by another has been paid.

$500 in form of a G. & C. R. R. Bond has been donated by another.

$125 of interest has been paid on $2500 pledged by another, which may be thus summed up,

In Notes at 10 per cent.	$5000 00	
In cash,	1000 00	
In R. R. Bond,	500 00	
		$6500 00
Interest,	$125 00	
Interest on 125,	4 88	
2 Coupons,	35 00	
		$164 38

J. N. YOUNG, Treasurer.

On motion a copy of the moderator's sermon delivered at the opening of this Synod was requested for publication in the *Telescope*.

Mr. Bonner submitted the following report as Treasurer of the Foreign Missionary fund.

REPORT OF TREASURER OF FOREIGN MISSIONS.

Oct. 12, 1858.	Amount Strong Bequest,	$2000 00
" " "	Contributions,	1176 47
		$3176 47
	Interest to date,	222 35
		$3398 82
1859		
April 1	Rec'd of Lebanon, (Ala.)	20 00
" "	" Mrs. Henry,	2 00
" "	" Mt. Zion, (Mo.)	6 00
		28 00

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Amount brought forward,		28 00
April 1, Rec'd of Wright's Bequest,	25 00	
" " " " S. D. Bowen,	3 00	
" " " " Dr. W. Henderson,	2 00	
" " " " Bethel, (S. C.)	20 00	
" " " " Smyrna, (Ga.)	10 00	
" " " " Prosperity, (S. C.)	22 00	
" " " " Rev. Ross's, charge,	54 53	
" " " " " E. E. Boyce's, "	20 20	
		156 73
Interest to date,		6 50
1859		$191 23
Oct. 12, Wright's, Bequest,	25 00	
" " Pisgah, (N. C.)	12 00	
" " A Friend,	5 00	
" " Bethany, (Miss.)	23 65	
" " Ebenezer, (")	24 10	
" " Hopewell, (Ga.)	30 00	
" " Bethel, (")	4 25	
" " Cannon Creek, (S. C.)	7 50	
" " Sterling, (N. C.)	8 00	
" " Cedar S. and L. Cane,	37 38	
" " Mt. Zion, (Mo.)	8 10	
" " Monroe, (Va.)	17 00	
" " A. B. C.	5 00	
		$206 98
Am't on hand,		$3797 03

Respectfully submitted,

J. I. BONNER, Treas.

On motion of H. T. Sloan, the Minutes were directed to be published in the *Telescope*, and in pamphlet form if members should so desire.

The hour for recess at noon was had.

After recess the order of the day, the subject of Foreign Missions, was taken up. Several letters received from the United Presbyterian Missionaries in Egypt, were read to the Synod by Mr. Bonner and Dr. Boyce, while a free expression of opinion was given by the members. A committee consisting of Wilson, Brice and D. Pressly were raised to obtain volunteers to our Foreign Missionary work, to report before the adjournment of Synod.

Dr. E. E. Pressly on excuses for absence, submitted the following Report, which was adopted, namely:

That Rev. S. S. Ralston, J. K. Boyce, J. L. McDaniel, J.

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M. Young, J. N. McCain be excused for absence at last meeting of Synod—that Col. Purvines, J. McDill, Wm. M. Grier, P. G. McMullen, F. Raymond, J. Galloway, J. C. Boyd, P. H. Bradley, D. F. Haddon, R. C. Grier, J. N. Young and J. I. Bonner be excused from farther attendance on the sittings of this Synod.

Rev's. Ross, Brice and J. N. Young, were appointed the Committee on Presbyterial Academies.

A. S. Montgomery on Board of Domestic Missions, presented the following Report, which was adopted:

REPORT OF BOARD OF DOMESTIC MISSIONS.

The Board of Domestic Missions submit the following Report:

That the probationers under your care and direction, have substantially fulfilled their appointments, except in a few cases, in which they have been providentially hindered. The demand upon the Domestic Missionary fund is as follows:

Due M. Oates,	$51 00
" J. W. Finley,	20 75
" W. S. Moffatt,	23 25
" R. L. Grier,	104 00

Which several sums we recommend Synod to pay.

The Board recommend the following scale of supplies:

That M. Oates be assigned to Va. Presbytery for the entire year. Also, that A. B. Beamer labor, as his health may permit, in the bounds of the same Presbytery.

That J. G. Miller spend six months in the Ga. Presbytery, repairing there as soon as possible, after the adjournment of Synod; and the remainder of the year in the Kentucky Presbytery.

That J. H. Simpson labor in the Kentucky Presbytery from the spring meeting of the 1st Presbytery, until the meeting of Synod.

That W. J. Lowry spend the first six months in the Kentucky Presbytery, and the remainder of the year in the Presbytery of Georgia.

That S. P. Davis preach five days at Nebo, and seven at New Salem, East Tenn.

That R. L. Grier labor under the direction of the Memphis Presbytery.

That S. A. Agnew and J. L. McDaniel labor under the di-

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Session and Vacation.

The College Session commences on the First Monday of November, and closes on the Second Wednesday of August. The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the Third Monday of March.

It is very important that Students should enter or return to College at the beginning of the Session, since an absence of a few days at a time when a branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

Expenses.

Tuition in the Preparatory Department, (per term,) -12,50.
Tuition in the College Classes, (per term,) $16,00.
Boarding, Lodging and Washing, $9 to $12 per month.
Fuel and Light to each room, $8 to $10 per annum.
Contingent expenses, $1 per term.

Those who have Scholarships, can, of course, pay their tuition with Sub-Certificates.

Tuition, whether in Cash or Sub-Certificates, invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a Student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

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Remarks.

ERSKINE COLLEGE is located in the village of Due West, eleven miles north of Abbeville Court House, and four miles from Donnald's Depot, on the Greenville and Columbia Railroad. The location is high and healthy, the population around generally moral and correct; the temptations to vice and crime are few, compared with those that exist in large towns and cities. By a clause in the Charter of the Institution, no one is allowed to open a shop or store for the retail of ardent spirits within two miles of the College.

The government of the College is mild and parental. Severe acts of discipline are avoided as much as possible; appeals are made to the honor, self-respect, or sense of duty of the Students, or to the regard which they have for their character and the wishes of parents and friends. Information is lodged with parents and guardians against the idle and wayward.

A strict attention to the exercises of the recitation room is required, and a weekly reckoning is had with those who fail in duty.

Specimens of Composition and De[illegible]lation are, from time to time, required of all the Students. There are also two Literary Societies, with respectable and select Libraries, which afford additional opportunities for improvement in declamation, composition and forensic exercises.

The Religious Exercises of the College consist in the daily reading of the Scriptures and Prayer in the Chapel, Bible-class exercises on Sabbath morning, and a public religious service in the evening; together with the opportunity of attending the Village Church, or other places of worship in the vicinity during the day.

The College edifices are stately and commodious, containing a Reading Room, supplied with papers and periodicals; rooms for the Literary Societies, richly and tastefully furnished; a small, well selected Geological Cabinet; a Philosophical and Chemical Apparatus; together with an excellent Equatorial, Acromatic, Refracting Telescope, mounted on an Observatory which overlooks the whole surrounding country,

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ABSTRACT OF MINUTES

—OF THE—

A. R. Synod of the South,

FOR THE YEARS 1863, 1864, 1865, 1866.

—o—

PRINTED BY ORDER OF SYNOD OF 1885.

—o—

"Associate Reformed Presbyterian" Print.

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Central railroad. The salary due Professors for 1863, 1864 and 1865 still unpaid.

At the instance of Mr. Hemphill it was resolved that the second Thursday of December next (the 14th) be observed as a day of fasting, humiliation and prayer by all our churches, in view of the severe judgments upon the land, the low state of religion, and the need we have for wisdom and grace to meet the existing troubles.

TREASURERS' REPORTS.

(We print only the aggregates.)

Army fund—receipts	$1301 87
Paid out	865 00
Balance	$ 436 87

Endowment funds—receipts, including coupons on Confederate bonds	$2347 06
Paid on Professors' salaries	2400 00
Total amount of invested funds, including Confederate bonds	$72,937 47

Foreign Mission report—total amount of vested funds including Confederate bonds	$5651 13

Domestic Missions—total receipts	$707 10
Total expenditures	390 75
Balance	$316 35

R. W. Brice, treasurer of Wright bequest, for the year ending September 15, 1865:

Due by last report to Synod $87 28. December 19, 1864, sold a 4 per cent. Confederate bond of $100, part of which belonged to this fund, vis., $41 58. Your agent is ready to pay over the above $128 86 to Synod in the same kind of funds it was paid to him. I would remark there is in my hands belonging to this fund $1200 in 6 per cent. Confederate bonds which was so invested by order of Synod in 1863. Also $600 in Confederate interest bearing treasury notes which was paid by the Commercial bank as dividends for July, 1864.

The subject of getting up a newspaper being under consideration, Dr. Grier offered the following resolution, which was adopted:

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That Dr. Boyce, J. I. Bonner, H. T. Sloan and J. P. Kennedy be a committee to take in hand the work of furnishing the Synod with a paper, to be published at such time and place and on such terms as in their discretion will be wise.

J. Y. Mills reported in reference to A. C. Hawthorn's inability to meet his indebtedness to Synod in the matter of the Professorship fund, stating that this inability is the result of reverses over which he (A. C. Hawthorn) had no control; recommending that Synod sympathize with him and extend indulgence to him. This report was adopted.

It was resolved that the congregation and community of Due West receive the thanks of the Synod for their kindness duting the present sessions of this body.

The committee raised on the new paper were required to take in hand the publishing of the Minutes.

The Minutes were read and corrected.

Adjourned to meet at Prosperity, Lincoln County, Tennessee, (Rev. A. S. Sloan's charge) on the third Monday of September, 1866.

Closed with prayer, singing and the Apostolic benediction.

J. BOYCE, Clerk. J. I. BONNER, Moderator.

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MINUTES OF SYNOD.

—1866—

The Associate Reformed Synod of the South met agreeably to adjournment at Prosperity, Lincoln County, Tennessee, at the hour of 11 A. M., on Monday, the 17th of September, 1866, and, after a sermon from 1 Corinthians 1:23, 24, "But we preach Christ crucified, unto the Jews a stumbling-block, and unto the Greeks foolishness; but unto them which are called, both Jews and Greeks, Christ the power of God, and the wisdom of God," by the retiring Moderator, Rev. J. I. Bonner, was constituted with prayer.

The following roll was called, those marked thus (*) being absent:

FIRST PRESBYTERY. Ministers—James Boyce, D.D., L. McDonald,* J.C. Chalmers,* John Hunter,* R. A. Ross,* E. E. Boyce,* R. W. Brice,* J.R. Castles,* A. Ranson,* J. E. Pressly,* I. G. McLaughlin,* W. B. Pressly,* C. B. Betts,* R. Lathan,* Monroe Oates.* D. P. Robinson.* Probationers—J. H. Simpson, J. H. Peoples*. Elders—H. Kirkpatrick.

SECOND PRESBYTERY. Ministers—J. P. Pressly, D.D., J. N. Young, R. C. Grier,* D.D., J. Galloway,* D. F. Haddon,* H. T. Sloan, E. L. Patton,* J. C. Boyd,* H. L. Murphy, J. G. Miller, J. I. Bonner, J. A. Myers, W. R. Hemphill*, W. L. Pressly. Probationers—Josiah Moffatt,* Jno. L. Hemphill.* Moffatt Grier*. Students—W. B. Morrow,* J. A. Ansley,* Elders—Dr. G. W. Pressly, James Sloan.

MEMPHIS PRESBYTERY. Ministers—J. Wilson,* J. L. Young, J. K. Boyce,* D. Pressly J. P. Weed,* H. H. Robinson, J. L. McDaniel,* J. H. Strong,* S. A. Agnew,* R. L. Grier.—

ARKANSAS PRESBYTERY. Ministers—John Patrick,* †J. M. Brown, †J. A. Dickson,* W. S. Moffatt,* †A. Mayn,* †D. Kerr.*

VIRGINIA PRESBYTERY. Ministers—H. Thompson,* D.D.,† W. M. McElwee.* Probationer—A. B. Beamer.*

GEORGIA PRESBYTERY. Ministers—Thos. Turner, D. G. Phillips,* H. Quigg, S. P. Davis,† A. McElroy, J. R. A. Lowry.

ALABAMA PRESBYTERY. Ministers—J. M. Young,* John Miller,* Wm. J. Lowry, T. J. Bonner.* Probationer—W. W. Spence.*

TENNESSEE PRESBYTERY. Ministers—H. Bryson, D.D., A. S. Sloan, †J. H. Bryson. Student—J. L. Orr.* Brown Parkenson, H. Harris, John Leonard.

KENTUCKY PRESBYTERY. Ministers—†G. Gordon, †N. M. Gordon,* †S. Lee.* Probationer—J. W. Finley.* Elders—James Steventon.

The Rev. H. H. Robison was elected Moderator.

The Minutes of last meeting were then read.

TUESDAY, 10 A. M., September 18, 1866.

Synod met. Opened with prayer by the Moderator. Members present as before.

Dr. J. P. Pressly, from the committee on Overtures, submitted a report to the effect that certain persons in Ohio had applied to be received under the care of this Synod; the committee recommend that this petition be referred to the Presbytery of Kentucky. This report was adopted.

Mr. Bonner submitted the following report on Erskine College, which was adopted:

REPORT OF COMMITTEE ON ERSKINE COLLEGE.

From the report of the Board of Trustees we learn that Rev. E. L. Patton has tendered his resignation of the Presidency, and Prof. J. P. Kennedy of the Professorship of Latin in the Institution, and that these resignations have been accepted by the Board. That Rev. R. C. Grier, D.D., has been re-elected to the Presidency, Rev. J. P. Pressly, D.D., to the Professorship of Greek, and Rev. E. L. Patton to the Professorship of Latin. The two former of these have accepted the positions to which they have been called.

That about two-thirds of the endowment fund have been lost by the reverses of war, and that in consequence it has been determined to charge tuition at the rate of $40 per annum in gold for $32 in gold and one certificate of scholarship per annum.

That Dr. George W. Pressly was at a late meeting appointed an agent to solicit funds for the benefit of the College. Your committee would recommend that the action of the Board in the several matters referred to be approved by Synod.

In the report of the treasurer it is stated that there are about twelve thousand dollars in the shape of private notes, still due to this College. Your committee would recommend that the treasurer be directed to solicit at least the interest on said notes.

In view of the present state of the College and the increasing demand for ministers it seems to your committee important that the attention of the churches should be called to the Institution. And as the Synod has no common medium of communication pastors must do the work. The importance of the College to the Church will not be questioned—the history of the Synod, its increase and prosperity since the College was founded and became a feeder of our Theological Seminary, and thus has continued to supply the church with ministers of her own training, and therefore in full sympathy with her, these things show too plainly the need further development the claims of the College upon the Church.

For the last five years the exercises of the College have been

MINUTES

OF THE

ASSOCIATE REFORMED

SYNOD OF THE SOUTH,

HELD AT STARKVILLE, MISS.,

SEPTEMBER 16–19, 1867.

COLUMBIA, S. C.
PRINTED AT THE OFFICE OF THE SOUTHERN PRESBYTERIAN REVIEW.
1867.

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REPORT OF THE COMMITTEE ON ERSKINE COLLEGE.

The Committee on Erskine College beg leave to say that they have had before them the report of the Board of Trustees, embodying the report of the Treasurer, and an earnest memorial from the Alumni Association of Erskine College.

These papers contain some things to which the attention of Synod is directed.

1. The operations of the College were attended with some degree of success during the last year. The services of three members of the Faculty were required for the whole year, and the services of a fourth for a part of the time. The number of students in attendance was 39.

2. The salaries of members of the Faculty employed, have been paid to date out of tuition received, and the interest which had accumulated during the war, on invested funds.

3. From the Treasurer's report we learn that there are available of invested funds of the old endowment $13,918.50; of accumulated interest there remains in the hands of the Treasurer, $1,008.18; tuition due to date and unpaid, $440.

The Treasurer hopes that something may be realised from other funds in the future.

From other sources we learn that there remains of the invested funds of the Theological Seminary, including principal and interest, the sum of $2,300.

4. The attention of Synod is called to the fact, that the following members of the Board of Trustees go out of office at this time, to wit: Rev. J. P. Pressly, D. D., Dr. Jas. L. Miller, Dr. George W. Pressly, Dr. John W. Hearst, Col. W. S. Chalmers, Gen. P. H. Bradley, Maj. W. K. Bradley, Col. Samuel Donnald, and D. O. Hawthorne.

We recommend the re-appointment of all the above-named members of that Board, with the addition of Rev. R. W. Brice, Rev. J. C. Williams, Rev. J. O. Lindsay, Professor J. P. Kennedy, and Dr. R. P. Clarke.

5. The report of the Board contains the fact, that the Faculty of the College, including President and all the Professors, have tendered their resignations. Your Committee recommend that these resignations be accepted, and, for the purpose of reorganising the Faculty, an election be held to-morrow morning, at 11 o'clock, for a president and four professors, to wit: a Professor of Greek; Professor of Latin; Professor of Mathematics, and a Professor of History and Belles Lettres.

6. The Board submit the following arrangement for the College in future, which we recommend to be adopted:

(a) That the President of the College receive as a salary, $1,000, and that each Professor receive $900.

(b) That an association be immediately formed of two hundred or more persons, who shall each agree to pay twenty dollars annually, for five years: every member of said association being entitled to tuition free, for one student, for every twenty dollars so paid, or for fifteen dollars and one sub-certificate, if he be an original stockholder in the old Endowment. This scheme shall go into operation so soon as two hundred names shall have been obtained—the tuition to be enjoyed as the money is paid.

(c) That an annual collection be taken up in December in each year, in all the churches for the benefit of the College and Seminary—any congregation to be allowed the tuition of one beneficiary for every twenty-five dollars collected and paid annually into the Treasury of the College.

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(d) That tuition be fixed at forty dollars per annum, but any one holding sub-certificates, or perpetual scholarships, on the presentation of one of these, shall be allowed ten dollars per annum in the payment of tuition.

(e) That an agent be appointed to visit the churches under the care of this Synod, raise subscribers to the Twenty Dollar Association, and enlist the interest of the people in the enterprises of the Church; the said agent to receive a salary of nine hundred dollars and his expenses paid.

(f) That the College and Seminary be combined for the present, and the same corps of Professors serve both.

Your Committee notice with pleasure the memorial of the Alumni Association, addressed to the Synod, earnestly urging upon her attention the interests of the College, and generously offering to co-operate in sustaining and advancing their *Alma Mater*.

We recognise this as an encouraging fact in connexion with the College in its present depressed condition, and would recommend that Synod cordially accept the proffered assistance, and that each alumnus be requested to interest himself in carrying out the above scheme of sustentation.

Your Committee have had their attention called to the fact that there are a number of subscribers to the old Endowment whose notes are yet unpaid.

In view of the changed circumstances of the country, we recommend that these claims be settled by a fair and generous compromise; and that the treasurer and agent be fully empowered to make said settlements.

J. I. BONNER, Chairman.

Dr. Hemphill submitted a report on Presbyterial Reports, which was adopted, and is as follows:

REPORT ON PRESBYTERIAL REPORTS.

The Committee, to whom was referred the Presbyterial reports, have had the same under examination, and are pleased to notice the encouraging accounts of the work of the Lord in the congregations under the care of Synod.

The blessing of God has rested on the labors of the husbandman, as well as upon the work of the ministry.

Sickness has prevailed in some sections—death in others. Three ministers have been removed by death, we trust to the heavenly inheritance, viz., Revs. J. L. Young, J. M. Young, and Josiah Moffatt.

Your Committee recommend that Rev. John Miller prepare a biographical sketch of Rev. J. M. Young; that Rev. David Pressly prepare a sketch of Rev. J. L. Young, and Rev. R. C. Grier write a sketch of Rev. Josiah Moffatt, and that these sketches be published in the *Associate Reformed Presbyterian*.

The report from the Memphis Presbytery states that four ruling elders of that Presbytery departed this life since the last meeting of Synod. The names of these officers are not given, which we consider an oversight.

Two Presbyterial reports direct the attention of Synod to the condition of the colored population. The report of the First Presbytery says: "There ought to be a more general and direct effort on the part of the Church to enlighten and convert this people."

The Memphis report "urges a more vigorous and persevering effort in behalf of this people having claims upon us."

Your Committee recommend that a committee be appointed to devise some plan for the better instruction of the freedmen.

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More laborers are wanted. The cry
s not local nor denominational; but
omes from every part of the wide-
pread field, and from every branch
f the church, "come over and help us."
n no case have we observed the sup-
ly equal to the demands: but many
portant fields have been left unoc-
upied, or, at least, only partially cul-
rated. At the same time, wicked-
ess abounds and the enemies of the
ord come in like a flood—conse-
nently, we need more agents to
ield the sword of the spirit against
em. Therefore, "pray ye the Lord
the harvest that he would thrust
t laborers into the harvest, for the
arvest is great, but the laborers are
ira." But as this is not an age of
e h arts, talents and treasures of
e church at any time in his great
ord; yet, as we can only expect an
dequate supply of ministerial force
hrough the ordinary channels. The
ous and hopeful must be sought out,
ncouraged and directed to the great
ork of preaching the gospel. Pa-
nts must dedicate their sons to the
ork. If they cannot educate all,
ey must fall back upon the custom
f the olden time, and select one, the
rst born, or the most promising, per-
aps, and direct all the energies of the
mily for the furnishing of this Sam-
el to minister before the Lord.—
ence, another great want of the
urch is the re-establishment of
mething like Parochial Schools and
enominational Colleges. These
ave long proved to be nurseries for
e church. They furnish facilities
hich other institutions do not—and
eing founded in the prayers and lib-
rality of the church, and surrounded
ith a religious atmosphere, God has
en pleased to bless them, and they
turn have been a blessing round
bout.

t to select only one more want
mong so many, a religious press and
cred literature is likewise a grand
esideratum. In this age of progress
denomination can be expected to
ourish that will not support a reli-
ous press—something is wanted as
common medium of communication,
mouth-piece for the whole church,
ying its weekly visits to every fam-
, where parent and child can read
gether the wonderful works of the
rd in the distant parts of his king
m, and rise from the perusal, glow
g with love and zeal for the glory
d and the good of souls. You may
pense with your coffee or choco-
e or tea, your cloths and silks, as
u have so recently done, without
y diminunition of real happiness;
t with your religious newspaper,
ver—no, never. S. N. N.

REENSBORO, ALA.—A correspondent
ites: "The University has opened
h a good number of students, and
ers are expected. From seventy-
to eighty have matriculated in
several schools, which, consider-
the short crop of cotton and gen-
l despondency of the people, is ve-
encouraging."

All you could have desired to have done for your manly husband now sleeping in the dust has been anticipated I think. * * * The little Bible you gave him when he separated from you is at my house with all its precious treasures within—by your own hand for his comfort and consolation during his absence.

He parted with this Bible last of all earthly things. His wife was upon his lips all the time waking or sleeping in the delirium of fever or in his freedom from it, still he talked of her. * * * No more manly spirit fell in his country's cause than that of Capt. Prather. * * *

P. S. Since writing the foregoing I looked at that little Bible. The plaited hair of yourself and child is there—a number of sweet mementoes that tell their own tale is there. * * * I received several letters from him whilst a prisoner at Johnson's Island, and furnished him a full and complete outfit of clothing whilst there. I would be pleased to hear from you at any time my dear Madam, and believe me most respectably the Southern widow and orphan's friend,

S. G. K.

ERSKINE COLLEGE.

THE friends of this Institution will be gratified to learn that it is again in operation. Since the summer of 1861 it has not enjoyed its former prosperity, owing to the withdrawal of the students, then in attendance, to connect themselves with the army and the continued demand for the services of all the young men of our country until the close of the war. It is believed that now both the Church, by whose instrumentality the College was established, and the country call for its services in sustaining the banner of LIBERAL EDUCATION. In conformity with this conviction it has been re-organized and opened for the reception of students, and has met that degree of public confidence that warrants the hope that ere long it will resume its former career of distinguished usefulness. Rev. R. C. GRIER, D. D., its former President, and a corps of experienced Professors are employed in conducting its operations.

The disasters of the late war have imposed the necessity of a change of the terms of admission, a large part of the funds of the College having been lost, in the failure of the Confederate Government. It is proposed to honor the certificates of the scholarship so far as the resources of the College will admit.

Tuition per year, $40 in specie, or its equivalent in currency, or $32 and one sub-certificate of scholarship and $8 College fee, both half yearly in advance. Fuel, lights, and washing charged extra.

Notice is extended that indigent young men who have been mustered in the war will be admitted free of tuition on application and presentation of certificate of good moral character. A similar certificate is demanded of all applicants for admission.

The Collegiate Year begins on the First Monday of October and ends on the 2d Wednesday of July. In ordinary circumstances it is better for students to enter at the beginning of the Collegiate Year, yet they will be admitted and classed according to attainments at any time.

By order of the Faculty.

JOSEPH F. LEE, Sec'y.

Due West, S. C., January 1, 1867.

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Jan. 7 1867. 1. 8m.

---

discouraged.

The Collegiate year opens 1st October and closes 2d Wednesday of July. Summer session begins 1st March. But pupils are received at any time, and will be charged from the time of entering.

For further particulars address the subscriber.

J. I. BONNER.

Due West, S. C., January 7, 1867, 1, 3m

College of Charleston, S. C.

THE FACULTY of the College of Charleston would respectfully inform parents and guardians of young gentlemen desirous of obtaining a College Education, that this Institution has been re opened under very favorable auspices and at a greatly reduced rate of which are only Forty Dollars per Annum, payable quarterly. Students from the interior can obtain board at reasonable rates, in respectable private families residing in the city.

ADMISSION.

whole of Cæsar's Commentaries, Virgil, Cicero's Select Orations, and Sallust. They must also possess accurate and minute knowledge of the Latin Grammar and Prosody.

In Greek, they will be expected to possess a thorough knowledge of Valpy's Greek Grammar, Authon's edition, and be able to translate and parse with readiness any portion of Jacob's Greek Reader, the first two books of Xenophon's Anabasis, and the first two books Homer's Iliad.

In Mathematics, their knowledge will be expected to include Arithmatic (including Fractions, Vulgar and Decimal,) Extraction of Square and Cube Root's, Young's Algebra through simple Equations, and first three books of Legendre's Geometry.

Geography, both Ancient and Modern, will be the subject of rigid examination.

N. B.—Students will be admitted to a partial course, upon special application.

FACULTY.

N. R. MIDDLETON, LL D., Pres't
Professor of Logic, Political Economy, and the Evidence of Christianity, and Horry Professor of Moral and Political Philosophy.

REV. JAMES W. MILES, A. M.,
Professor of the Latin and Greek Languages and Literature, and of Roman and Greek Antiquites.

LEWIS R. GIBBES, M. D.,
Professor of Astronomy, Physics and Chemistry.

JOHN McCRADY, A. M.,
Professor of Mathematics.

F. A. PORCHER, A. M.,
Professor of History, Ancient and Modern, Rhetoric, Belles Lettres, English Composition and Elocution.

F. S. HOLMES, A. M.,
Professor of Geology, Palæontology and Zoology, and Curator of the Museum.

LEWIS. R. GIBBES, A. M.,
Secretary of the Faculty.

Jan. 1, 1866, 1, 2t.

J. J. CUNNINGHAM,

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J. J. CUNNINGHAM.

Jan. 7, 1867, 1, tf

The Associate Reformed Presbyterian
V. 1, #1 Jan 7, 1867

Erskine00071

nd neatly printed. Richmond, B. Williams, editor, and propri
)0 a year.

MARYLAND FARMER.—A monthl
s devoted to agriculture, horticul
al economy, and mechanic art
The November No. is full of good thing
in all those departments. S. Sand Mill
Baltimore, $1.50 a year.

For the Associate Reformed Presbyterian.

Pay Day—The Endowment.

The Agent to re-endow Erski
College, has visited all the congreg
tions, or ministerial charges in t
First Presbytery, except the church
in Lancaster District. And, havi
obtained a liberal subscription in a
Presbytery, embracing about
twenty dollar subscriptions and $1
00 in cash donations, and more th
one hundred subscriptions having
been obtained elsewhere, the College
is now depending on the subscriptions.

—*Pay day has come.* This new scheme
of endowment is now in operation,
65 students are at College, most of
them on the scholarships, but few
are paying the regular tuition.
It must be evident to every friend of
the Institution that the subscriptions
must be paid up promptly, or the Col-
lege cannot survive.

Most of the subscriptions that have
been obtained were from persons in
the 1st, and 2d, Presbyteries and from
two churches in the Alabama, Presby-
tery. Also Starkeville in Miss. has
responded to the call of Synod. Can-
not the churches in the Georgia, Ten-
nessee, Memphis, Arkansas, Kentuc-
ky, Virginia, and Ohio, Presbyteries
lend a little help to sustain the Col-
lege without a visit from the Agent?
There ought to be at least fifty, or a
hundred more twenty dollar subscrip-
tions obtained, if the First Presby-
tery has raised one hundred twenty
dollar subscriptions lacking two or
three, consisting of men and women
old and young, rich and poor, (most
of them poor,) all the Presbyteries
above named surely ought to do half
as much as the First Presbytery.

H.

You will have to [illegible]
and arrears. Some will plead poverty.

The Associate Reformed Presbyterian
Pay Day
Sunday, Nov. 29, 1868

If the little A. R. Synod of the
have had the chance,
ago, to establish an
ge and select good and
hat the U. P's have had
we might have had a
in operation at this day
land.
hinders us to commence
now? The writer will
raise the money to es-
African College in the
r the supervision of the
of the South, whose spe-
ill be to raise up preach-
hers for Africa and for
opulation. Such an In-
uld prove a blessing to
a blessing to our own
raising up preachers and
n among our own colored
ed by our own white in-

Spring, but would prefer not.

H.

For the Associate Reformed Presbyterian.

Certificates—The Endowment.

I have sent to the Ministers of the First Presbytory a list of the subscriptions to the Endowment of Erskine, obtained in their respective Congregations. The first instalment is due the first Monday of December next, the instalments due on the same day during the four succeeding years. I have no printed certificates as yet. Let the ministers or agents give a brief certificate thus:—This certifies that A. B. has paid the first instalment on his (or her) subscription to the re-endowment of Erskine College" giving credit at the same time on the book or list of subscriptions. If any man or chub desires to send a son or ward to college, let the student bring a certificate from the minister that the first, second or third instalment of *twenty dollars* has been paid up by the person or persons sending him.

A coupon of the former endowment will not be taken as part payment of a twenty dollar subscription, unless it comes from one who *subscribed* to the old endowment and *paid* his subscription, and the student must come in his name.

H.

Let the people hear! We stand in our our own light, by leaving this work to foreigners.

As a Church, we ought to be doing something in some foreign field, and we may undertake to show, at another time, that Africa is the field for us.

H.

For the Associate Reformed Presbyterian.

Wanted at Due west.

A rich man worth about $5,000,000 who will expend his money freely.

1. In endowing the colleges liberally with funds, books, apparatus and other needful things.

2. In establishing a large shoe factory where one can get good, neat, and substantial shoes and boots, made out of good leather and not with paste and paper soles, and split leather for uppers.

3. In insuring the lives and houses of all the poor and old folks about town who have no money to spend that way.

4. In establishing a fine saw and grist mill in town; sawing lumber for the poor *gratis*—furnishing grain and grinding it for them *free of toll*,—thus making the donor and the donees all to rejoice.

Advertising Agency,
For Southern Newspapers,
No. 117 West Baltimore Street,
BALTIMORE.
Nov. 13, 1868, 46—tf

ERSKINE COLLEGE.
FACULTY.
R. C. GRIER, D. D., President an
rofessor, of Mental and Mor Science.
REV. J. P. PRESSLY, D.D, Professor of
Greek.
Rev. J. N. YOUNG, Professor of Ma
matics.
——— Professor of Latin.
WM. HOOD, A. M., Professor of History
and Belles Lettres.

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at the same time, and the old folks find inter-
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Oct. 30, 1868, 44—1m

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School or Academy. She has had some expe-
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usually taught in first class schools. Best of
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Miss N. L. A.,
Due West, S. C.
Oct. 2, 1868, 40—3t

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Columbia, S. C.
Jan. 10, 1868, 2, tf

CATALOGUE

OF

Erskine College,

Due West, Abbeville District, S. C.

DUE WEST, S. C.:
PRINTED AT THE "PRESBYTERIAN" OFFICE.
.....
1869.

Erskine00073

Remarks.

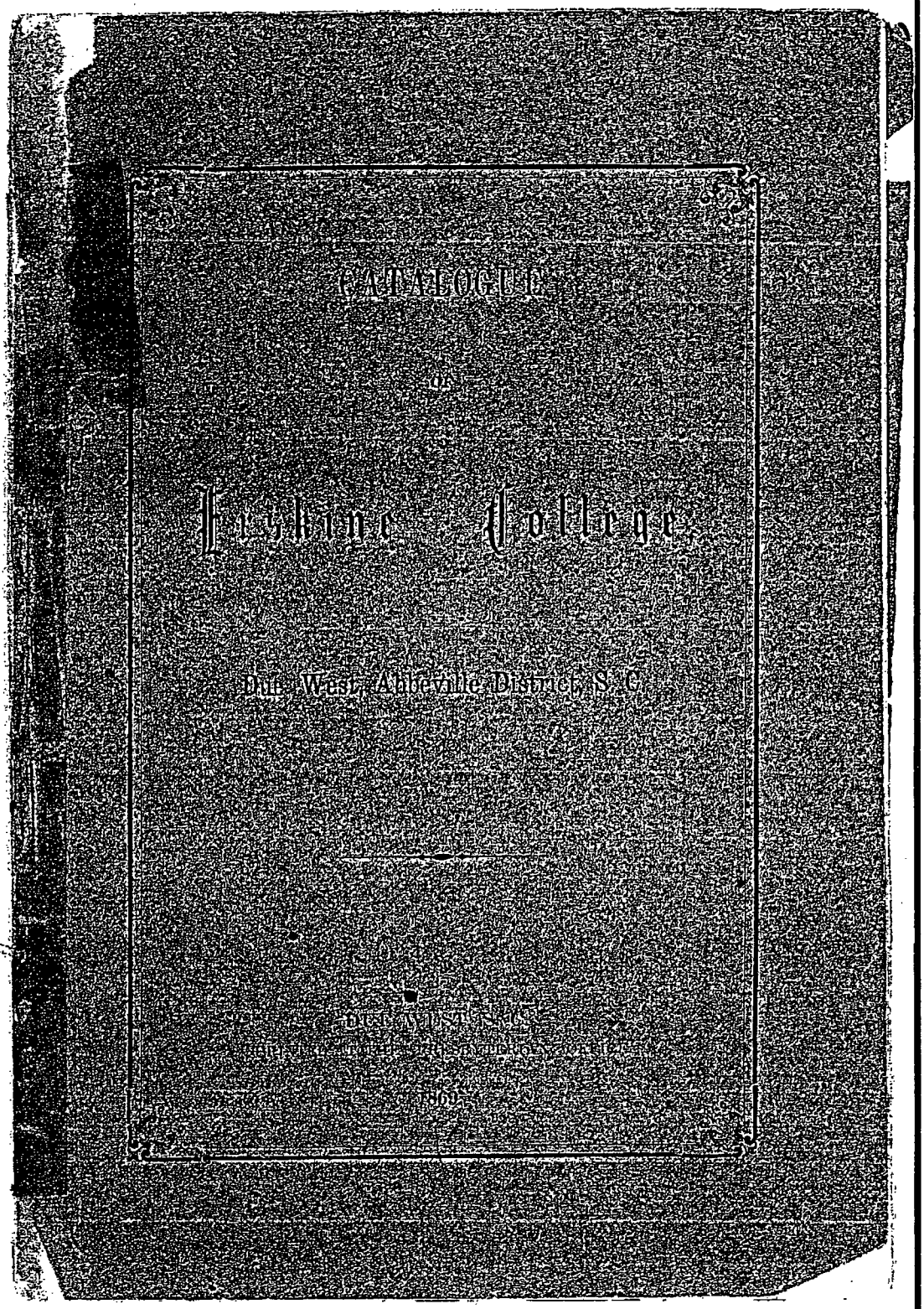
ERSKINE COLLEGE is located in the village of Due West, eleven miles north of Abbeville Court House, and four miles from Donnald's Depot on the Greenville and Columbia Railroad. The location is high and healthy, the population around generally moral and correct; the temptations to vice and crime are few, compared with those that exist in large towns and cities. By a clause in the Charter of the Institution, no one is allowed to open a shop or store for the retail of ardent spirits within two miles of the College.

The government of the College is mild and parental. Severe acts of discipline are avoided as much as possible; appeals are made to the honor, self-respect, or sense of duty of the students, or to the regard which they have for their character and the wishes of parents and friends. Information is lodged with parents and guardians against the idle and wayward.

A strict attention to the exercises of the recitation room is required, and a weekly reckoning is had with those who fail in duty.

Specimens of Composition and Declamation are, from time to time, required of all the students. There are also two Literary Societies, with respectable and select Libraries, which afford additional opportunities for improvement in declamation, composition, and forensic exercises.

Erskine00074


CATALOGUE
OF
Erskine College
Due West, Abbeville District, S. C.

Expenses.

Tuition per year, $40.
Boarding and Lodging, $12 per month.
Fuel and Lights to each room, $10 to $12 per year.
Washing can be procured at 60 cents per dozen.
Contingent Fee, $3 per year.
Those who have paid-up Scholarships can pay $10 of their tuition with a sub-certificate.
One Scholarship of $100, in the new endowment, pays tuition for five years.
Tuition invariably in advance.

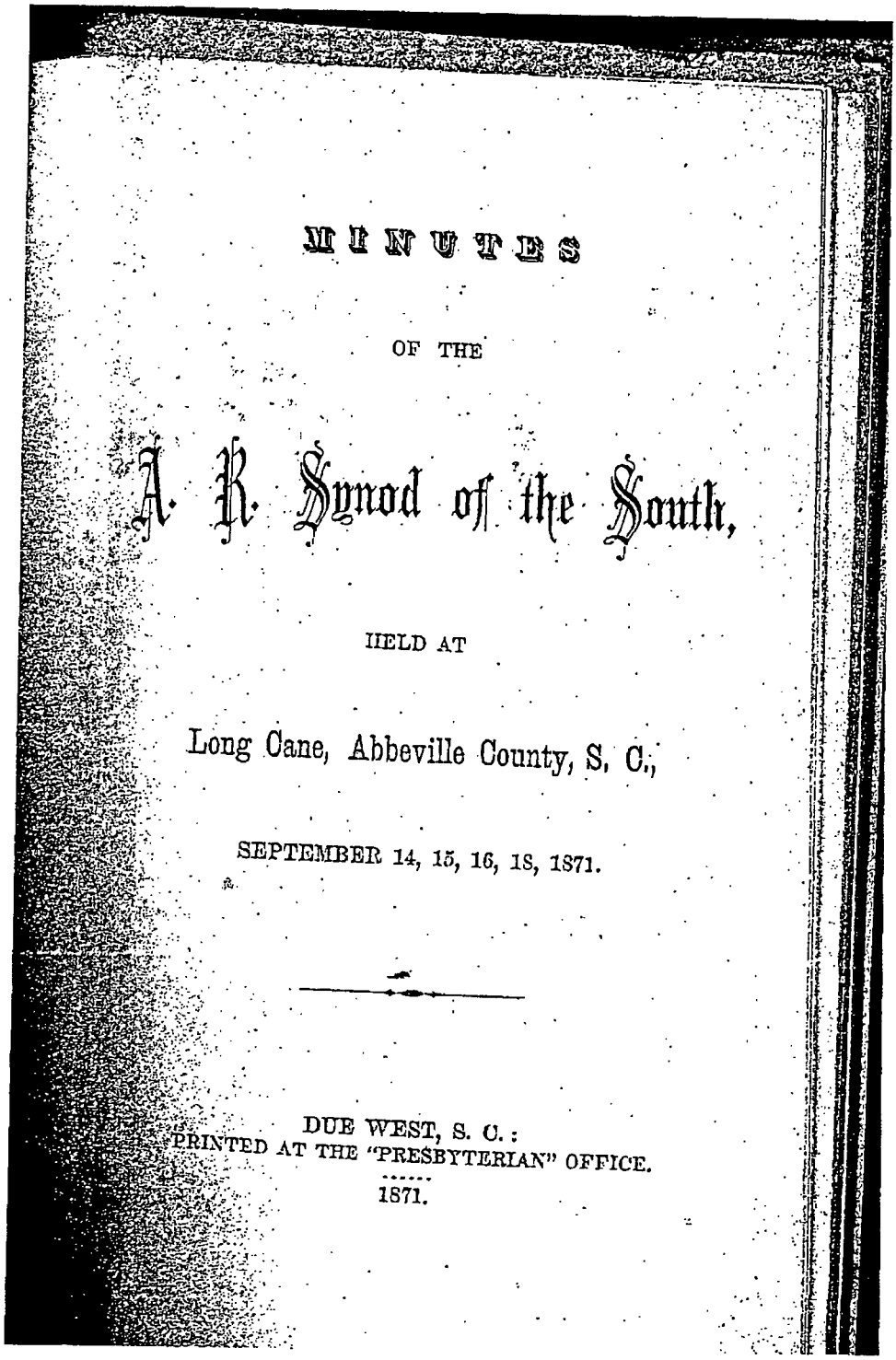
This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

MODERN LANGUAGES.

Prof. E. L. Patton is well qualified to give instruction, to those who may desire it, in the French and Italian languages; for which a reasonable compensation will be demanded.

Erskine00076



MINUTES

OF THE

A. R. Synod of the South,

HELD AT

Long Cane, Abbeville County, S. C.,

SEPTEMBER 14, 15, 16, 18, 1871.

DUE WEST, S. C.:
PRINTED AT THE "PRESBYTERIAN" OFFICE.
1871.

Erskine00077

any recommendation on that subject from us unnecessary.

We recommend, 1st. The approval of the course pursued by the Board in carrying on the exercises of the College to the close of the session, and commend the zeal and fidelity of the Faculty in its execution.

2d. The approval of the scheme of College distinctions adopted by the Board.

3d. From the balance still due Professors, although diminished from last report of the Treasurer; we deem it necessary hereby to enjoin upon ministers, church sessions, and all persons entrusted with the collection of the annual installments of the temporary Endowment, the *utmost fidelity*, and upon the people *promptness* in the payment of the same.

We are also reminded again by the Board, that our temporary endowment will soon expire—only two years remain—and your committee are fully convinced that it is quite time for Synod to devise some plan for the re endowment of the College; therefore,

Resolved, 1st. That this Synod do hereby agree and determine, with the blessing of the King and Head of the Church, to re-endow the College.

2d. That the sum of $100,000, additional to what remains of the old endowment, be fixed as the minimum necessary to be raised for this purpose.

3d. For sustaining the College until this endowment be raised, that we fall back upon the payment of Tuition after the expiration of two years from this date, which, it is believed, in connection with the interests accruing from what may be obtained by that time of this new endowment, and the proceeds of what remains of the old, will be amply sufficient for all the wants of the College.

We would also most respectfully suggest to the Board the adoption of a more liberal system of advertising, keeping the claims and advantages of our College constantly before the people.

All of which is respectfully submitted.

H. T. SLOAN,
W. B. PEESSLY,
LORENZO HUNTER. } *Committee.*

Erskine00078

The hour of 10:30 having arrived, the order of the day being the election of a President for Erskine College, the Synod proceeded to that duty, but as a preparatory step, prayer was made by the Rev. D. G. Phillips, asking the Divine blessing. The election was made by ballot, and resulted in the choice of the Rev. Wm. Moffatt Grier, who asked and obtained indulgence until Monday to determine what might be his duty in reference to the matter.

There was a recess for one hour at 1 o'clock.

After recess, E. E. Boyce, from the Committee on Overtures, submitted the following report, which was adopted:

REPORT OF COMMITTEE ON OVERTURES.

Your committee had no paper before them but one coming up from the Memphis Presbytery, containing propositions which had been made to them on the subject of union with the General Assembly Presbyterians, by the Synod of Memphis.

Your committee are aware of the delicacy and importance of this subject and approach it with some diffidence, but in as much as our brethren of the Memphis Presbytery have seen fit to refer the whole question to your body for a "*finale*," we beg leave to present the following:

1. We cordially reciprocate the fraternal regards and the christian courtesy manifested by the General Assembly towards us, and heartily join with them in their prayers for the day when all hurtful divisions in the body of the Church shall be healed.

2. This subject of union is no new thing with us. It has in former years been frequently agitated and extensively discussed with few good results. It has been our experience and observation that past efforts at union between these two bodies have resulted in marring the peace and harmony, and retarding the growth and prosperity of our Church, and we have no good reason to hope that the present overture will result more favorably to the smaller body in these negotiations, especially if it be entertained and discussed at any length. Therefore, be it

Erskine00079

MINUTES

OF THE

A. R. Synod of the South,

HELD AT

Pisgah, Gaston County, N. C.,

SEPTEMBER 12, 13, 14, 16, 1872.

DUE WEST, S. C.:
"Presbyterian" Steam Power Printing Office.
1872.

232
Erskine00080

to the keeping up of social prayer-meetings, but it is believed this invaluable means of grace is not appreciated and sustained as it should be among us.

As a Presbytery, we have made some effort to raise our distributive part of Synod's funds and the College endowment, and while some of our congregations have contributed nearly or quite their share to these objects, others have fallen short. So that we are not able—as we would be exceedingly happy to do—to say that our apportionment as a Presbytery is fully made up and ready to hand over to your treasurer.

We would like to secure the labors of one of Synod's missionaries during the summer months in our bounds.

Our prayer is that you may be guided in your deliberations by the Spirit of all Wisdom and Truth.

W. S. MOFFATT,
NATHANIEL TAYLOR, } *Committee.*

REPORT OF TREASURER OF ERSKINE COLLEGE.

1872.		DR.
Received since last report from interest and dividends on vested funds,		$1155 [illegible]
Installments on endowment,		3558 [illegible]
		$4713 [illegible]
CONTRA.		
Paid balance on salaries,	$1009 61	
Repairs of College,	672 95	
Paid on salaries of this year,	3100 00	$4782 [illegible]

This leaves a balance of $1,500 on the salaries unpaid. This larger balance for this year than last is owing to two causes: first, the comparatively large sum necessary in the re-roofing and repair of one of the College buildings; and second, the small amount received from installments on endowment. It is believed if the remaining obligations of the five year Endowment Scheme are generally met, that this balance will be met, and the next year closed without any unpaid balance.

The treasurer has on deposit $240 of cash paid on the new endowment.

J. N. YOUNG, *Treasurer.*

Erskine00081

REPORT OF BOARD OF TRUSTEES OF ERSKINE COLLEGE.

The Board of Trustees of Erskine College would respectfully report:

The charter of the College, obtained December, 1850, being about to expire, on application to the Legislature an Act was passed and approved March 12, 1872, renewing and amending the former charter; that is, in the first Section it merely recognizes the change of names constituting the Board. The second Section continues in force Sections 2, 3, 4, 5 and 6 of the former Act; and the third and last Section, instead of limiting the charter to a given period, as was the case in the former Act, continues it indefinitely; that is, it is to continue in force until the Act is repealed. This charter was accepted by the Board, and we might add that there is nothing in it contrary to or inconsistent with the former charter.

On the occasion of the last Commencement, the Senior Class, 19 in number, were graduated. Also, the degree of A.M. was conferred on J. J. Darlington, Rome, Ga., and on J. C. Hemphill, Abbeville County, S. C., and on Rev. J. F. Latimer, Professor elect of Mental and Moral Philosophy in Davidson College, N. C. Also, the degree of D.D. was conferred on Rev. J. P. Smeltzer, of Newberry College, Walhalla, S. C., and upon Rev. John Miller, Oak Hill, Ala.

The internal condition of the College will be fitly represented to you by the report of President Grier, made to the Board, which accompanies this paper, and is marked "A."

In relation to the late mode of examination, we suppose the Synod will be interested in the following extract from the report of the Examining Committee to the Board:

"We are highly gratified to report that said papers have furnished us the most satisfactory evidence that the students have attained a proficiency in the several branches, which is very creditable to them and their instructors. The committee would further express the opinion that the mode of examination by written question and answer affords a better test of the student's scholarship than that formerly pursued, and recommend its continuance."

Erskine00082

One Hundred Thousand Dollar Endowment Bond.

$_____

On or before the 25th day of December, 1882, I promise to pay to the Treasurer of Erskine College the sum of $, with interest payable annually at the legal rate.

This obligation is given on the condition that for every TWENTY DOLLARS paid the subscriber is to receive a CERTIFICATE OF SCHOLARSHIP entitling the holder to ONE YEAR'S TUITION in Erskine College, if presented before the year 1895.

IN WITNESS whereof I have hereunto affixed my hand and seal, this day of , in the year of our Lord, One Thousand Eight Hundred and Seventy

_____ {L. S.}

After p.o.d. on Bond Dec. 25, 1882

Erskine00083

CATALOGUE

OF

Erskine College,

Due West, Abbeville County, S. C.

DUE WEST, S. C.
"PRESBYTERIAN" STEAM-POWER PRINTING OFFICE.
1872.

Erskine00084

Terms of Admission.

Candidates for admission into any one of the College Classes will be required to stand an examination, satisfactory to the Faculty, on the previous studies of the course, or on what may be deemed an equivalent. Applicants will be examined Friday and Saturday before the opening of the Session. Those coming from other schools must present certificates of their character from their former instructors.

Session and Vacation.

The College Session commences on the first Monday of October, and closes on the second Wednesday of July. The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the third Monday of February.

It is very important that students should enter or return to College at the beginning of the Session, since an absence of a few days at a time, when a new branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

Erskine00085

Expenses.

Tuition per year, $40.

Boarding and Lodging, $13 per month.

Fuel and Lights to each room, $10 to $12 per year.

Washing can be procured at 60 cents per dozen.

Those who have paid-up Scholarships can pay $10 of their tuition with a sub-certificate.

One Scholarship of $100, in the new endowment, pays tuition for five years.

Tuition invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

Erskine00086

MINUTES

OF THE

ASSOCIATE REFORMED SYNOD OF THE SOUTH,

Mt. Zion, Lincoln County, Mo.,

OCTOBER 24, 25, 27, 28, 29,

1873.

DUE WEST, S. C.:
"PRESBYTERIAN" STEAM POWER PRINT.
1873.

239
Erskine00087

REPORT OF TREASURER OF ERSKINE COLLEGE.

Funds connected with current expenses up to October 10th, 1873:

From vested Fund of Old Endowment,	$1428 66	
From bond for past due int., Miss. C. R. R.,	525 00	
From Five Year Endowment,	2810 10	
From interest and dividends collected on New Endowment Fund,	482 43	
From Collegiate Contingent Fund,	145 00	5391 19
Commission 2½ per cent. off,		134 75
		$5256 44

CONTRA.

By salaries of Professors,	$4600 00	
By balance of last year,	291 45	
By insurance on College buildings,	113 50	
By contingent expenses,	172 19	
By salary of Prof. W. Hood as agent for College,	100 00	
By traveling expenses,	96 00	5373 14
Balance in favor of Treasurer,		$ 116 70

This balance of $116.70 it is probable will yet be met by collections from the Five Year Endowment. It will be seen, however, from the above statement, that the $100,000 Endowment has been drawn upon for current expenses incurred prior to the beginning of the present collegiate year, to the amount of $482.43—not touching the principal, but absorbing that part of the interest collected.

The annual payments on the Five Year Endowment now cease with those subscribers who have met them according to the condition of the five installments. And the College privilege secured now gives place exclusively to the New Endowment.

Erskine00088

EXPENSES.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society fees, as follows:

Certificate of Scholarship in the $100,000 Endowment, which pays Tuition one year	$ 20
Board, $12 per month	112
Washing, $1.25 per month	11
Lights and Fuel per year	12
Books, " "	10
College and Society Fees, per year, (average,) about	5
Aggregating, per year, less than	$175

This statement may be sufficient to satisfy inquiries, which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons. The only possible way, in most cases, to avoid heavy and often extravagant store bills, is for the parent or guardian to deposit with some member of the Faculty just the amount of money he or she wishes to be spent in these incidentals. We have given above the necessary expenses of the Institution, and it is unfair to charge the College with heavy expenses when really they are such in no proper sense.

241
Erskine00089

1872-1873
1873-1874

SCHEME OF AWARDS AND PRIZES

Adopted by the Board of Trustees of Erskine College, July, 1871.

We would submit the following schedule for the regulation of the distinctions to be awarded in Erskine College:

1. A contest in declamation of selected extracts, to be participated in by four members of the Sophomore Class, two of whom shall be selected by each of the Literary Societies of the College.

2. A contest in original composition, to be engaged in by four members of the Junior Class, two of whom shall be chosen by each of the Literary Societies of the College.

3. A forensic disputation to be participated in by four members of the Senior Class, two of whom shall be selected by each of the Literary Societies.

These contests shall come off during Commencement occasion, the details of time and order to be arranged by the Faculty, and shall be presided over by a committee of three literary gentlemen, who shall pronounce judgment as to the best performance in each contest.

4. A silver medal shall be awarded to the best and second best scholar in each of the Freshman, Sophomore and Junior Classes.

5. A silver medal shall be awarded to the best scholar of Senior Class in each of the departments.

These medals to be awarded at the close of the collegiate year as the result of a written examination.

6. The distinctions awarded in the completion of the college course shall be based on, or at least take into account, the number of awards which the student may have won during his connection with college.

242
Erskine00090

Session and Vacation.

The College Session commences on the first day of October, and closes on the first Wednesday of July. The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the third Monday of February.

It is very important that students should enter or return to College at the beginning of the Session, since an absence of a few days at a time, when a new branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

Expenses.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society fees, as follows:

Certificate of Scholarship in the $100,000 Endowment, which pays Tuition one year	$ 20
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Erskine00091

SCHEME OF AWARDS AND PRIZES

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4. A silver medal shall be awarded to the best and second best scholar in each of the Freshman, Sophomore and Junior Classes.

5. A silver medal shall be awarded to the best scholar of Senior Class in each of the departments.

These medals to be awarded at the close of the collegiate year as the result of a written examination.

6. The distinctions awarded in the completion of the college course shall be based on, or at least take into account, the number of awards which the student may have won during his connection with college.

Erskine00052

Session and Vacation.

The College Session commences on the first day of October, and closes on the first Wednesday of July. The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the third Monday of February.

It is very important that students should enter or return to College at the beginning of the Session, since an absence of a few days at a time, when a new branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

Expenses.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society fees, as follows:

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This statement may be sufficient to satisfy inquiries, which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons. The only possible way, in most cases, to avoid heavy and often extravagant store bills, is for the parent or guardian to deposit with some member of the Faculty just the amount of money he or she wishes to be spent in these incidentals. We have given above the necessary expenses of the Institution, and it is unfair to charge the College with heavy expenses when really they are such in no proper sense.

Erskine00093

SCHEME OF AWARDS AND PRIZES

Adopted by the Board of Trustees of Erskine College, July, 1871.

We would submit the following schedule for the regulation of the distinctions to be awarded in Erskine College:

1. A contest in declamation of selected extracts, to be participated in by four members of the Sophomore Class, two of whom shall be selected by each of the Literary Societies of the College.

2. A contest in original composition, to be engaged in by four members of the Junior Class, two of whom shall be chosen by each of the Literary Societies of the College.

3. A forensic disputation to be participated in by four members of the Senior Class, two of whom shall be selected by each of the Literary Societies.

These contests shall come off during Commencement occasion, the details of time and order to be arranged by the Faculty, and shall be presided over by a committee of three literary gentlemen, who shall pronounce judgment as to the best performance in each contest.

4. A silver medal shall be awarded to the best and second best scholar in each of the Freshman, Sophomore and Junior Classes.

5. A silver medal shall be awarded to the best scholar of Senior Class in each of the departments.

6. The distinctions awarded in the completion of the college course shall be based on, or at least take into account, the number of awards which the student may have won during his connection with college.

Erskine00094

MINUTES

OF THE

ASSOCIATE REFORMED SYNOD.

Hopewell, Chester County, S. C.

SEPTEMBER 21, 22, 23, 25, 26,

1876.

DUE WEST, S. C.:
PRINTED AT THE "PRESBYTERIAN" OFFICE.
1876.

Erskine00095

Amount brought forward,		$2369 72
Rev. D. G. Caldwell,		48 30
Rev. W. A. Wilson,		88 00
Rev. J. M. McLain,		70 00
Rev. A. L. Patterson,		85 00
Widow of Rev. W. R. Hemphill, D.D., deceased,		40 00
For the article ordered by Synod to be presented to Dr. J. P. Pressly as a thank-offering for his services in the Theological Seminary,		30 00
Rev. J. R. Castles,		100 00
Rev. David Pressly's expenses to U. P. Assembly,		25 00
Rev. J. H. Peoples' expenses to U. P. Assembly,		40 00
Rev. J. M. Little,		103 00
Rev. J. P. Marion,		60 00
Rev. J. L. Young,		85 00
Rev. J. C. Galloway,		88 00
Whole amount paid out,		$3232 02
Commissions on $3395.25 received,		84 88
Commissions on $3161.18 paid out,		78 35
		$3395 25
Whole amount received,		$3395 25
I have received since last Report from Rev. David Pressly, of the Bequest of the late Hon. David Montgomery,	$653 05	

R. W. BRICE, *Treasurer*.

Dr. Ross, from the Committee on Erskine College, submitted the following which was adopted:

REPORT OF COMMITTEE ON ERSKINE COLLEGE.

The Committee on Erskine College would report: It is the opinion of the Committee that the College is of vital importance to the Associate Reformed Church. Inasmuch as in the good providence of God, christian education has become almost exclusively the work of the church, and inasmuch as the Associate Reformed Church is almost entirely dependent for an educated ministry on our College, we think that the support and success of the institution commend themselves to the earnest and prayerful consideration of this Synod, and of every member of the Associate Reformed Church. Your Committee are of the opinion that no legitimate means to place the College on a substantial basis should be left untried. We are sorry to learn from the President's report that the peace and order of the College during the past year have not been altogether uninterrupted, but we are encouraged to entertain the hope that the disturbing causes have been so adjusted as that no serious

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jury will ultimately result therefrom.

At the request of the Board of Trustees, for sundry reasons by them assigned in their report to this Synod, we recommend an entirely new Board, to consist of the following named persons: Rev. J. Boyce, D.D., Prof. J. P. Kennedy, Rev. W. L. Pressly, Rev. J. L. Bonner, D.D., Dr. J. L. Miller, Joseph F. Lee, R. C. Sharp, Rev. J. Galloway, D. O. Hawthorn, Rev. H. T. Sloan, Gen. P. H. Bradley, Rev. D. F. Haddon, W. A. Lee, Esq., Maj. W. K. Bradley, R. R. Hemphill, Esq., Rev. J. C. Boyd, Joseph Caldwell, Rev. D. G. Phillips, D.D., Rev. E. E. Boyce, Rev. J. C. Chalmers, Dr. J. M. Strong, Rev. J. M. Todd, G. H. McMaster, J. S. Douglass and Rev. C. B. Betts. We recommend that twelve of the first named, to wit: Rev. J. Boyce, D.D., Prof. J. P. Kennedy, Rev. W. L. Pressly, Rev. J. L. Bonner, D.D., Dr. J. L. Miller, Joseph F. Lee, R. C. Sharp, Rev. J. Galloway, D. O. Hawthorn, Rev. H. T. Sloan, Gen. P. H. Bradley and Rev. D. F. Haddon, serve two years from this date, and the remainder for four years.

From the Treasurer's report we learn that the financial condition of the College is by no means such as you should desire it to be. We ascertain that the aggregate available amount of the current fund is $1815.29, whilst the current expenses for the same period amount to $5480.52, leaving a balance against the fund of $3665.23. These figures show a financial condition of our College deeply to be deplored, and that calls loudly upon all friends of the institution for renewed effort to put it upon a better footing.

Your committee are at a loss to know what form of effort should be put forth in the premises. The report of the Treasurer informs us that the scheme of agency adopted at the last meeting of Synod has been deplorably unproductive. How much of this unproductiveness is due to the general financial depression of the country, and how much may be due to the infitness of the scheme to the end proposed, we of course can not undertake to decide. We only state facts. The scheme of pastoral agency, adopted by Synod, instead of yielding ten thousand dollars has yielded but $2,755 66, leaving as you will readily perceive a deficiency of $7,243.34, and a large falling off from the returns of former years. This fact seems to indicate the necessity of adopting either some measure to secure greater efficiency of pastoral agents, or that we abandon that scheme. Your committee can think of no measure that will secure the still greater efficiency. It remains, therefore, that we recommend some other scheme, and influenced by the hope that some change in the manner of the agency would work better results, we recommend the following scheme, viz:

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Resolved, That an effort be made to complete the Endowment of Erskine College in one year on the following plan:

1. That three Agents be appointed, viz: one for the First, Virginia and Ohio Presbyteries; one for the Second; and one for the Alabama, Tennessee, Kentucky, Memphis and Arkansas Presbyteries.

2. That the first named Agent shall receive as compensation 12½ per cent. on all sums collected or secured to the Endowment; the second 10 per cent., and the third 15 per cent.

3. That for all sums of $20 and over a note may be taken bearing interest from date at the legal rate in the State in which it is given—the interest to be paid annually.

4. That every $20 paid shall entitle the subscriber, or subscribers, to tuition in Erskine College for one year.

5. These Bonds to mature December 25th, 1882.

Agents named by Synod: For First Presbytery, &c., Watson Reid; for Second Presbytery, Dr. J. D. Neel; with Rev. H. T. Sloan, alternate; for other Western Presbyteries, Rev. H. L. Murphy, with Rev. J. H. Peoples, alternate.

Your committee learn from the report of the President of the College that it would be very desirable, for reasons by him intimated, that "considerable additions be made to some of the departments"; but in view of the embarrassed condition of the treasury we do not feel at liberty to recommend any effort in that direction for the present.

All of which is respectfully submitted.

R. A. ROSS, *Chairman*.

In the event of the agents appointed by Synod to raise the Endowment failing to fulfil their appointments, the Board of Trustees were empowered to fill such vacancies.

The Board of Directors of the Seminary and the Theological Faculty were directed to fill the vacant Chair occasioned by the resignation of Dr. Pressly.

The Presbyterian Alliance having failed to meet in Edinburgh last July, and having agreed to meet at the same place on the last Tuesday of July, 1877, it was resolved that Dr. Boyce be appointed to represent this Synod at said meeting.

The committee on Sabbath Schools submitted the following which was adopted:

REPORT OF COMMITTEE ON SABBATH SCHOOLS.

The Committee on Sabbath Schools can not report satisfactorily with respect to the statistics of these schools.

We would recommend the appointment of a com-

Erskine00098

Rev. Wm. Hunter, Prof. Hood, Rev. Thos. P. Pressly, to collect and to publish such statistics.

These schools appear to exist in greater or less degrees of prosperity and efficiency in nearly all of our churches—and appear to be growing in favor.

The International Questions, as published in the *Little Banner*, are used in some of our congregations and in some they are not.

Inasmuch as the Synod has made arrangements to prepare such Questions, and inasmuch as they seem to answer the purpose of instructing our youth in the Scriptures, we recommend the use of these Questions in all of our congregations.

For the next year we recommend that (1.) the Rev. W. L. Pressly prepare the Questions for November, December and January. 2. Dr. Phillips for February, March and April, 3. Dr. John Miller for May, June and July. 4. Rev. David Pressly for August, September and October.

We recommend that there be in the several schools teachers' meetings for consultation.

The thanks of this Synod were tendered to the congregation of Hopewell and community for their very kind attentions to the members during the present sessions—as also to the Rail Roads which furnished a passage to the brethren on such accomodating terms.

Rev. R. W. Brice having reported that he had come into the possession of certain papers from the papers of the late J. W. Flenniken—which documents contained the Minutes of some of our earlier Synods, it was resolved that those papers be put into the hands of the Clerk of Synod.

The Rev. William A. Wilson having offered his services as missionary to a Foreign field, it was resolved that that offer be referred to the Board of Foreign Missions, and that he be sent out as soon as the arrangements can be made.

The Minutes were directed to be published in the *Associate Reformed Presbyterian* and in pamphlet form.

After reading and correcting the Minutes, the Synod adjourned to meet at Troy, Obion county, Tenn., (the Rev. T. P. Pressly's charge,) on the Thursday before the 4th Sabbath of September, 1877, by prayer, singing and pronouncing the Apostolic benediction.

W. B. PRESSLY, *Moderator*.

[illegible], *Clerk*.

Erskine00099

Session and Vacation.

The College Session commences on the first day of October, and closes on the first Wednesday of July. The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the third Monday of February.

It is very important that students should enter or return to College at the beginning of the Session, since an absence of a few days at a time, when a new branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

Expenses.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society fees, as follows:

Certificate of Scholarship in the $100,000 Endowment, which pays Tuition one year	$ 20
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College and Society Fees, per year, (average,) about	5
Aggregating, per year, less than	$175

This statement may be sufficient to satisfy inquiries, which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons. The only possible way, in most cases, to avoid heavy and often extravagant store bills, is for the parent or guardian to deposit with some member of the Faculty just the amount of money he or she wishes to be spent in these incidentals. We have given above the necessary expenses of the Institution, and it is unfair to charge the College with heavy expenses when really they are such in no proper sense.

Erskine00100

Scheme of Awards and Prizes

Adopted by the Board of Trustees of Erskine College, July, 1871.

We would submit the following schedule for the regulation of the distinctions to be awarded in Erskine College:

1. A contest in declamation of selected extracts, to be participated in by four members of the Sophomore Class, two of whom shall be selected by each of the Literary Societies of the College.

2. A contest in original composition, to be engaged in by four members of the Junior Class, two of whom shall be chosen by each of the Literary Societies of the College.

3. A forensic disputation to be participated in by four members of the Senior Class, two of whom shall be selected by each of the Literary Societies.

These contests shall come off during Commencement occasion, the details of time and order to be arranged by the Faculty, and shall be presided over by a committee of three literary gentlemen, who shall pronounce judgment as to the best performance in each contest.

4. A silver medal shall be awarded to the best and second best scholar in each of the Freshman, Sophomore and Junior Classes.

5. A silver medal shall be awarded to the best scholar of Senior Class in each of the departments.

6. The distinctions awarded in the completion of the college course shall be based on, or at least take into account, the number of awards which the student may have won during his connection with college.

Erskine00101

MINUTES

OF THE

ASSOCIATE REFORMED SYNOD.

Troy, Obion County, Tenn.

SEPTEMBER 20, 21, 22, 24.

1877.

DUE WEST, S. C.:
PRINTED AT THE "PRESBYTERIAN" OFFICE.
1877.

Erskine00102

Rev. S. A. Agnew presented the following report on Statistics, which was adopted:

REPORT ON STATISTICS.

Your committee would report that with no small labor they have prepared a statistical table of the Synod, and notwithstanding our best endeavors we are conscious that it is exceedingly imperfect. From two Presbyteries, the Alabama and Virginia, we have no reports. In the First Presbytery there are three churches, and in the Second two which are blank.

The following is a summary of the table for the Synod: Number of families, 2,328; number of white members, 5,926; number of colored members, 41; number of accessions, 361; number of losses, 233; number of infant baptisms, 282; number of adult baptisms, 45; number of Sabbath-school teachers, 375; number of Sabbath-school pupils, 2,314.

The action of Synod during the present meeting in reference to the collection of statistics by Presbyteries, and to the form of their publication in the Minutes, leaves but little for us to recommend.

It seems to us that it would be well to adopt some plan to secure uniformity in the form of tables. The column of accessions should show whether they were by examination or by certificate, and the column of losses should show whether it was by death or dismission.

S. A. AGNEW,
J. B. MUSE,
J. L. BONNER,

Rev. R. W. Brice furnished the following report on Erskine College, which was adopted:

REPORT OF COMMITTEE ON ERSKINE COLLEGE.

From the papers submitted to us, we learn that two agents appointed at your last meeting to complete the ing of the $100,000 Endowment, have engaged in that and that Dr. W. M. Grier, by appointment of the Trustees, took the place of the agents you appointed Second Presbytery. The reports of these several show they did not succeed in raising the full amount posed, yet the measure of their success is encouraging we consider the financial condition of the country whole amount raised by them is nineteen thousand dred and ninety-three dollars and sixty cents ($ principally in notes payable in five years, with annu est. This being added to the Endowment Fund hand, as reported by the Treasurer of the Colle the present amount of your Endowment Fund

Erskine00103

en thousand and eighty-four dollars and thirty-eight cents ($77,084.38). This is exclusive of the eleven thousand six hundred and sixty-nine dollars and seventy-five cents (11,669.75) which has been borrowed from this fund to meet the current expenses of the College for some years past. We regret to have to inform the Synod that the interest of the Endowment Fund even now will not be sufficient to maintain the College, and it will be necessary to borrow from the fund for this purpose, unless the Endowment Fund can be increased. We therefore recommend that Rev. H. T. Sloan, D.D., be appointed to visit the churches of the Second Presbytery which have not been visited by your agent to secure further contributions for this fund, and that Rev. W. S. Moffatt be appointed to do the same in the Ohio and Virginia Presbyteries, and Rev. R. W. Brice be appointed to make a further effort in those churches of the First Presbytery which have not raised a fair proportion of the amount which was asked of them, and that W. L. Patterson be appointed for the Texas Presbytery.

The report of the Treasurer of the College calls attention to the fact that the interest of the twenty-eight hundred dollars ($2,800) of the Endowment Fund invested in the church at in Charlotte, N. C., has not been paid for two years. We recommend that your Committee on Finance, in their appropriations, provide for the payment of this interest.

The Board of Trustees report to us that they have unanimously elected Rev. E. L. Patton Professor of Greek in the College, to fill the Chair in the Faculty made vacant by the death of Rev. J. P. Pressly, D.D., and ask the Synod to confirm and confirm said election. We cordially recommend that Synod confirm the election of Rev. E. L. Patton to the professorship of Greek in the College.

The report of the President of the College and of the Committee of Examination shows that the condition of the College is healthful and prosperous, all things considered.

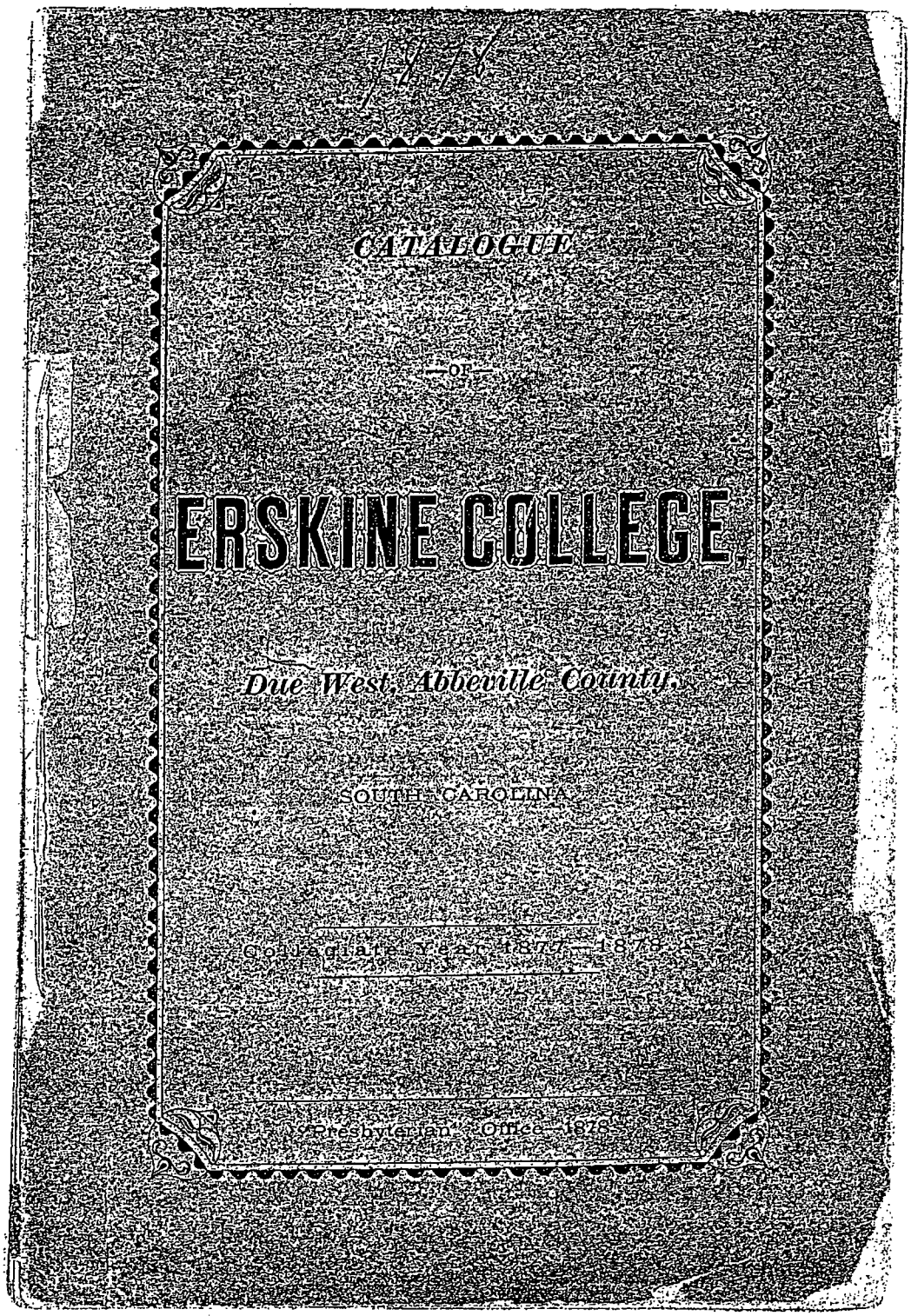
All of which is respectfully submitted.

R. W. BRICE,
J. N. YOUNG,
D. F. HADDON,
O. S. YOUNG,
J. M. DONALD,
} *Com.*

The compensation of these Endowment agents, Revs. R. Brice, W. S. Moffatt and H. L. Murphy, was fixed at 10 on.

Chairman, Rev. W. B. Pressly, of the committee to were referred certain papers on Foreign Missions, sub-

Erskine00104



Erskine00105

Session and Vacation.

The College Session commences on the first day of October, and closes on the first Wednesday of July. The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the third Monday of February.

It is very important that students should enter or return to College at the beginning of the Session, since an absence of a few days at a time, when a new branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

Expenses.

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Erskine00106

Scheme of Awards and Prizes.

Adopted by the Board of Trustees of Erskine College, July, 1871.

We would submit the following schedule for the regulation of the distinctions to be awarded in Erskine College:

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These contests shall come off during Commencement occasion, the details of time and order to be arranged by the Faculty, and shall be presided over by a committee of three literary gentlemen, who shall pronounce judgment as to the best performance in each contest.

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5. A silver medal shall be awarded to the best scholar of Senior Class in each of the departments.

6. The distinctions awarded in the completion of the college course shall be based on, or at least take into account, the number of awards which the student may have won during his connection with college.

Erskine00107

MINUTES

—OF THE—

ASSOCIATE REFORMED SYNOD OF THE SOUTH.

New Lebanon, Monroe County, W. Va.

AUGUST 15, 16, 18, 19, 20.

1878.

DUE WEST, S. C.:
"ASSOCIATE REFORMED PRESBYTERIAN" PRINT.
1878.

Erskine00108

The unfinished business was then called up.

Dr. Grier, from the Committee on the Eli Branson estate, reported that the Committee had not yet reached a final decision with regard to the matters submitted to them. Whereupon they were continued to report next year.

After reading and correcting the Minutes of to-day's transactions, the Synod adjourned to meet at 10 o'clock to morrow, with the understanding that at 11 opportunity be allowed for public worship.

Closed with prayer by Prof. Young.

NEW LEBANON, Friday, 10 A. M., August 16, 1878.

Synod met. Opened with prayer by the Rev. John Hunter.

Dr. Sloan reported as follows with respect to his agency in the Endowment of Erskine College:

REPORT OF H. T. SLOAN, AGENT.

We visited the churches of Jefferson and Burke counties, Ga., (Revs. Phillips' and Galloway's charges,) in the month of November last, and raised $460 in interest bearing bonds, and $36.10 in cash, which we reported and turned over to the Treasurer of the College, only asking 7 per cent. for services rendered, which has been paid. We also did something in our own congregation, but the work is not completed there. Respectfully submitted,

H. T. SLOAN, Agent.

Which was adopted.

The Presbyteries that reported a failure last year in the matter of attending to a previous recommendation of Synod with respect to Presbyterial visitation were asked if the recommendation had been observed. On the First Presbytery answering in the negative, a somewhat excited discussion ensued, which was arrested by the arrival of the hour of 11, which was the order of the day for public worship.

After sermon by the Rev. John Hunter, there was a recess until 2 o'clock.

After recess, the debate on Presbyterial visitation was resumed, and was settled by a motion of Dr. Sloan to lay the whole subject on the table.

Erskine00109

On motion of Rev. J. M. Todd, who was appointed to preach the missionary sermon at the Synod, it was agreed that Dr. J. E. Pressly be accepted as his substitute to deliver said sermon on to-morrow at 11 o'clock.

Some misunderstanding existing in relation to the way in which the missionary reports should be presented, the following explanatory statement, offered by Dr. Ross, was adopted, viz:

"*Resolved*, It is the sense of the Synod, that the recommendation of Synod of 1876 with respect to reports of missionaries means, that the missionary laboring under the direction of Presbyteries report to the Presbyteries respectively, that the Presbyteries endorse their claims and forward them to Synod in the Presbyterial report, and those directed by Synod report directly to Synod."

Dr. Boyce, from the Committee on Conference with a similar Committee of the United Presbyterian Church, reported that no advances had been made by either party during the year, and that matters between the two committees for the outgoing Synodical year remain substantially as they did the year preceding. It remains for the Synod to say whether our reticence and non-action are justifiable under the circumstances, or whether the Synod would have us to go forward. We await the moving of the waters.

The report was referred to the Committee on Correspondence.

Rev. W. L. Pressly submitted the following report of the Board of Trustees of Erskine College:

REPORT OF THE BOARD OF TRUSTEES OF ERSKINE COLLEGE.

For any information respecting the internal operations of our Institution under our care, we beg to refer you to the report of the President, which accompanies this report, and which, we are sure, will prove most gratifying to your honorable body and to the friends of the College everywhere.

For any information respecting the financial condition of the College we would refer to the report of the Treasurer. It is a matter of great regret and of grave concern to the Board that the income of the College falls so far short of meeting necessary expenses. This, as indicated by the Treasurer in his report, results from a variety of circumstances. Some of the "Vested Funds" of the College are, at the present, unproductive; others (as the Hearst be-

Erskine00110

quest), are only partially productive; while (as the report of the Treasurer shows,) $239.32, or but a little over one-sixth of the interest due on the "Endowment Bonds," has been paid. To remedy, as far as may be, this latter evil, the Treasurer has been instructed, on the first of December of each year to prepare and forward to the pastors of the Synod, or other suitable persons, a statement of the amount subscribed by each individual in the congregation or community, and the interest due first of January following, with the request that such persons act as agents for the College in the collection of the same. With the hearty co-operation of pastors and people, of subscribers and agents, it is hoped that this most difficult and complicated part of the Treasurer's work may be compassed, and the Institution relieved of much of its present embarrassment.

In this connection, and as bearing upon the same general subject, we beg to call the special attention of the Synod to the preamble and resolution relating to certain investments in the city of Charlotte, N. C., adopted by your Financial Board, and incorporated in the report of the Treasurer. Indeed, the Board would earnestly ask the attention of the Synod to this whole subject of the Endowment.

We would remind the Synod that the term of office of the following members of the Board of Trustees expires at this time, viz: Rev. J. Boyce, D.D., Prof. J. P. Kennedy, D.D., W. L. Pressly, Rev. J. I. Bonner, D.D., Dr. J. L. Miller, Joseph F. Lee, Capt. R. C. Sharp, Rev. J. Galloway, Col. O. Hawthorn, Rev. H. T. Sloan, D.D., Gen. P. H. Bratton, Rev. D. F. Haddon.

Respectfully submitted.

W. L. PRESSLY,
R. C. SHARP,
J. L. MILLER,

The following is the report of Dr. Grier, the President of Erskine College, to the Board of Trustees:

REPORT TO BOARD OF TRUSTEES OF ERSKINE COLLEGE.

Gentlemen of the Board of Trustees: I am happy to say that the present collegiate year has been one of unusually quiet and good order.

Prof. E. L. Patton entered upon the duties of his office very soon after the opening of the session in October. I need not say that he is giving great satisfaction in his department.

During the year the College has received two legacies of $1,000 each; both from persons not connected with the church. These gifts have been gratefully acknowledged

Erskine00111

The financial condition of the Institution will be fully set forth in the report of the Treasurer. It is expected that the interest on vested funds will be sufficient to meet the annual expenses of the College hereafter.

The number of students enrolled during the year is 71. The following have completed the prescribed course, and the Faculty ask that the degree of A. B. be conferred upon them, viz: J. B. Bonner, J. Boyce, jr., W. O. Bradley, J. T. Chalmers, C. A. Douglass, J. W. Franklin, W. H. Frierson, H. W. Harris, J. K. Henry, A. S. Kennedy, W. T. Matthews, J. L. McLin, Neill E. Pressly, R. E. Robison.

With great respect,

W. M. GRIER.

Prof. Young, Treasurer of Erskine College, submitted the following report:

REPORT OF TREASURER OF ERSKINE COLLEGE.

College Funds.

1877		*Principal.*	*Interest.*
Sept. 20.	James Kennedy, (per Rev J Galloway,)	$ 5 00	
" "	Rev J S Mills, "	5 00	
" "	Maj S W Reid, "	3 05	
" "	J W Aikin, Hopewell, S C,	5 00	
" "	E McCaw, Troy, Tenn,		$ 1 00
Oct. 23.	E J Blakely,	15 00	
" "	Col D O Hawthorn,		100 00
Nov. 1.	Miss Central R R Bonds, 12 coupons, 35.		420 00
" "	Miss Central R R Bonds, 4 coupons, 17.50,		70 00
" "	Memphis and Charleston R R Bonds, 5 coupons, 35,		175 00
" "	J E Todd & Co,		73 65
" 22.	Rev J C Chalmers, (Endowm't 4th year),	15 00	4 20
" "	Charles P Knox,	2 00	
" "	Miss Sallie Cunningham, (per Rev David B Pressly,)	20 00	70
" "	S and A Thorn, (per Rev David B. Pressly,)	10 00	
" "	J M Bell, Endowment note, (per Rev J A Lowry,)	20 00	
" "	Miss M J Carmical and A L Young, (per Rev W M H,)		35
" "	Dr Abram Young, (per Rev W M H,)		70

Erskine00112

Calendar for 1879.

The Annual Sermon of 1879 was preached by Rev. Moses D. Hoge, D.D., of Richmond, Va.

The Anniversary Address before the Euphemian and Philomathean Societies was delivered by Hon. J. H. Rice, of Ninety-Six, S. C.

The Address before the Alumni Association was delivered by J. M. McNeel, of York, S. C.

The regular Decennial Catalogue will be issued next year, 1880. This gives the year of graduation, profession and location of each Alumnus, so far as can be ascertained.

Erskine00113

Expenses.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society fees, as follows:

Tuition (by Scholarship)	$20 00
Board in families at $10 per month	95 00
Board in Mess, about $8 per month, or less, say	76 00
Washing, $1 per month	9 50
Lights and Fuel	10 00
Books	10 00
College and Society Fees per year, about	5 00
Aggregating, with board in families	$149 50
" in Mess, about	$130 50

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons. We have given above the necessary expenses, and it is unfair to charge the College with heavy expenses when really they are such in no proper sense.

Erskine00114

ANNUAL AND DECENNIAL

CATALOGUE

—OF—

Erskine College,

Due West, Abbeville County,

SOUTH CAROLINA.

"Presbyterian Office"--1880.

Erskine00115

Calendar for 1880.

The Annual Sermon of 1880 was preached by Rev. Samuel B. Jones, D.D., of Pendleton, S. C.

The Anniversary Address before the Euphemian and Philomathean Societies was delivered by Maj. Hugh S. Thompson, of Columbia, S. C.

The Address before the Alumni Association was delivered by Col. J. M. Thomson, of Marion, Ala.

The name of Mr. J. M. Grier was unintentionally omitted from the Sophomore Class.

Erskine00116

Expenses.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society fees, as follows:

Tuition (by Scholarship)	$20 00
Board in families at $10 per month	00 00
Board in Mess, about $8 per month, or less, say	72 00
Washing, $1 per month	9 00
Lights and Fuel	10 00
Books	10 00
College and Society Fees per year, about	5 00
Aggregating, with board in families	$144 00
" in Mess, about	$126 00

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons. We have given above the necessary expenses, and it is unfair to charge the College with heavy expenses when really they are such in no proper sense.

Erskine00117

Calendar for 1881.

The Annual Sermon of 1881 was preached by Rev. W. M. Grier, D.D., President.

The Anniversary Address before the Euphemian and Philomathean Societies was delivered by Mr. W. C. Benet of Abbeville, S. C.

The Address before the Alumni Association was delivered by J. N. Miller, Esq., of Camden, Ala.

Erskine00118

Expenses.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society fees, as follows :

Tuition (by Scholarship),	$20 00
Board in families at $10 per month,	95 00
Board in Mess, about $8 per month, or less, say	76 00
Washing, $1 per month,	9 50
Lights and Fuel,	10 00
Books,	10 00
College and Society Fees per year, about	5 00
Aggregating, with board in families,	$149 50
" in Mess, about	$130 50

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons. We have given above the necessary expenses, and it is unfair to charge the College with heavy expenses when really they are such in no proper sense.

Erskine00119

Calendar for 1882.

The Annual Sermon of 1882 was preached by Rev. Ellison Capers, of Greenville, S. C.

The Anniversary Address before the Euphemian and Philomathean Societies was delivered by Prof. Callaway, of Selma, Ala.

The Address before the Alumni Association was delivered by Maj. J. C. Hemphill, of Columbia, S. C.

Erskine00120

Expenses.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society fees, as follows :

Tuition (by Scholarship),	$20 00
Board in families at $10 per month,	95 00
Washing, $1 per month,	9 50
Lights and Fuel,	10 00
Books,	10 00
College and Society Fees per year, about	5 00
Aggregating, with board,	$149 50

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons. We have given above the necessary expenses, and it is unfair to charge the College with heavy expenses when really they are such in no proper sense.

Erskine00121

Contests.

1. A contest in declamation of selected extracts, to be participated in by two members of the Sophomore Class, who shall be selected by each of the Literary Societies of the College.

2. A contest in original composition, to be engaged in by two members of the Junior Class, who shall be chosen by each of the Literary Societies of the College.

In addition to the above, an Alumnus of the College has offered a gold medal to the best orator in the Senior Class.

These contests shall come off during Commencement occasion, the details of time and order to be arranged by the Faculty.

Erskine00122

EXPENSES.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society Fees, as follows:

Tuition (by Scholarship),	$20 00
Board in families (from $10 to $12 per month) say	100 00
Washing, $1 per month	9 00
Lights and Fuel	10 00
Books	10 00
College and Society Fees per year, about	5 00
Aggregating, with board	$154 00

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

Erskine00123

CATALOGUE

—OF—

ERSKINE COLLEGE

Due West, Abbeville County,

SOUTH CAROLINA.

—o—

Collegiate Year 1884-5.

DUE WEST, S. C.:
"ASSOCIATE REFORMED PRESBYTERIAN" PRINT.

1885.

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CONTESTS.

1. A contest in declamation of selected extracts, to be participated in by two members of the Sophomore Class, who shall be selected by each of the Literary Societies of the College.

2. A contest in original composition, to be engaged in by two members of the Junior Class, who shall be chosen by each of the Literary Societies of the College.

In addition to the above an Alumnus of the College has offered a gold medal to the best orator in the Senior Class.

These contests shall come off during Commencement occasion, the details of time and order to be arranged by the Faculty.

EXPENSES.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society Fees, as follows:

Tuition—by Scholarship	$ 20 00
Board in families—from $10 to $12 per month—say	100 00
Washing—$1 per month	9 00
Lights and Fuel	10 00
Books	10 00
College and Society Fees per year, about	5 00
Aggregating, with board	$154 00

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money and all matters of this sort depend entirely on the indulgence of parents and the habits of their sons.

Erskine00126

CONTESTS.

1. A contest in declamation of selected extracts, to be participated in by two members of the Sophomore Class, who shall be selected by each of the Literary Societies of the College.

2. A contest in original composition, to be engaged in by two members of the Junior Class, who shall be chosen by each of the Literary Societies of the College.

In addition to the above an Alumnus of the College has offered a gold medal to the best orator in the Senior Class.

These contests shall come off during Commencement occasion, the details of time and order to be arranged by the Faculty.

Erskine00127

EXPENSES.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society Fees, as follows :

Tuition—by Scholarship	$ 20 00
Board in families—from $10 to $12 per month—say	100 00
Washing—$1 per month	9 00
Lights and Fuel	10 00
Books	10 00
College and Society Fees, per year, about	5 00
Aggregating, with board	$154 00

It should be stated that the Board of Trustees has fixed the rate of Tuition in the Preparatory Department at Thirty Dollars.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money and all matters of this sort depend entirely on the indulgence of parents and the habits of their sons.

Erskine00128

CONTESTS.

1. A contest of declamation of selected extracts, to be participated in by two members of the Sophomore Class, who shall be selected by each of the Literary Societies of the College.

2. A contest in original composition, to be engaged in by two members of the Junior Class, who shall be chosen by each of the Literary Societies of the College.

In addition to the above an Alumnus of the College has offered a gold medal to the best orator in the Senior Class.

These contests shall come off during Commencement occasion, the details of time and order to be arranged by the Faculty.

Erskine00129

EXPENSES

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society Fees, as follows :

Tuition—by Scholarship	$ 20 00
Board in families—from $10 to $12 per month—say	100 00
Washing—$1 per month	9 00
Lights and Fuel	10 00
Books	10 00
College and Society Fees, per year, about	5 00
Aggregating, with board	$154 00

It should be stated that the Board of Trustees has fixed the rate of Tuition in the Preparatory Department at Thirty Dollars.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money and all matters of this sort depend entirely on the indulgence of parents and the habits of their sons.

Erskine00130

ROLL OF HONOR

Every student who attains an average of ninety shall be placed upon the Roll of Honor, and announced as "proficient." Every student who attains an average of ninety-five shall be entered as "distinguished proficient."

Erskine00131

EXPENSES

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society Fees, as follows:

Tuition—by Scholarship	$ 20 00
Board in families—from $10 to $12 per month—say	100 00
Washing—$1 per month	9 00
Lights and fuel	10 00
Books	10 00
College and Society Fees per year, about	15 00
Aggregating, with board	$164 00

It should be stated that the Board of Trustees has fixed the rate of Tuition in the Preparatory Department at Thirty Dollars.

The above may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money and all matters of this sort depend entirely on the indulgence of parents and the habits of their sons.

The Contingent Fee of Ten Dollars must be paid in full within six weeks after entrance.

Erskine00132

EXPENSES.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society Fees, as follows:

Tuition—by Scholarship	$ 20 00
Board in families—from $10 to $12 per month—say	100 00
Washing—$1 per month	9 00
Lights and fuel	10 00
Books	10 00
College and Society Fees per year, about	15 00
Aggregating with board	$164 00

It should be stated that the Board of Trustees has fixed the rate of Tuition in the Preparatory Department at Thirty Dollars.

The above may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money and all matters of this sort depend entirely on the indulgence of parents and the habits of their sons.

The Contingent Fee of Ten Dollars must be paid in full within six weeks after entrance.

Erskine00133

REMARKS.

Location.

ERSKINE COLLEGE is located in the village of Due West, eleven miles north of Abbeville Courthouse and four miles from Donnald's depot on the Columbia and Greenville Railroad. The location is high and healthful, the population around moral and correct; the temptations to vice and crime are few compared with those that exist in large towns and cities.

Extract from Charter.

Section 6 of the Charter provides:

"That it shall not be lawful for any person to establish or keep in any direction within two miles of the said College, any house or store or shop for retailing ardent spirits."

The Charter of the town also recognizes and enforces this same provision.

Government.

The government of the College is mild and parental. Severe acts of discipline are avoided as much as possible. Appeals are made to the honor, self-respect or sense of duty of the students, or to the regard which they have for their character and the wishes of parents and friends. Information is lodged with parents and guardians against the idle and wayward.

A strict attention to the exercises of the recitation room is required, and every student is promptly called to account for his absence.

Specimens of Composition and Declamation are from time to time required of all the students.

The religious exercises of the College consist in the daily reading of the Scriptures and prayer in the Chapel, Bible class exercises on Sabbath morning and a public religious service in the evening, together with the opportunity of attending the village churches or other places of worship in the vicinity during the day.

Buildings.

The College buildings are large and commodious, well adapted to the purposes for which they were erected. They afford a number of excellent recitation rooms, a Chapel and a Commencement Hall and all other conveniences for the private and public exercises of pupils.

Erskine00134

Expenses.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society Fees, as follows :

Tuition—by Scholarship	
Board in families—from $10 to $12 per month—say	$ 20 00
Washing—$1 per month	100 00
Lights and fuel	9 00
Books	10 00
College and Society Fees per year, about	10 00
	15 00
Aggregating with board	$164 00

It should be stated that the Board of Trustees has fixed the rate of Tuition in the Preparatory Department at Thirty Dollars.

The above may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money and all matters of this sort depend entirely on the indulgence of parents and the habits of their sons.

The Contingent Fee of Ten Dollars must be paid in full within six weeks after entrance.

Erskine00135

Remarks.

Location.

ERSKINE COLLEGE is located in the village of Due West, eleven miles north of Abbeville C. H., and four miles from Donnald's depot on the Columbia and Greenville Railroad. The location is high and healthful, the population around moral and correct; the temptations to vice and crime are few compared with those that exist in large towns and cities.

Extract from Charter.

Section 6 of the Charter provides:

"That it shall not be lawful for any person to establish or keep in any direction within two miles of the said College, any house or store or shop for retailing ardent spirits."

The Charter of the town also recognizes and enforces this same provision.

Government.

The government of the College is mild and parental. Severe acts of discipline are avoided as much as possible. Appeals are made to the honor, self-respect or sense of duty of the students, or to the regard which they have for their character and the wishes of parents and friends. Information is lodged with parents and guardians against the idle and wayward.

A strict attention to the exercises of the recitation room is required, and every student is promptly called to account for his absence.

Specimens of Composition and Declamation are from time to time required of all the students.

The religious exercises of the College consist in the daily reading of the Scriptures and prayer in the Chapel, Bible class exercises on Sabbath morning and a public religious service in the evening, together with the opportunity of attending the village churches or other places of worship in the vicinity during the day.

Buildings.

The College buildings are large and commodious, well adapted to the purposes for which they were erected. They afford a number of excellent recitation rooms, a Chapel and a Commencement Hall and all other conveniences for the private and public exercises of pupils.

Erskine00136

Expenses.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society Fees, as follows:

Tuition—by Scholarship	$ 20 00
Board in families—from $10 to $12 per month—say	100 00
Washing—$1 per month	9 00
Lights and fuel	10 00
Boooks	10 00
College and Society Fees, per year, about	15 00
Aggregating with board	$164 00

It should be stated that the Board of Trustees has fixed the rate of Tuition in the Preparatory Department at Thirty Dollars.

The above may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money and all matters of this sort depend entirely on the indulgence of parents and the habits of their sons.

The Contingent Fee of Ten Dollars must be paid in full within six weeks after entrance.

Erskine00137

Remarks.

LOCATION.

ERSKINE COLLEGE is located in the village of Due West, eleven miles north of Abbeville C. H., and four miles from Donald's depot, on the Columbia and Greenville Railroad. The location is high and healthful, the population around moral and correct; the temptations to vice and crime are few compared with those that exist in large towns and cities.

EXTRACT FROM CHARTER.

Section 6 of the Charter provides:

"That it shall not be lawful for any person to establish or keep in any direction within two miles of the said College, any house or store or shop retailing ardent spirits."

The Charter of the town also recognizes and enforces this same provision.

GOVERNMENT.

The government of the College is mild and parental. Severe acts of discipline are avoided as much as possible. Appeals are made to the honor, self-respect or sense of duty of the students, or to the regard which they have for their character and the wishes of parents and friends. Information is lodged with parents and guardians against the idle and wayward.

A strict attention to the exercises of the recitation room is required, and every student is promptly called to account for his absence.

Specimens of Composition and Declamation are from time to time required of all students.

The religious exercises of the College consist in the daily reading of the Scriptures and prayer in the Chapel, Bible class exercises on Sabbath morning and a public religious service in the evening, together with the opportunity of attending the village churches or other places of worship in the vicinity during the day.

BUILDINGS.

The College buildings are large and commodious, well adapted to the purposes for which they were erected. They afford a number of excellent recitation rooms, a Chapel and a Commencement Hall and all other conveniences for the private and public exercises of pupils. Funds have been raised and plans received for the erection of a new College building at a

Erskine00138

Miscellaneous.

SELECT COURSE.

Those who do not desire to pursue a regular course will be allowed to select certain branches which they may prefer, provided they have as many as three recitations a day. Certificates will be given to those who complete three departments.

SYSTEMATIC BIBLE STUDY.

In order to increase the interest in the study of the Bible a regular four years' course has been arranged for the Sabbath recitations. This course is based upon the graded series of Text Books prepared by Dr. Steele.

SESSION AND VACATION.

The College Session begins on the first Monday of October and closes the third Tuesday of June. The Session is equally divided, without intermediate vacation, into two terms; the second begins on the third Monday of February.

It is very important that students should enter or return to College at the beginning of the Session, since an absence of a few days at a time when a new branch of study is begun, seldom fails to embarrass the whole course, and some are unable to make up the loss.

ROLL OF HONOR.

The name of every student whose mark in any room is such as to put him in what is called the "A Class," will be placed on the Roll of Honor, and the student will be regarded as distinguished in that room. Those who belong to the "B Class" will be regarded as excellent, and their names also will be placed on the Roll of Honor.

"A" is equivalent to 95 per cent.; "B" is equivalent to 90 per cent.

Erskine00139

Expenses

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society Fees, as follows :

Tuition—by Scholarship	$ 20 00
Board in families—from $10 to $12 per month—say	100 00
Washing—$1 per month	9 00
Lights and fuel	10 00
Books	10 00
College and Society Fees, per year, about	15 00
Aggregating with board	$164 00

It should be stated that the Board of Trustees has fixed the rate of Tuition in the Preparatory Department at Thirty Dollars.

The above may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money and all matters of this sort depend entirely on the indulgence of parents and the habits of their sons.

The Contingent Fee of Ten Dollars must be paid in full within six weeks after entrance.

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Hill; Progressive Intellectual Arithmetic—Wentworth; Histories of Greece and the United States—Goodrich and Barnes; Introductory Latin Composition—Leighton.

SECOND GRADE—Introduction to Latin Composition—Leighton; Latin Grammar—Allen and Greenough, in connection with Cæsar; Progressive Practical Arithmetic—Wentworth; Shorter Course in Algebra—Wentworth; Greek—White's First Lessons; and two books of the Anabasis.

Special attention paid to writing and spelling.

Expenses.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society Fees, as follows:

Tuition—by Scholarship	$ 20 00
Board in families—from $10 to $12 per month—say	100 00
Washing—$1 per month	9 00
Lights and fuel	10 00
Books	10 00
College and Society Fees, per year, about	15 00
Aggregating, with board	$ 64 00

It should be stated that the Board of Trustees has fixed the rate of Tuition in the Preparatory Department at Thirty Dollars.

The above may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money and all matters of this sort depend entirely on the indulgence of parents and the habits of their sons.

The Contingent Fee of Ten Dollars must be paid in full within six weeks after entrance.

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Miscellaneous.

SELECT COURSE.

Those who do not desire to pursue a regular course will be allowed to select certain branches which they may prefer, provided they have as many as three recitations a day. Certificates will be given to those who complete three departments.

SYSTEMATIC BIBLE STUDY.

In order to increase the interest in the study of the Bible a regular four years' course has been arranged for the Sabbath recitations. This course is based upon the graded series of Text Books prepared by Dr. Steele.

SESSION AND VACATION.

The College Session begins on the first Monday of October and closes the Tuesday before the third Wednesday of June. The Session is equally divided, without intermediate vacation, into two terms; the second begins on the third Monday of February.

It is very important that students should enter or return to College at the beginning of the Session, since an absence of a few days at a time when a new branch of study is begun, seldom fails to embarrass the whole course, and some are unable to make up the loss.

ROLL OF HONOR.

The name of every student whose mark in any room is such as to put him in what is called the "A Class," will be placed on the Roll of Honor, and the student will be regarded as distinguished in that room. Those who belong to the "B Class" will be regarded as excellent, and their names also will be placed on the Roll of Honor.

"A" is equivalent to 95 per cent.; "B" is equivalent to 90 per cent.

Erskine00142

ERSKINE COLLEGE.

Erskine00143

ANNUAL CATALOGUE

—OF—

Erskine College,

DUE WEST, ABBEVILLE COUNTY,

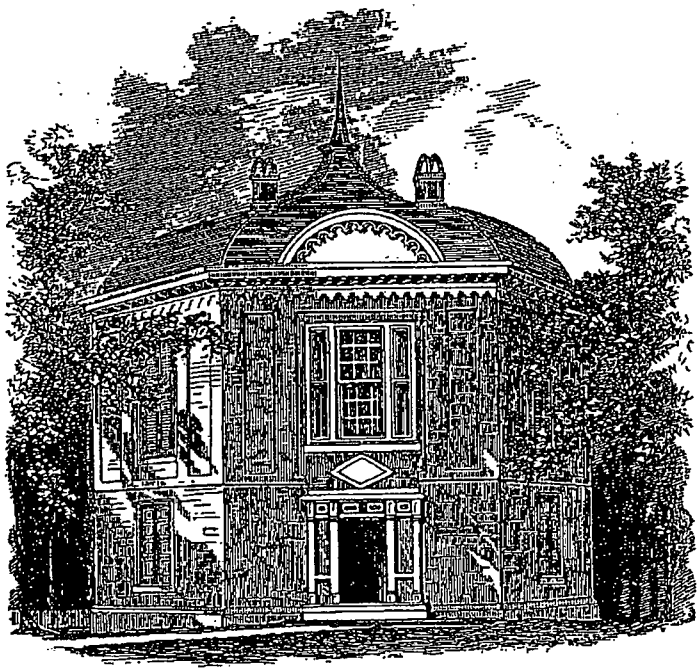
SOUTH CAROLINA.

COLLEGIATE YEAR 1893-1894.

PRESBYTERIAN PUBLISHING COMPANY.
DUE WEST, S. C.

1894.

Erskine00144



EUPHEMIAN HALL.

Erskine00145

Catalogue of Erskine College 1893-94

HISTORY.

Erskine College is the property of the Associate Reformed Synod of the South. It was founded and organized in the year 1839. The first President was Rev. E. E. Pressly, D.D., with the following corps of professors: Mr. N. M. Gordon, Rev. J. N. Young and Rev. J. P. Pressly, D. D. As the patronage and means of the college increased, additional professors were employed until the plans of 1839 were fully met. It has had the following gentlemen as Presidents: Rev. E. E. Pressly, D. D., Rev. R. C. Grier, D. D., (two terms, 1847 to 1858, and 1865 to 1871), Rev. E. L. Patton, LL. D., Rev. W. M. Grier, D. D., son of the former Dr. Grier. The first faculties were drawn mostly from Northern colleges, such as Jefferson, Pa., and Miami University, Ohio. In later years they have been taken from graduates of colleges in the South—such as the University of Georgia, South Carolina College, and Erskine College. Several of them have taken courses of special study in Yale, Johns Hopkins' University, Princeton, Amherst, etc.

The course of instruction is believed to be as thorough and full as the ordinary purposes of an education require, or as students are able to accomplish in the time usually devoted to a college course.

While it is true that, although like most denominational colleges, Erskine is the child of hard struggles, she has now attained such age and growth as place her future beyond the dangers of ordinary contingencies.

ENDOWMENTS.

Previous to 1853 the college relied on tuition fees and the interest of a few donations and bequests to defray expenses. In that year, "the plan of endowing the College by the sale of scholarships was adopted, and a vigorous attempt made to carry out the scheme * * Money was scarce, and crops not abundant, but by making liberal offers in the way of tuition, more than $50,000 was raised towards the endowment of the College." This, in connection with funds previously received from Capt. Blair and others, and more recently from Christopher Strong, Esq., of Tennessee, and Col. Wm. Wright, of Yorkville, S. C., raised the endowment to about $70,000.

The results of the late war swept away all of this endowment, excepting about $13,000. Having tried some temporary expedi-

Erskine00146

ents, the Synod, in 1871, entered on a second effort to secure a permanent endowment. The plan was similar to the one of 1853, except that the price of scholarships was raised to $20 each, and the term of the College obligation limited to 1895. Though the friends of the College were impoverished and discouraged by the disasters of the war, this effort met a liberal response, and the sale of scholarships, together with a few additional donations and bequests raised the endowment to about $80,000. The largest donation was $15,000, by Mrs. Ann Wallace, of Kentucky, and the largest bequest the College has received was by the will of the late Dr. Hearst, of Abbeville, S. C. He left two-thirds of his estate to the College. About $11,000 was realized on it.

LOCATION.

Erskine College is located in the upper part of Abbeville County, South Carolina, four miles from Donnald's station on the Columbia, and Greenville Railroad. The location is high and healthful; the population, intelligent and moral. There are few temptations to vice compared with those that exist in larger cities. The village has a population of about 700. Mails are received twice a day, and there is a telegraph office connecting with the lines of the Western Union.

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The first College building was burned in January 1892. Before this, active measures had been taken for the erection of a new building. This building is now complete and was formally dedicated in June 1893. It is of modern style and one of the handsomest college buildings in the State. The rooms are large and well ventilated and admirably suited for recitation and lecture rooms. The cost was about $40,000. The building contains in addition to the recitation rooms a

LIBRARY ROOM

which is well arranged for its purposes. There are alcoves and a private reading room. Magazines, newspapers and current literature are regularly received, and the students have daily access to them. The students of the College have access also to the Library of the Theological Seminary, which, though not large, is growing, and contains many valuable works.

THE COMMENCEMENT HALL

is on the first floor and will comfortably seat fifteen hundred persons.

GYMNASIUM.

This is in the basement of the building, and efforts are being made to furnish it with some of those appliances which promote the healthful physical development of the students.

OBSERVATORY.

e architect took special pains to build an observatory in every suited to the purpose of astronomical study. It contains a e equatorial telescope, which is a valuable help to teacher and l.

YOUNG MEN'S CHRISTIAN ASSOCIATION.

ıe students have a strong and active Association. A large and ıtiful Hall has been placed at the disposal of the Association. earnest effort is being made to furnish it suitably. The mem- have a prayer meeting every Sabbath evening and a business ting on the first Saturday night of every month.

LITERARY SOCIETIES.

here are two of these in the College. The oldest of these is

THE EUPHEMIAN.

began its life with the organization of the college in 18 a commodious brick building of its own on the camp ıandsomely furnished. It has a well-selected libr)0 volumes.

THE PHILOMATHEAN

ıiety was organized in 1841. It too has a] a library of about 2,500 volumes.

These Societies meet every Friday ses of debate and essay reading at. ıdents in the college classes are re ese Societies. They have been found a n. legiate education. The generous rivalry a wholesome stimulus to effort. It is pleasant eak in such high praise of the marked benefitot

Drew to 'Se words the college omitted "selection by scholarship after 1895 in the Catalogues."

SECRET FRATERNITIES.

These are positively prohibited in Erskine College. The Board Trustees in the year 1892 took the following action in reference this matter:

WHEREAS, Secret fraternities in colleges breed strife and con- ntion among students, decrease the efficiency of Literary Societies ıd work injury even to the religious associations among them, and re evil in their tendencies,

Resolved 1st. That the judgment of the Board is against them.

2d. That the Board respectfully requests the fraternities of rskine College to disband and give up their charters, and that the aculty of the College be authorized to use their best efforts to nduce these fraternities to disband.

3d. That we earnestly urge upon the new students in our Col- ege not to connect themselves with any secret fraternity.

4th. That parents are hereby affectionately urged to dissuade heir sons from connection with said organizations.

Erskine00148

5th. That the Board ask the Faculty to take such precautions that hereafter no new fraternities be permitted to organize.

All students are required to sign a pledge that they will have nothing to do with such organizations during their connection with Erskine College.

MESS HALL AND DORMITORIES.

Though board is already cheaper in Due West than in most college towns, the Trustees of the College propose to make it still somewhat cheaper. A large building containing both dormitories and a boarding department for about one hundred students is to be erected on the college grounds. The President and his family will move into the building, and, in order to secure the best results from the proposed plan, will themselves take charge of the entire house, boarding department and all.

CIRCULARS TO PARENTS.

At the close of each term—that is in February and June—a circular is sent to parents and guardians showing the class standing of their sons and wards. These circulars embrace the deportment and punctuality of students as well as their grade in scholarship.

EXAMINATIONS.

Students are required to stand a written examination on every branch or text book completed during the whole course. The intermediate examinations occur irregularly through the year as the different branches or subjects are finished. The final examinations, covering such branches and subjects as have not been previously finished, are held during the last week of the session.

EXPENSES.

These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society fees, as follows:

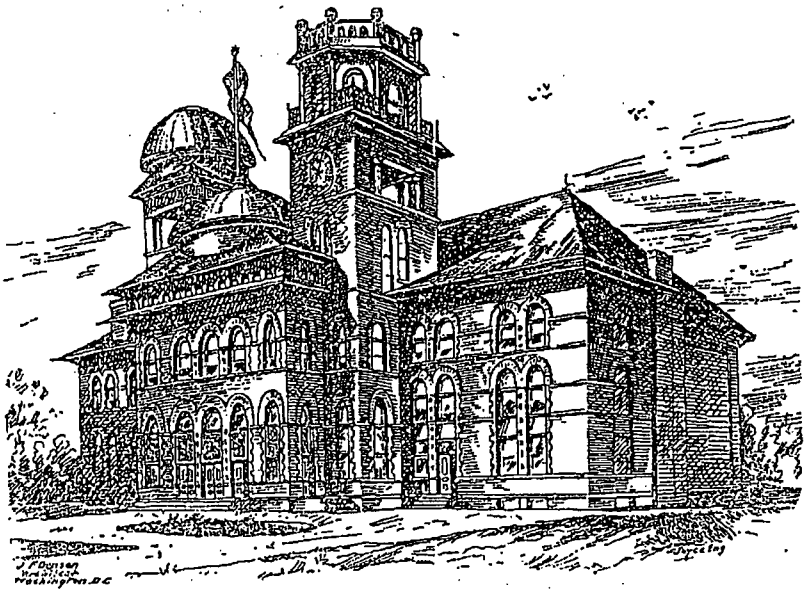
Tuition, by scholarships	$5 00
Board in families, from $10 to $12 per month—say	100 00
Washing, $1 per month	9 00
Lights and fuel	10 00
Books	10 00
College and Society fees, per year, about	15 00
Aggregating, with board	$149 00

It should be stated that the Board of Trustees has fixed the rate of tuition in the Preparatory Department at Thirty Dollars.

The above may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student.

Every one knows that clothing, pocket money and all matters of

Erskine00149



1839. 1895.

ANNUAL CATALOGUE

—OF—

ERSKINE COLLEGE,

DUE WEST, ABBEVILLE COUNTY,

SOUTH CAROLINA.

COLLEGIATE YEAR 1894-1895.



1895:
SHANNON & Co., Printers and Binders,
Greenville, S. C.

Erskine00151

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Erskine00152

raised towards the endowment of the College." This, in connection with funds previously received from Captain Blair and others, and more recently from Christopher Strong, Esq., of Tennessee, and Col. Wm. Wright, of Yorkville, S. C., raised the endowment to about $70,000.

The result of the late war swept away all of this endowment, excepting about $13,000. Having tried some temporary expedients, the Synod, in 1871, entered on a second effort to secure a permanent endowment. The plan was similar to the one of 1853, except that the price of scholarships was raised to $20 each, and the term of the College obligation limited to 1895. Though the friends of the College were impoverished and discouraged by the disasters of the war, this effort met a liberal response, and the sale of scholarships, together with a few additional donations and bequests, raised the endowment to about $80,000. The largest donation was $15,000 by Mrs. Ann Wallace of Kentucky, and the largest bequest the College has received was by the will of the late Dr. Hearst, of Abbeville, S. C. He left two-thirds of his estate to the College. About $11,000 was realized on it.

Location.—Erskine College is located in the upper part of Abbeville County, South Carolina, four miles from Donnald's Station, on the Columbia and Greenville railroad. The location is high and healthful; the population intelligent and moral. There are few temptations to vice compared with those that exist in larger cities. The village has a population of about 800. Mails are received twice a day, and there is a telegraph office connecting with the lines of the Western Union.

Buildings.—The first College building was burned in January, 1892. Before this, active measures had been taken for the erection of a new building. This building is now complete and was formally dedicated in June, 1893. It is of modern style and one of the handsomest college buildings in the State. The rooms are large and well ventilated and admirably suited for recitation and lecture

rooms. The cost was about $40,000. The building contains, in addition to the recitation rooms, a

Library Room,

which is well arranged for its purposes. There are alcoves and a private reading room. Magazines, newspapers and current literature are regularly received, and the students have access to them. The students of the College have access also to the Library of the Theological Seminary, which, though not large, is growing, and contains many valuable works. The College Library is very much in need of more books, and the friends of the institution will do a good work by contributing to it either books or money.

The Commencement Hall

is on the first floor and will comfortably seat fifteen hundred persons.

Gymnasium.

This is in the basement of the building, and efforts are being made to furnish it with some of those appliances which promote the healthful physical development of the students.

Observatory.

The architect took special pains to build an observatory in every way suited to the purpose of astronomical study. It contains a large equatorial telescope, which is a valuable help to teacher and pupil.

Laboratory.—The Chemical Laboratory is a commodious room, designed especially for the purpose. It is well supplied with apparatus and material for conducting experiments to illustrate the course as laid down under the departments. A desk with locker and drawer is furnished to each student. The laboratory is open five afternoons during the week, and students regularly take advantage of this opportunity to do extra work, beyond that actually required. A laboratory fee of five dollars is required of those taking the course, to cover necessary expenses for material, etc.

The Young Men's Christian Association.—The students have a strong and active Association. A large and beautiful Hall has been placed at the disposal of the

sons and wards. These circulars embrace the deportment and punctuality of students, as well as their grade in scholarship.

Examinations.—Students are required to stand a written examination on every branch or text book completed during the whole course. The intermediate examinations occur irregularly through the year as the different branches or subjects are finished. The final examinations, covering such branches and subjects as have not been previously finished, are held during the last week of the session.

Expenses.—These include Tuition, Board, Washing, Lights, Fuel, Books, College and Society fees, as follows:

Tuition and Contingent Fee,	$20.00
Board in families, $10 per month	90.00
Washing, 75 cents per month	6.75
Lights and fuel	10.00
Books	8.00
College and Society fees, per year, about	10.00
Aggregating, with board	$144.75

It should be stated that the Board of Trustees has fixed the rate of tuition in the Preparatory Department at Thirty Dollars.

The above may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expense of a student.

Every one knows that clothing, pocket money and all matters of this sort depend entirely on the indulgence of parents and the habits of their sons.

The Contingent Fee of Five Dollars must be paid in full before the student is admitted to recitation and also one-half Tuition.

Joseph Wylie Professorship.—*Of Mental and Moral Philosophy.*—By resolution of the Board of Trustees any person contributing the sum of $5,000 to the Endowment Fund shall have the right of naming the chair to which it shall go. Mr. Joseph Wylie, of Chester, S. C., having given the sum of $8,000, the Board directed that it

should go to the Chair of Mental and Moral Philosophy and that the chair should be known hereafter as the "Joseph Wylie Professorship of Mental and Moral Science."

To this fund the lamented R. N. Hemphill, of Chester County, contributed the sum of $4,000.

Other Gifts.

In addition to the persons already named, William Johnson, of Alabama, Dr. G. W. Pressly and Dr. James Norwood, both of Abbeville County, S. C., have contributed largely to the funds of the College. We cherish their memories among her benefactors.

Duane Mower Scholarship.

While the main effort of the friends of the institution has been to place the College on a secure and permanent financial basis, smaller, but less important agencies of success have not been neglected. The country is full of young men who greatly desire, it may be even pray for, an education; but neither themselves, parents nor friends are able to furnish money to put them through college. A small amount annually added to their own resources will often secure the end. For such cases, worthy young men who are striving to reach a higher plane of usefulness, but cannot quite do so for want of means, all the colleges ought to make some provision. Some of the most useful men with which societies, churches and States have been blessed, have been educated by charity. With these facts before him, the President undertook, a few years ago, to raise such a fund. As is always the case, when a good cause is honestly undertaken, kind friends came to his aid, and the result was that the Duane Mower Scholarship, for the benefit of such students, was endowed.

Many young men have left this College since this charity began its beneficial work, feeling that it conferred on them blessings, and opened to them avenues of hope and promise towards the future, that life is too short to recount. By its ever onflowing interest, it annually replenishes the exhausted purses of three or four sons of a worthy and thoughtful Alma Mater. Here, again, as the name indicates, one person, and she a widow, came forward with

Catalogue of Indiana Asbury College
1894-1895

VIEW OF ERSKINE COLLECE.

Erskine00158

1837-1905

Annual Catalogue

...of...

Erskine College

Due West, Abbeville County,
South Carolina.

Collegiate Year 1904-'05, with Announcements
for 1905-'06

311
Erskine00159

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The first faculties were drawn mostly from northern colleges, such as Jefferson, Pa., and Miami University, Ohio. In later years they have been taken from graduates of colleges in the South—such as the University of Georgia, South Carolina, and Erskine College. Several of them have taken courses of special study in Yale, Johns Hopkins University, Princeton, Amherst, etc.

In its earlier years the College offered but one course of study. Effort was concentrated on the classical course of study, and the one aim was to attain to a high standard of excellence in Language, Literature, Mathematics, History, and Philosophy. And while the culture studies still occupy a prominent place in the curriculum, the College has endeavored to keep pace with the demands of the age, and the courses of instruction have been broadened as far as the limits of a faculty of the ordinary number will permit. The College does not attempt to do the work of a university, believing that it can render more useful service by doing thoroughly the work in its own chosen field. A detailed statement of the courses offered will be found in another place.

ENDOWMENTS.

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312
Erskine00160

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The result of the civil war swept away all of this endowment excepting about $13,000. Having tried some temporary expedients, the Synod, in 1871, entered on a second effort to secure a permanent endowment. The plan was similar to the one of 1853, except that the price of scholarships was raised to $20 each and the term of the College's obligation limited to 1895. Though the friends of the College were impoverished and discouraged by the disasters of the war, this effort met a liberal response, and the sale of scholarships, together with a few additional donations and bequests, raised the endowment to about $80,000.

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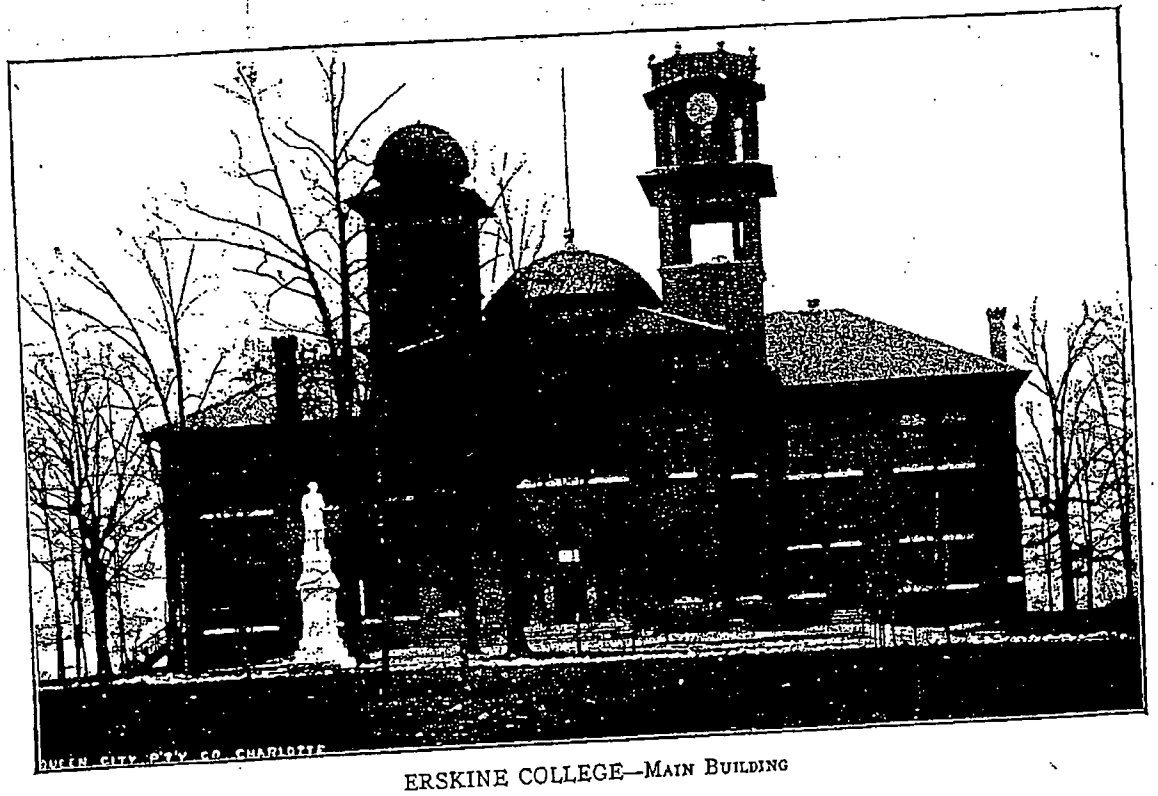
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Erskine00161



ERSKINE COLLEGE—Main Building

Erskine00162

1837-1907

ANNUAL CATALOGUE

OF

ERSKINE COLLEGE

Due West, Abbeville County

South Carolina

COLLEGIATE YEAR 1906-1907

With Announcements for 1907-1908

CHARLOTTE
QUEEN CITY PRINTING COMPANY
1907

Erskine00163

ɔution enjoys the enviable distinction of having been a ɛer in the field of Christian education in the South.

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Synod's ef
to raise e
Memb.

Erskine00164

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Erskine00165

1837 1920

EIGHTY-SECOND

ANNUAL CATALOGUE

OF

Erskine College

DUE WEST

ABBEVILLE COUNTY, S. C.



COLLEGIATE YEAR 1919-1920
WITH ANNOUNCEMENTS
FOR 1920-1921

Erskine00166

Endowments

For about fifteen years, the college relied upon tuition fees and the interest from a few donations and bequests to defray expenses.

In 1853 a plan of endowing the college by the sale of scholarships was adopted. The operation of this plan resulted in securing an endowment of more than $50,000. The greater part of this endowment was swept away by the Civil War.

In 1871 a second effort was made to raise an endowment under the scholarship plan. The friends and supporters of the college had not recovered from the disasters of the war, but they responded liberally, and the result was an endowment of about $80,000.

In 1915 a movement was inaugurated to add $100,000 to the endowment. In 1918 the president reported that he had secured the $100,000 in cash, Liberty bonds, and personal obligations.

In 1919 Synod took steps to launch the Forward Movement to raise $250,000. Of this amount, $25,000 was to go to Erskine College. The Forward Movement Drive resulted in raising, not $250,000, but more than $500,000, so that Erskine College is assured not only of the $25,000, but also probably a larger amount.

The largest contributers to the endowments of the college have been Mrs. Ann Wallace, of Kentucky; J. B. Spratt, of Kentucky; Dr. Hearst, of Abbeville, S. C.; Joseph Wylie and Robert N. Hemphill, of Chester, S. C., and Dr. J. J. Darlington, of Washington, D. C.

[redacted]

Erskine00167

Special Endowments

The Joseph Wylie Professorship of Mental and Moral Science.

This professorship was established by Joseph Wylie and Robert N. Hemphill, of Chester, S. C., Mr. Wylie contributing $8,000 and Mr. Hemphill $4,000.

The Wylie Educational Fund.

This endowment was created by Mr. Joseph Wylie, of Chester, S. C., and the amount of the special fund is $10,000. The income from this fund is designated to pay the tuition of young ladies who attend Erskine College and board in the Wylie Home.

The A. G. Brice Memorial.

This fund was established by Mrs. Sallie M. Brice, of Chester, S. C., as a memorial to her distinguished husband, an honored alumnus of Erskine College, Hon. Ashbel G. Brice. The amount of this memorial fund is $1,000.

The E. E. Pressly Chair of English.

This chair was founded in 1919 at the suggestion of Dr. J. J. Darlington, of Washington, D. C., who contributed one-half of the amou chair. The amount of the ch tes the name and work of the ge, Dr. E. E. Pressly.

an update of the endowment statement shows 2 efforts for endowment by Scholarship Certificate 1863 & 1871 The 1871 was superseded by Synod. Date 20th or in 30's Endowment statement was omitted from catalogue.

Erskine00168

STATE OF SOUTH CAROLINA COUNTY OF LEXINGTON	)	IN THE COURT OF COMMON PLEAS IN THE ELEVENTH JUDICIAL CIRCUIT
Robert E. Smith, and William K. Smith, Plaintiffs, vs. Erskine College Defendants.	)	Civil Action No. 2011-CP-01-109 **PLAINTIFFS' TRIAL BRIEF**

Plaintiffs Robert E. Smith and William K. Smith, respectfully submit the following legal brief.

PROCEDURAL HISTORY

This matter is brought before the Court by Plaintiffs, Robert E. Smith and William K. Smith (herein referred to as "Plaintiffs"), against Defendant, Erskine College (herein referred to as "Erskine College" or "Defendant"). Plaintiffs' Complaint seeks a Declaratory Judgment to confirm the validity of the Certificate of Scholarship and Sub-Certificates which were issued to Reverend J.R. Castles. Defendant contracted with Reverend Castles to invest One Hundred and no/100 ($100.00) Dollars towards the Erskine College endowment fund in return for twenty-five years of tuition at Erskine College, redeemable upon surrender of individual Sub-Certificates.

Plaintiffs have been injured by Erskine College's actions and refusal to honor these Sub-Certificates of Scholarship. Plaintiffs now pray for just and proper relief, including specific performance of the contract by fully honoring the Sub-Certificates of Scholarship as each worth individual full years of free tuition at Erskine College, redeemable at the will of the bearer. The

following Brief addresses the legal issues relevant to this case and reiterates the arguments Plaintiffs' counsel will make during trial.

STATEMENT OF FACTS

Erskine College was founded as a private Liberal Arts college in 1839. In 1853, in an effort to keep pace with other college and university educations, both in thoroughness and affordability, Defendant Erskine College sought to establish an endowment fund for the benefit of their college of higher learning. The governing body of the college, The Associate Reformed Synod of the South, discussed different methods of raising the finances necessary to create an endowment fund. They later drafted the Erskine College 1853 "Plan of Endowment," and adopted it on April 8, 1853. The Plan of Endowment served as an internal resolution for the College.

The 1853 "Plan of Endowment" reads in pertinent part,

> ". . . An Endowment Fund of a Hundred Thousand Dollars shall be created by the sale of Scholarships; which Scholarships shall be offered on the following terms and conditions:
>
> 1. The Payment of forty dollars ($40) shall endow *a single scholarship*, which shall entitle the subscriber to the tuition of *one student* during the term of six years.
>
> 2. The payment of sixty dollars ($60) shall endow a Scholarship which shall entitle the subscriber to the tuition of one or more of his own sons, or of any students he may select, amounting in the aggregate to twelve years.
>
> 3. Any person paying or securing to the Trustees of said College the sum of one hundred dollars ($100) shall be entitled to the education, free of tuition expenses, of one son or nominee for the term of *twenty-five years*, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years. . ." *Plaintiffs' Exhibit 1* (Bates Number: Erskine0004)

In Defendant's efforts to raise sufficient funds for the Endowment Fund, they contracted with many investors, including Reverend J. R. Castles. In 1854, Reverend J. R. Castles invested in the one hundred dollars ($100) scholarship contract option. He paid One Hundred and no/100 ($100.00) Dollars in return for the Certificate of Scholarship for 25 years of tuition and the Sub-Certificates, each representing a single year of tuition. *Plaintiffs' Exhibits 2 & 3.* Defendant has

not asserted that Reverend Castles was issued any other documentation relating to the contract with Defendant other than the Certificate of Scholarship and the twenty-five Sub-Certificates.

The Certificate of Scholarship bears Reverend Castles' name and states specifically,

> "This certifies that, for and in consideration of One Hundred Dollars, paid to John N. Young, Treasurer of the Board of Trustees of Erskine College, or to his successor in office, Rev. J. R. Castles is entitled to twenty-five Years of Tuition in the said College; which Tuition is to be obtained on the surrender of the accompanying Sub-Certificates---each Sub-Certificate entitling to One Year's Tuition." *Plaintiffs' Exhibit 2.*

The Certificate of Scholarship is then signed by both the President and Secretary of Erskine College. The Sub-Certificates each state that upon "being surrendered to the Treasurer of Erskine College, entitles the bearer to One Year's Tuition in said College." Each Sub-Certificate is individually numbered 725 (which represents the Sub-Certificate group number), and initialed M.N. by Defendant's agent. Erskine College began accepting the Sub-Certificates of Scholarship as compensation for full tuition in the years that followed. Reverend Castles' Certificate of Scholarship and Sub-Certificates were passed down through family inheritance, Plaintiffs William and Robert Smith now have rightful possession of the Certificate of Scholarship and the twenty-five Sub-Certificates.

In 2008, Defendant stated that the Sub-Certificates possessed no redeemable value and declined any right of Plaintiffs to surrender them in exchange for yearly tuition. Plaintiff's have now brought suit to enforce the contract entered into by Erskine College.

ISSUES PRESENTED

i) Under South Carolina common law principles, was a contract formed between Reverend J.R. Castles and Erskine College?

ii) Under South Carolina common law principles, and the terms of the contract reached, do the Sub-Certificates signed and issued to Reverend Castles constitute bearer documents?

iii) Under the common law of South Carolina, and the terms of the contract between Defendant and Reverend Castles, is there an ambiguity within the contract language which would indicate that a twenty-five year expiration was placed upon the Certificate of Scholarship issued?

iv) Under common law, does a question of ambiguity exist relating to what "tuition" means as it applies to the value of the Sub-Certificates?

v) Under common law, does the passage of time have any effect on the validity of a contract which was not provided a durational limit or expiration?

vi) Under South Carolina common law, can a statute of limitations term or defense of laches be applied to a contract which does not contain any term of expiration or durational limit?

BRIEF ANSWER

Plaintiffs Robert and Williams Smith are entitled to specific performance of the contract offered by Erskine College.

There exists a valid contract between the Defendant Erskine College and Reverend Castles, which resulted in the issuing of twenty-five Sub-Certificates of Scholarship in the form of *bearer documents.* Erskine College sought out investors for its Endowment Fund, offering

twenty-five years of tuition scholarship certificates in exchange for valid consideration in the form of a One Hundred and no/100 ($100.00) Dollars investment. Reverend Castle accepted the offer from Erskine College, paid the one hundred dollars ($100) to Defendant, and received the Certificate of Scholarship and Sub-Certificates which created the contract reached between them.

The contract reached between Defendant Erskine College and Reverend Castles, which exchanged twenty-five Sub-Certificates of Scholarship in consideration of One Hundred and no/100 ($100.00) Dollars paid in the 1850's, is valid and unambiguous on its face. The Certificate of Scholarship, endorsed by both the President and Secretary of Erskine College grants the right to twenty-five years of tuition to Reverend Castles for his payment of One Hundred and no/100 ($100.00) Dollars. The Certificate then references the Sub-Certificates, and that said free tuition is to be obtained by a *bearer* surrendering the individual Sub-Certificates of Scholarship for one year of tuition each. The Sub-Certificates, each numbered and signed by an agent of Erskine College, entitle the *bearer to one year of tuition* at Erskine College.

Plaintiffs Robert and William Smith, descendants of Reverend Castles, are now in rightful possession of the Certificate and Sub-Certificates, and have the right to redeem each Sub-Certificate for one year of tuition each. A fundamental characteristic of a bearer document is that the beneficiary of the value of a bearer document is the one in possession of it, thus the documents, by their nature, are freely transferable. Further, the internal resolution by Erskine College adopting the 1853 "Plan of Endowment" explicitly admits that the Certificate and Sub-Certificates may be transferred by bargain, sale, assignment, devise, or inheritance. Thus, no question exists as to whether Erskine College permitted or intended these bearer certificates to be transferable.

Furthermore, there is absolutely no indication in the Certificates themselves, or any related documents, that the Certificates were subject to an expiration date or maximum dollar

value. The internal resolution of Erskine College for the endowment fund specifically states that the advantages of the limited scholarships may be enjoyed at the convenience of the purchaser. *Plaintiffs' Exhibit 1* (Bates Number: Erskine00005).

Bearer documents are not subject to an expiration of value, unless *the terms of the document and intent of the parties* demonstrate that an unreasonable amount of time to demand payment has elapsed. See *Morgan v. United States*, 113 U.S. 476, 501 (1885). They remain as valid today as they were when issued, and the Sub-Certificates entitle the bearer to a year of tuition at Erskine College. For the above stated reasons, Defendant Erskine College is contractually bound to honor the Certificate and Sub-Certificates of Scholarship and Plaintiffs are entitled to a Judgment in favor of Plaintiffs holding the Certificate of Scholarship valid, and ordering Erskine College to honor each Sub-Certificate as worth a full year tuition at Erskine College for the bearer.

LEGAL STANDARD

An action for specific performance of a contract sounds in equity. *Ingram v. Kasey's Associates*, 531 S.E.2d 287, 290 (S.C. 2000). "The one who alleges the contract must prove it by the preponderance of the evidence,-by the greater weight of the testimony. In a civil suit that is always the rule,-the preponderance of the evidence; the greater weight of the testimony." *Jones v. Fitzpatrick*, 24 S.E. 1030, 1031 (S.C. 1896). Thus, the matter before this Court must be decided based on whether Plaintiffs meet their burden of proof by a preponderance of the evidence.

ARGUMENT

I. A valid and unambiguous contract existed between Defendant Erskine College and Reverend Castles, and that contract may be fully enforced on its terms by Plaintiffs for the redemption of a full year of tuition at Erskine College for each Sub-Certificate surrendered.

a) A valid contract between Reverend J.R. Castles and Erskine College was reached.

A valid contract was entered into between Defendant Erskine College and Reverend J. R. Castles in 1854. All of the necessary elements and terms of a contract are provided in the signed Certificates and Sub-Certificates, thereby creating a binding agreement between the parties, and enabling the contract to be enforced by the descendants of Reverend Castles today, under the same terms which were set forth at the time of contracting.

To reiterate one of the most basic legal principles, a contract requires an offer, acceptance, and consideration. *Carolina Amusement Co., Inc. v. Connecticut Nat. Life Ins. Co.*, 437 S.E.2d 122, 125 (S.C. Ct. App. 1993). If all three elements are present, then the validity of a contract may only be countered by affirmatively arguing a defense to formation.

As the facts demonstrate, Erskine College set forth a number of different offers, in an effort to secure an endowment fund. The one at issue, involved the exchange of the one hundred dollars ($100) investment in return for twenty-five Sub-Certificates each entitling the bearer to one year of free tuition to the College. Reverend Castles accepted the offer by paying the One Hundred and no/100 ($100.00) Dollars, and the payment serves as valid consideration. Defendant Erskine College does not set forth any defenses to formation, but rather argues theories strictly related to the enforcement of the contract. Further, there is case law from other jurisdictions demonstrating that disputes such as this are governed by contract law, and that

endowment scholarship contracts are valid contracts. See *Howard College v. Moore*, 71 Ala. 429, 1882 WL 1256, *3 (Ala. Dec. Term 1882.); *Weeks v. Mississippi College*, 749 So.2d 1082 (Miss. Ct. App. 1999). There is no question that a valid contract was formed between Defendant and Reverend Castles.

b) The contract terms provided in the Certificate and Sub-Certificates constitute a valid contract on their face and create a bearer document which entitles the possessor of the Sub-Certificates to twenty-five individual years of free tuition at Erskine College.

The contract between Defendant and Reverend Castles only included the Certificate of Scholarship and the Sub-Certificates, these documents alone contain the terms of the contract that was reached. Defendant has not alleged that any other documentation was provided to Reverend Castles and the Certificate and Sub-Certificates do not reference any additional documents. The terms of a contract are fully and clearly explained in the two documents that were provided. Reverend Castles received twenty-five (25) Sub-Certificates in exchange for his investment of One Hundred and no/100 ($100.00) Dollars with Defendant, which was equivalent to numerous years of tuition at the time. Each Sub-Certificate guaranteed him the ability to send any individual he chose, or any lawful bearer of a single Sub-Certificate to Erskine College for free tuition for a year.

"The court's duty is to enforce the contract made by the parties regardless of its wisdom or folly, apparent unreasonableness, or the parties' failure to guard their rights carefully." *Jordan v. Sec. Group, Inc.*, 428 S.E.2d 705, 707 (S.C. 1993). All of the necessary terms constituting the contract between Defendant Erskine College and Reverend Castles are set forth within the Certificate and Sub-Certificates.

The Certificate of a Scholarship states,

> "This certifies that, for and in consideration of One Hundred Dollars, paid to John N. Young, Treasurer of the Board of Trustees of Erskine College, or to his successor in office, Rev. J. R. Castles is entitled to twenty-five Years of Tuition in the said College; which Tuition is to be obtained on the surrender of the accompanying Sub-Certificates---each Sub-Certificate entitling to One Year's Tuition." *Plaintiffs' Exhibit 2.*

The language drafted by Defendant, and provided in the Certificate and Sub-Certificates serves as the terms of the contract, and Defendant's acquiescence is demonstrated by the signature of the Erskine College President and Secretary. Under the law of contract construction, "if its language is plain, unambiguous, and capable of only one reasonable interpretation, no construction is required and the contract's language determines the instrument's force and effect." *Id.* Plaintiff contends that the language provided is perfectly clear and easily implemented. Nevertheless, if the Court concluded than an ambiguity does exist, the drafter of the document was in the best position to prevent confusion in the contract's construction and should be the party to suffer from its shortcomings. *WDI Meredith & Co. v. American Telesis, Inc.*, 597 S.E.2d 885, 888 (S.C. Ct. App. 2004) (citing *Williams v. Teran, Inc.*, 221 S.E.2d 526, 529 (S.C. 1976).

The specific language used by Defendant thwarts any argument for the existence of ambiguity. The key contract term, as it relates to the matter before this Court, is provided on the Sub-Certificates which are referenced by the Certificate of Scholarship. The Sub-Certificate states that the "bearer" is entitled to one year of free tuition upon surrendering a single Sub-Certificate to the Treasurer of Erskine College.

The term "bearer" has the same legal meaning today as it did in the 1800's.[1] Black's Law Dictionary defines "bearer document" as: "A document that runs to bearer upon issuance or after a blank endorsement, and that is negotiated by delivery alone. Anyone in possession of a bearer document is a holder of it." Black's Law Dictionary 154 (6th ed. 1999). The status of holder

[1] A bearer document "'Passes by mere delivery, and the holder never makes any title by or through any assignment, but claims merely as bearer.'" *Town of Thompson v. Perrine*, 106 U.S. 589, 593 (1883).

entitles the bearer to receive payment pursuant to the document. Black's Law Dictionary 731 (6th ed. 1999). Use of the term "bearer" legally indicates that an individual who possesses and surrenders a bearer document for compensation, is entitled to the rights conferred by the document. In the case at hand, it indicates that the individual possessing a Sub-Certificate is entitled to redeem the value of the Sub-Certificate and receive the described benefit: one year of free tuition at Erskine College.

The intent of Erskine College is apparent in the language they used for the conveyance and redemption of the Sub-Certificates. Plaintiffs argue that no further inquiry into the Defendant's intent is necessary. However, if the court were to look further, the same intent can be demonstrated elsewhere. Defendant deliberately chose to use the word "bearer," and fully intended the legal consequences of the term. In the October 24, 1854 issue of the "The Telescope", Erskine College provided a summary of how the Sub-Certificates would be administered to individual investors. The article indicates that that when only a portion of a full sheet of Sub-Certificates is numbered, initialed, and issued, Erskine College required the remaining portion of the sheet to be *burned. Plaintiffs' Exhibit 4* (Bates number: Erskine00008). The article expressly indicates that throwing away or discarding the remaining portion of sub-certificates is insufficient. *Id.*

Erskine College demonstrates the legal nature of the Sub-Certificates in their burning procedure. Had the College not acknowledged or intended that the Sub-Certificates act as bearer documents, then the method of disposal would not have been addressed or would not have specifically demanded burning. The College, in requiring absolute destruction of the remaining Sub-Certificates, acknowledged the fact that such certificates are valid on their face for any bearer to redeem for tuition. The choice to burn remaining Sub-Certificates clearly acknowledged this bearer document attribute.

The term "bearer" is accompanied by a number of other legal attributes. First, a bearer document is freely transferable. Black's Law Dictionary 154 (6th ed. 1999). The lack of a required signature or named recipient of the Certificates enables a bearer document to be transferred freely, allowing any holder to have the same legal rights as the original owner. Thus, the Sub-Certificates can be sold, assigned, bequeathed, devised, or inherited. The intent of this characteristic is further evident in the fact that the "Plan of Endowment" adopted by the Defendant expressly admits this right. *Plaintiffs' Exhibit 1* (Bates Number: Erskine00005). While Plaintiffs argue that the "Plan of Endowment" is not an incorporated document of the contract, nor necessary to determine the intent of Defendant, the intent demonstrated by creating bearer documents in the Sub-Certificates is expressly confirmed by the Defendant's own internal documents.

The bearer document nature of the Sub-Certificates provides a freedom of transferability that allows any possessor to redeem the certificates for tuition at Erskine College. The inheritance of the Sub-Certificates by Reverend Castles' descendants, Plaintiffs Robert and William Smith, does not negate the validity of the contract. The Plaintiffs, as bearers, may submit the Sub-Certificates for tuition or transfer them freely to a subsequent holder.

c) No ambiguity exists within the contract which would indicate a twenty-five year expiration period or any kind of limitation of the validity of the Sub-Certificates.

The terms of the contract are clear and unambiguous as to whom is entitled to redeem the Sub-Certificates, what consideration was paid for them, the procedure in which they are to be redeemed, what a bearer is entitled to receive after redeeming a Sub-Certificate, and whether any restrictions apply to their use. Noting further is needed to interpret and execute a contract. Defendant's choice to entitle an investor to "twenty-five years of tuition" in Erskine College, and

then issue unrestricted bearer document as the manner in which to redeem the twenty-five years of tuition demonstrates the intentionally unrestricted nature of the Certificate of Scholarship.

The rule of contract interpretation as it relates to latent ambiguities is multifaceted, but not complex. "The parties' intention must, in the first instance, be derived from the language of the contract." *Cullen v. McNeal*, 702 S.E.2d 378, 385, (S.C. Ct. App. 2010). Whether a contract's language is ambiguous is a question of law, and therefore is a proper question for the court to address. *South Carolina Dep't of Natural Resources v. Town of McClellanville,* 550 S.E.2d 299, 302 (S.C. 2001). If a contract's language is plain, unambiguous, and capable of only one *reasonable* interpretation, no construction is required and its language determines the instrument's force and effect. *Jordan v. Sec. Group, Inc.*, 428 S.E.2d 705, 707 (S.C. 1993). "Where an agreement is clear and capable of legal interpretation, the courts only function is to interpret its lawful meaning, discover the intention of the parties as found within the agreement, and give effect to it." *Heins v. Heins,* 543 S.E.2d 224, 230 (Ct.App.2001). "A contract is ambiguous when it is capable of more than one meaning when viewed objectively by a reasonably intelligent person who has examined the context of the entire *integrated* agreement and who is cognizant of the customs, practices, usages and terminology as generally understood in the particular trade or business." *Hawkins v. Greenwood Development Corp.*, 493 S.E.2d 875, 878 (S.C. Ct. App. 1997) (citing 17A Am.Jur.2d *Contracts* § 338, at 345 (1991)) (emphasis added). Only after the Court has concluded that a contract is not clear and capable of interpretation, and that a second *reasonable* interpretation can be made of the *actual contract language*, may extrinsic evidence be admitted to determine the intent of the parties as to the terms of the contract. *Beaufort County School Dist. v. United Nat. Ins. Co.*, 709 S.E.2d 85, 95 (S.C. Ct. App. 2011). Thus, unincorporated documents and extrinsic evidence of intent cannot be considered before a court first concludes that an ambiguity exists within the contract terms.

Defendant seeks to argue that the Sub-Certificates were subject to a twenty-five year expiration period, wherein they would lose all redeemable value twenty-five years after they were issued. Neither the Certificate of Scholarship, nor the Sub-Certificates provides any mention of a time limit in which the Sub-Certificates would be considered valid and redeemable. The lack of any restrictive language as to a durational limit on the Sub-Certificates is prima facie evidence of Defendant's intent and desire not to create such a restriction. The contract reached with Reverend Castles was repeated with numerous investors, all of which including seemingly the exact same terms, and all were signed by the President and Secretary of Erskine College. Had such a durational term been intended, it would certainly have been expressed in the language of the Certificates or Sub-Certificates.

The Certificate simply states "Rev. J. R. Castles is entitled to twenty-five years of tuition in said College, ... to be obtained by surrender of accompanying Sub-Certificates. . ." If a durational term was desired by Erskine College, it could have been accomplished in a single sentence on either document. It could even be accomplished by providing a simple expiration date on each Sub-Certificate. However, neither was drafted despite Erskine College's complete control over the documents' language; in fact, neither document so much as includes a date of issuance. If a twenty-five year expiration period was desired, there would be no way in which an investor could determine what date his Certificate would expire. Reverend Castles, nor any subsequent possessor, could not deduce any single reason to believe the Sub-Certificates would ever lose their value simply due to the passing of time.

The Defendant had complete control of the drafting of Certificates and Sub-Certificates, and its failure to include its own *alleged* intent is not sufficient legal or equitable grounds for relief from the contract they executed for their Endowment Fund. It is worth reiterating, The "Court's duty is to enforce contract made by parties regardless of its wisdom or folly, apparent

unreasonableness or parties' failure to guard their rights carefully." *Jordan v. Sec. Group, Inc.*, 428 S.E.2d 705, 707 (S.C. 1993). Defendant's failure to provide a durational restriction renders the Sub-Certificates perpetually valid, regardless of the years that have passed since they were issued.

The lack of a restrictive durational term does not create a question of ambiguity that such a term may have been intended. Entertaining such a submissive form of contract interpretation would result in every contract written capable of ambiguous construction. It is only when the *existing* terms of the contract create a question of two reasonable interpretations that ambiguity arises. Contracts are designed to specify what the rights of a contracting party are, not account for and enumerate every right a party does not receive. To require an enumeration for each right not provided by a contract would result in parties drafting cumbersome and often absurd contractual language in an effort to safeguard themselves from lawsuits where the opposing party sues to obtain bizarre and specious contract terms which were not necessary to draft in the first place. There is always some subject matter left out of a contract that need not be addressed because of language already present within the contract, and *the silence of a contract to a term is not equivalent to an ambiguity*. See *Jordan*, 428 S.E.2d at 707.

Here, such language negating the need for a durational term is the "bearer" language. In addition to the use of the term bearer as an implication of a lack of restriction as to *whom* may redeem a Sub-Certificate, a bearer document also provides a legal attribute as to the *temporal validity* of the document. A bearer document does not lose its value simply because the document is old. Absent a termination of the institution which issued the bearer document, the validity of a bearer document can endure the passing of time to the whatever extent the language of the document and intent of the parties indicates. See *Morgan v. United States*, 113 U.S. 476,

501 (1885). The United State Supreme Court, in its discussion of bearer bonds and negotiable paper, stated:

> "the rule as to ordinary negotiable paper, payable on demand, is that it is not due, without demand, until after the lapse of a reasonable time within which to make demand; and what the length of that reasonable time is, may vary according to the circumstances of particular cases, and must be governed very largely by the intension of the parties, as manifested in the character of the paper itself, and the purposes for which it is known to have been created and put into circulation. " *Id.*

Even if an ambiguity were to exist in the contract language at issue in this case, it is a well known and inescapable maxim of statutory interpretation that ambiguities are resolved against the drafter, especially in the case of adhesion contracts. "Ambiguous language in a contract should be construed liberally and most strongly in favor of the party who did not write or prepare the contract and is not responsible for the ambiguity; and any ambiguity in a contract, doubt, or uncertainty as to its meaning should be resolved against the party who prepared the contract or is responsible for the verbiage." *Myrtle Beach Lumber Co., Inc. v. Willoughby,* 274 S.E.2d 423, 426 (S.C. 1981) (quoting 17A C.J.S. *Contracts* § 324).

Erskine College drafted every word printed on the Certificate and Sub-Certificates. Investors had no input or control of the terms or drafting process: an adhesion contract by definition. Reverend Castles and subsequent bearers should not endure the consequences of Erskine's drafting decisions. Once the question of ambiguity is settled, the court's single duty is to enforce the clear intent of the contract, unburdened by the possible obligations the contracting parties will have to accommodate. *Jordan,* 428 S.E.2d at 707. Here the bearer language, the language of the Certificate, and the manner in which the Sub-Certificate proceeds were described clearly indicate that the bearer is entitled to a full year of tuition upon presentation of a Sub-Certificate, unrestricted by expiration or monetary value. There are no additional terms or documents incorporated into the contract. The Certificates lay out the terms in full, and represent

the entire contract. Ambiguity cannot be found within these contract documents, therefore the Certificate and Sub-Certificates entitle their possessor to the benefits of the documents unrestricted by any durational limit.

d) If the Court finds that an ambiguity exists strictly from interpreting the contract documents (the Certificate and Sub-Certificates), numerous instances of extrinsic evidence demonstrate that no twenty-five year durational limit was intended by Defendant.

Plaintiff has reiterated a number of times that South Carolina common law does not allow the inclusion of extrinsic evidence for contract interpretation unless the actual contract terms present some latent ambiguity.

Although Plaintiffs maintain that no additional documentation of any kind is needed to construe the contract at hand, it is nonetheless necessary to directly address the Defendant's argument alleging a time restriction on the Sub-Certificates.

Defendant points out a single phrase, stated within the "Plan of Endowment" discussed previously. The document, in its discussion of the one hundred dollars ($100) endowment fund investment offer, states that "Any person paying or securing to the Trustees of said College the sum of one-hundred dollars shall be entitled to the education, free of tuition expenses, of one son or nominee for the term of twenty five years, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years." *Plaintiffs' Exhibit 1.* Defendant argues that the "term of twenty-five years" language is indicative of a time restriction being placed on the Certificate and Sub-Certificates.

First, the word "term" does not appear anywhere on either the Certificate or Sub-Certificates. Secondly, it must be emphatically noted that the same document in which Defendant cites the "term of twenty-five years" phrase in Article 3, states in Article 6 "The

purchaser of a limited scholarship may enjoy the advantages of the same at such time, and at such intervals, as may suit his convenience." *Plaintiffs' Exhibit 1*. This language directly contradicts Defendant's strained interpretation of the "term of twenty-five years" language and demonstrates that Erskine College possessed no intention of a time limit for redeeming the Sub-Certificates.

Thirdly, the "term of twenty-five years" phrase is not restrictive language. It merely indicates the number of years of tuition the investor is entitled to, *as is indicated on the Certificate of Scholarship*. To claim that such language represents an expiration is to ignore every word of the actual contract and adopt the Defendant's stretched interpretation of a single phrase that is not facially conflicting with the Certificate language, and is only stated in an unincorporated document that no investor was made privy to during contracting. "In determining as a matter of law whether a contract is ambiguous, the court must consider the contract as a whole, rather than deciding whether phrases in isolation could be interpreted in various ways: '[O]ne may not, by pointing out a single sentence or clause, create an ambiguity.'" *Silver v. Aabstract Pools & Spas, Inc.*, 658 S.E.2d 539, 542 (S.C. Ct. App. 2008) (citing *Yarborough v. Phoenix Mut. Life Ins. Co.*, 225 S.E.2d 344, 348 (S.C. 1976)).

It should be equally considered that while the $40 dollar and $100 dollar offers posed by Erskine College use the word "term", the $60 dollar offer does not include the word. *Plaintiff's Exhibit 1*. Erskine's failure to include the word "term" in 1/3rd of its "limited scholarship" offers indicates that the word "term" was not intended to be restrictive upon the validity of the Certificates, as Defendant now argues. Also, Defendant's catalogue, when denoting the cost of tuition, consistently refers to the cost on a "per term" basis. *Plaintiffs' Exhibit 12* (bates number: 00013). The use of the word "term" in the Plan of Endowment could just as easily be read to refer to the span of individual school year.

Other Erskine College documents which *reference* the endowment contract reached between Defendant and Reverend Castles expresses a clear intent, contrary to the arguments set forth by Defendant in this case. Article 6 of the Plan of Endowment specifically permits purchasers of limited scholarships the right to enjoy the advantages of said scholarship "at such time, and at such intervals, as may suit his convenience." *Plaintiffs' Exhibit 1. Additionally, the language discussing the endowment fund in Erskine's yearly catalogue states that the second endowment effort of 1871 was contrary to the first endowment effort of 1853* ***because*** *it limited Erskine's obligation to accept Certificates of Scholarship to a certain number of years. Plaintiffs' Exhibit 5* (Bates Number: Erskine00153).

Erskine College's intent is present in numerous academic catalogues created and distributed at the beginning of each academic year. A photographic copy of the Catalogue language is provided as Plaintiff's Exhibit 5. The Catalogue discusses the history of the Erskine College endowment fund, it recalls the 1853 endowment fund scholarship sale, the effects of the civil war and the need for a second endowment fundraiser. The document states as follows:

> "The result of the Civil war swept away all of this endowment excepting about $13,000. Having tried some temporary expedients, the Synod, in 1871, entered into a second effort to secure a permanent endowment. ***The plan was similar to the one in 1853, except that the price of scholarships was raised to $20 each, and the term of the College's obligation limited to 1895.***" *Plaintiffs' Exhibit 5* (Bates Number: Erskine00153) (emphasis added).

Erskine College's decision to limit its obligation to the end of 1895, *created a twenty-five year expiration date on the second scholarship offer,* and the Certificates issued to investors in the second endowment fund expressly denote when the right to tuition expires. *Plaintiff's Exhibit 11* (bates number: Erskine00083) No such language relating to the first endowment effort existed, and Defendant's own comparison of the two endowment efforts acknowledges that a durational limit was not created for the scholarships issued during the first endowment effort.

Erskine College unmistakably indicates here that the College did not draft nor intend the 1853 scholarship certificates to have a restriction on the time frame in which they could be redeemed. They expressly created such a restriction on their second endowment, and were so clear as to articulate the difference in the College's obligations of the two Scholarship efforts in an official Erskine College document. Beginning in 1895, this language was issued for more than 10 years in Erskine's catalogue.

While Plaintiff maintains that there is no ambiguity in the actual contract documents, and the "Plan of Endowment" and catalogue are unnecessary to determine the clear contractual terms reached, if this Court disagrees and sees fit to evaluate extrinsic evidence, Erskine College stated *exactly* what its intent was as to the question of an expiration or restriction of the validity of the Sub-Certificates. The 1853 Scholarships do not have an expiration date and none was intended by Defendant. No such limitation can be imposed against Plaintiffs.

To a large extent, the Certificate of Scholarship is similar to a stock certificate, both in appearance and in basic function. This is not to suggest a Certificate of Scholarship denotes an ownership interest in Erskine College. Rather, like a stock, it entitles the named recipient to value relating to the College, so long as the College exists, that fluctuates with the success of the College as time progresses. *The governing body of Erskine College, the Synod of the South, even refers to Certificate owners as "stockholders" of the College. Plaintiffs' Exhibit 10* (Bates number: Erskine00069) All of which suggest that the lack of expiration or durational limit on the Certificate and Sub-Certificate was an intentional omission for a investment they considered to be perpetually valid so long as the College exists.

Incidentally, J.I. Bonner, the Chairman who referred to Certificate holders as "stockholders", was also the Secretary of Erskine College who signed every single Certificate issued.

It obliges recognition that the nature of Reverend Castles' investment came with a great deal of risk. Reverend Castles invested more than 6 years of tuition upfront to the College, and chose not to seek an immediate return on his investment. Erskine College was at the time a very young educational institution and its long term success could not be guaranteed. While the value of these Sub-Certificates is worth considerably more than they were when contracted for, they could just have easily been worth absolutely nothing just twelve years after their creation when the Civil War began, or any year thereafter. Similar to investing in a company and receiving stock, which is directly related to the health of the company, Erskine College asked investors to invest in its health and promised a benefit to those investors of the educational institution. The benefit they issued provided no indication it would become invalid after a certain number of years.

If this Court finds that an ambiguity exists in the language of the Certificate and Sub-Certificates and proceeds to evaluate extrinsic evidence to determine the intent of Erskine College's investment offers, the ambiguity must be resolved in the non-drafting party's favor. This serves as a considerable factor that weighs against the drafter's burden to provide sufficient extrinsic evidence demonstrating a clear intent which is contrary to the interpretation favoring the non-drafting party. The language of the Certificate and Sub-Certificates, and the numerous arguments referencing extrinsic evidence of intent favoring Plaintiffs' interpretation far outweighs any argument presented which suggests a durational limit of twenty-five years.

e) No ambiguity exists within the contract which would indicate that the Sub-Certificates have any other value than a year of tuition at Erskine College.

The value of the Certificate of Scholarship and Sub-Certificates is a clear and unambiguous term of the contract, and the Court must enforce the term as drafted.

As stated above, "The parties' intention must, in the first instance, be derived from the language of the contract." *Cullen v. McNeal*, 702 S.E.2d 378, 385, (S.C. Ct. App. 2010). If the contract language is clear and capable of legal interpretation, then the Court's only function is to enforce the terms of the contract. *Heins v. Heins*, 543 S.E.2d 224, 230 (S.C. Ct. App. 2001).

The language provided by the two documents lends itself to only a single interpretation. The Certificate reads, "Rev J.R. Castles is entitled to twenty-five years of *tuition* in said College; which tuition is to be obtained on the surrender of the accompanying Sub-Certificates --- each Sub-Certificate entitling to one year's tuition." The Sub-Certificate adds, "This being surrendered to the Treasurer of Erskine College, entitles the bearer to One Year's Tuition in said College." The combination of the two documents clearly indicates that the Sub-Certificates represent *attendance for free tuition* at Erskine College for one year each. Furthermore, the Plan of Endowment indicates that a purchaser may enjoy the advantages of a limited scholarship at the purchaser's convenience. *Plaintiffs' Exhibit 1*. The "advantage" mentioned is obviously the stated value on the Certificates, that is, the right to attend Erskine College for free tuition. This indicates that Erskine did not intend for any temporal relationship to attach to the value of tuition, but intended that the right to free tuition endure until the convenience of the purchaser arises to redeem it.

While the price of tuition has risen since the Sub-Certificates were issued, this fact has no influence on what the Certificate seeks to provide. Just as Defendant had exclusive control over the Certificate language regarding the creation of an expiration date, they had just as much control and opportunity to place a restriction on the maximum dollar value that each Sub-Certificate could be redeemed for. They chose not to do so and Reverend Castles accepted the contract with Defendant on that basis. They chose to grant Sub-Certificates which entitled the bearer to *attendance* at Erskine College *free of tuition*.

While Plaintiffs contend that the word tuition is perfectly clear, an ambiguity as to the word "tuition" cannot be argued by Defendant in an effort to reduce the value of the Sub-Certificates; it would violate the rule stated in *Silver*. In determining as a matter of law whether a contract is ambiguous, the court must consider the contract as a whole, rather than deciding whether phrases in isolation could be interpreted in various ways. . ." *Silver v. Aabstract Pools & Spas, Inc.*, 658 S.E.2d 539, 542 (S.C. Ct. App. 2008). There is absolutely no indication that the language of the document restricted the "value of tuition" to a certain date, time, or value. A Court does not have the authority to modify a plain and unambiguous term within a contract. *Vista Antiques and Persian Rugs, Inc. v. Noaha, LLC.*, No. 4446, 2009 WL 47632, at *2 (Jan. 2, 2009).

Although found in extrinsic not included within the language of the contract, Erskine College has held the Certificates valid for varying amounts over the years following the endowment effort. *Plaintiffs' Exhibits 6, 7, and 8* (Bates Numbers: Erskine00061, Erskine00067, and Erskine00076). Despite Defendant's inconsistency in the dollar value for which they honored the contracts made with other investors, such action does not affect the legal rights that Reverend Castles received for his own investment, or the right to sue for those rights after being denied by Defendant the full value of the Sub-Certificates. In effect, the variations in which Erskine College honored the Sub-Certificates of other investors demonstrates the lack of any maximum dollar value set against the Sub-Certificates. Furthermore, the Defendant publicly gave its assurances that Erskine College would continue to honor the certificates so long as finances permitted them to. In the January 7, 1867 edition of The Associate Reformed Presbyterian, Defendant Erskine College stated that "It is proposed to honor the certificates of the scholarship *so far as the resources of the College will admit.*" *Plaintiffs' Exhibit 9* (Bates number:

Erskine00071) (emphasis added). Erskine College thrives today and is fully capable of honoring the Sub-Certificates.

As a final point regarding the value of a tuition certificate, any argument from the Defendant asking the court to grant a limited monetary value instead of the right to free tuition attendance, must also take into consideration the actual dollar amount it "costs" to have one extra student attend classes at a College, as well as the compound benefit Erskine has received from Reverend Castles' investment. It would seem at first glance that the increased tuition costs would render a slanted award for Plaintiffs in comparison to the dollar value the Sub-Certificates would have been worth in closer proximity to the time of contract and the value Erskine College initially received. However, Erskine College has been in a position to benefit substantially from the contract. Defendant received the one-hundred dollar investment and has had over 150 years in which to invest and gain compound interest from said one-hundred dollars. Even at a reasonable interest rate, such an investment would potentially be worth hundreds of thousands of dollars. Erskine College did not just receive one-hundred dollars in return for scholarship tuition certificates, it received the benefit of a substantial sum of money, given the time period, for which they have not had to repay any value upon for over 150 years. Part of that repayment is now being demanded, and Defendant must honor the terms of its bargain, any other result would constitute unjust enrichment.

As was argued in relation to the question of durational limitations, the rule requiring ambiguities to be resolved in the non-drafting party's favor must also apply to the question of what value the Sub-Certificates must be given. *Myrtle Beach Lumber Co., Inc. v. Willoughby*, 274 S.E.2d 423, 426 (S.C. 1981) (quoting 17A C.J.S. *Contracts* § 324). Defendant's failure to adequately draft their own document cannot be resolved at the expense of the legal rights of Reverend Castles or the Plaintiffs.

II. The age of Plaintiffs' Certificate of Scholarship is irrelevant as to the question of validity, based upon both the nature of the document itself as well as general common law principles.

a) The Certificate of Scholarship is not a note, payable on demand, but a coupon bond, perpetually valid so long as the issuing entity exists.

Defendant loosely ties its argument of age to a statute of limitations of a negotiable note, and provides case law suggesting that the moment a note made payable on demand is created, a statute of limitations begins to run against it. Defendant uses this legal theory in an overly simplified and improper manner to the case at hand.

A note, payable on demand, is not a proper analogy for the Certificate of Scholarship, because the debtor has the freedom to determine when they wish to tender satisfaction of their debt, if not yet demanded. In such instances, a debtor which borrowed money and soon comes into sufficient money in which to repay what he borrowed may do so, at his own will even if demand for repayment has not been made. He is not obligated to incur interest at the pleasure of the debtee.

This is not the case regarding the contract reached between Erskine College and Reverend Castles. First, the College is not asked to repay a certain dollar figure. They are bound to provide a free service (i.e. education of a selected student). While this may appear to be a minute difference, given that free tuition is worth a specific amount of money, the reality of a Sub-Certificate bearer is that they cannot see the benefit of their Sub-Certificate redeemed in any other fashion. They receive a year of free education for redemption of a Sub-Certificate, or nothing at all if Erskine College no longer exists.

The better analogy is one of a bearer bond, and specific to this case, a "Coupon Bond". Black's Law Dictionary states that a "Bond Coupon" is "part of bond which is cut and surrendered for payment of one of successive payments of interest." Black's Law Dictionary, 162

(5th ed. 1979). Such a definition is practically identical to the nature of the Certificate of Scholarship, accompanied by Sub-Certificates. The only difference being a coupon is redeemed for tuition, not interest on the bond's principle. Furthermore, the Synod of the South's resolution to embark on the effort to create an endowment fund specifically refers to the arrangement as a "SCHOLARSHIP BOND". *Plaintiff's Exhibit* 1. Bonds are valid and redeemable so long as the issuing entity exists, thus the nature of this Certificate of Scholarship permits its validity to endure the passing of time.

b) Persuasive authority demonstrates that a contract which purports to remain valid and guarantees a service for an unlimited duration is valid and enforceable so long as the entity exists.

Thus far, both Plaintiff and Defendant have argued various analogies of how these Certificates of Scholarship operate, and whether they remain valid despite the long passage of time since they were issued. A great deal of Defendant's argument seems to boil down to a simple plea that this contract is just too old to warrant enforcement. Their position suggests that a contract, regardless of its intent to remain perpetually valid, can simply die of old age. While South Carolina case law does not provide a perfectly relatable case in which to compare the terms of this Certificate of Scholarship, the Pennsylvania Supreme Court has handed down a ruling which goes straight to this issue.

Based on the ruling of *Hopkins v. Women's Medical College of Pennsylvania*, age is completely irrelevant to the validity of a contract if the duration is a party's obligation does not contain a restriction. *Hopkins v. Women's Med. Coll. of Pa.*, 331 Pa. 42, 47, 200 A. 32, 34 (1938)

Hopkins deals with the a contract reached between the Alliance of Catholic Women of the Archdiocese of Philadelphia (herein ACWA) and the Women's Medical College of Pennsylvania (herein WMCP) in 1920. The contract reached is summarized as follows: WMCP's

acceptance of $5,000.00 entitles ACWA being permitted to send one qualified candidate to the Women's Medical College of Pennsylvania, each and every year. For 15 years following the agreement reached, the contract was honored. *Then in 1935, WMCP refused to accept a candidate on the grounds "of a lack of income in the fund necessary to support it." Id.* at 45.

The Pennsylvania Supreme Court concluded as follows:

> "In our opinion, there is no inconsistency, from a legal standpoint, between an obligation of respondent to administer a scholarship fund as a trust, segregated from its other assets, and an accompanying contractual obligation to give tuition to a student each year whether the income from the fund is or is not sufficient for that purpose. . . . *a valid contract exists between Alliance of Catholic Women of the Archdiocese of Philadelphia and the Women's Medical College of Pennsylvania obligating the College, so long as it exists, to grant tuition therein annually, without additional compensation, and irrespective of the amount of income obtained from the $5,000 trust fund. . ." Id.* at 47.

The Pennsylvania Court demonstrated here that the contract to provide tuition to a selected student, with an unrestricted duration, is a valid contract and must be honored as such. The economic disadvantage that may occur or the age of the contract itself are completely irrelevant to institution's obligations.

The *Hopkins* court, in reaching its ruling, quoted a prior Pennsylvania Supreme Court case on a similar issue, which stated "the acceptance of the endowment and of the terms under which it was given constitute a covenant for the duration of the existence of the donee hospital and its successors." *Alumnae Ass'n of William Penn High Sch. for Girls v. Univ. of Pennsylvania*, 306 Pa. 283, 288, 159 A. 449, 450 (1932). This again shows that an endowment investment in exchange for a service unrestricted in duration is valid.

Although this is only persuasive authority, the highest court of the state of Pennsylvania has declared, twice, the exact foundational issue before this Court: whether a contract which is unrestricted in duration can survive the extensive passage of time, so long as the contracting entity remains in existence. The answer to that question is yes.

III. Neither statute of limitations, nor laches defense is applicable to contest the redemption of the Sub-Certificates of Scholarship.

Neither a statute of limitations nor a laches defense has any substantive value in the case at hand, and depending on the nature of the action one defense may be inappropriately plead.

If the Court finds the nature of the action to be one in equity, then the statute of limitations defense must fail as a matter of law. The South Carolina Supreme Court has ruled that "statute of limitations is inapplicable as a bar to an action seeking equitable relief." *Cook v. Knight*, 91 S.E. 312, 313 (S.C. 1917). Plaintiff contends that the actions before the Court is one of equity, seeking specific performance of the contract. However, both defenses have been plead and therefore require discussion.

a) Defendant's statute of limitations defense must fail because the case at hand is one of equity not law; also, Plaintiff filed suit within three years of Defendant Erskine College denying the validity of the Certificates of Scholarship and Sub-Certificates and refusing to honor the contract reached in 1854.

Plaintiff filed suit before the three year statute of limitations period ran against the available cause of actions under the contract. Defendant's statute of limitations defense must fail on the basis of the filing date being less than three years after Erskine denied the validity of the Certificate of Scholarship and Sub-Certificates.

First, if the Court finds that the matter at bar is one sounding in equity, then a statute of limitations defense cannot be plead. The South Carolina Supreme Court has ruled that "statute of limitations is inapplicable as a bar to an action seeking equitable relief." *Id.* Plaintiffs seek Declaratory Judgment from the court holding that the Certificates and Sub-Certificates are valid on their face and requests specific performance by Defendant in honoring the Certificates. The Supreme Court of South Carolina has held that a demand for specific performance is exclusively

an equitable action. *White v. McKnight*, 143 S.E. 552, 554 (S.C. 1928). The South Carolina Equity: A Practitioner's Guide confirms that an action for specific performance "to compel a party to comply with a duty or obligation" falls within the equitable authority of a court. Randolph R. Lowell et. al., South Carolina Equity: A Practitioner's Guide 13, (South Carolina Bar - CLE Division) (2010). Further, a Declaratory Judgment action is neither legal nor equitable, but rather takes on the nature of the underlying claim. *Felts v. Richland County*, 400 S.E.2d 781, 782 (S.C. 1991).

Secondly, according to South Carolina Code § 15-3-530(1), the applicable statute of limitations for actions upon a contract is three years. S.C. Code Ann. § 15-3-530(1) (2001). Under the discovery rule, "the three-year clock starts ticking on the date the injured party either knows or should have known by the exercise of reasonable diligence that a cause of action arises from the wrongful conduct." *Martin v. Companion Healthcare Corp.*, 593 S.E.2d 624, 627 (S.C. Ct. App. 2004). The "discovery rule" applies to causes of action arising under 15-3-530(1). *Anonymous Taxpayer v. South Carolina Dept. of Revenue*, 661 S.E.2d 73, 80 (S.C. 2008).

Pursuant to a the discovery rule, a cause of action to enforce a contract does not arise until a contracting party either fails to perform as required by the contract. Correspondence between each Party's legal counsel regarding this matter demonstrate that the rights guaranteed by the Certificate of Scholarship were denied in a letter dated April 28, 2008. This was the first instance in which the Defendant made their intentions not to honor the Certificates known. Counsel for Plaintiffs filed suit in the Abbeville County Court of Common Pleas on April 21, 2011, which was before the three year statute of limitations had run; therefore, Erskine College's statute of limitations defense must fail.

b) Erskine College's defense of laches must fail because there can be no negligent or prejudicial delay in asserting a contractual right which is unrestricted by any time frame or expiration, and Defendant is responsible for the delay they complain of.

Plaintiffs' claim and right to recovery are not barred by the equitable defense of laches. Plaintiff did not delay in asserting a right to redeem a portion of the Sub-Certificates of scholarship. The nature and language granting the Certificate of Scholarship and Sub-Certificate do not possess any time restrictions or expiration dates. There can be no delay in asserting a contractual right which does not demand assertion by a certain time.

"Laches is an equitable doctrine which arises upon the failure to assert a known right." *Emery v. Smith,* 603 S.E.2d 598, 602 (S.C. Ct. App. 2004). In order to successfully argue a defense of laches, the party asserting the defense must show negligence on behalf of the opposing party, an opportunity in which the opposing party could have acted sooner, and material prejudice resulting from the negligent delay. Provident *Life and Acc. Ins. Co. v. Driver*, 451 S.E.2d 924, 929 (S.C. Ct. App 1994) (citing *Wallace v. Timmons*, 101 S.E.2d 844, 847 (S.C. 1958)). "Laches is neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." *Mid-State Trust, II v. Wright,* 474 S.E.2d 421, 423 (S.C. 1996). However, a party's failure to assert a right cannot come into existence until a reason or situation arises which demands that the right be asserted. *Id.*

As discussed above, the language of the Certificate of Scholarship and Sub-Certificates does not possess any limitation on the time in which the tuition certificates must be redeemed. They are bearer documents, to be redeemed by the bearer at a time of his choosing. The nature of these Sub-Certificates prevent a defense of laches. In order for the clock to begin ticking towards sufficient delay, there must be a situation that demands assertion. The lack of any time

restriction on the bearer document Sub-Certificates means that an owner's choice to not redeem a Sub-Certificate for tuition is not a failure to assert a right in which the law demands conclusion. The clock, as it applies to laches, only began to run when Defendant refused to accept the Sub-Certificates, and suit was filed less than three years from that date. This cannot be considered unreasonable delay because a claimant is statutorily guaranteed the right to assert a contract claim within that length of time. S.C. Code Ann. § 15-3-530(1) (2001).

There can be no occasion for a contracting party to assert or enforce a right which has already received full recognition by the opposing contractual party, and therefore the contracting party cannot be charged with a lack of diligence in that respect. 27 Am. Jur. 2d Equity § 155 (1966) (citing *Engel v. Mathley,* 48 NE2d 463, 467 (Ind. Ct. App. 1943)). Defendant fully recognized the contract rights exchanged by the Certificates in the act of signing the Certificates, as well as in the discussion of the Endowment in Erskine College Catalogues. (*Plaintiff Exhibits 2, 3, and 5*) Simply put, the Sub-Certificates that Defendant argues are no longer valid due to age, cannot be subject to the defense of laches because they are were not drafted to require redemption by *any* certain time. They were issued with the indication that they could be redeemed at any time based *solely* on the will of the bearer.

The South Carolina Supreme Court has articulated that the unclean hands doctrine has applicability to the availability of a laches defense. When a party is at least equally responsible for the delay in which they now seek affirmative relief, they may not assert the defense of laches against the opposing party. *Charleston Library Soc. v. Citizens & Southern Nat. Bank,* 23 S.E.2d 362, 364-65 (S.C. 1942). Reverend Castles and Plaintiffs cannot be assigned any *fault* for the time that has passed in which the Sub-Certificates have not been redeemed. They were following the expressed terms of the contract in the manner which was fully within their rights as demonstrated by the Certificate language. The terms failed to express any durational limit, and

the owners of the Sub-Certificates chose to keep their investment until a time in which they wished to redeem it. This is the consequence that Defendant could have avoided simply by drafting more favorable terms in their own adhesion contract, and it is the consequence they specifically acknowledged and avoided in the drafting of the Certificates of Scholarship for the second endowment fundraiser in 1871. (See *Plaintiffs Exhibit 5*). Defendant failed to draft restrictive language which would limit the validity of the Sub-Certificates and that failure is the reason that the Sub-Certificates were not redeemed at an earlier date.

As a final point, "the equitable doctrine of laches is equivalent to the legal doctrine of waiver, which is the 'voluntary and intentional relinquishment or abandonment of a known right.'" *Strickland v. Strickland*, 650 S.E.2d 465, 470 (S.C. 2007) (citing *Parker v. Parker*, 443 S.E.2d 388, 391 (S.C. 1994)). "Both laches and waiver require a party to have known of a right, and known that the party was abandoning that right." *Id.* There is no indication that Reverend Castles or Plaintiffs intentionally abandoned their right to redeeming the Sub-Certificates for tuition. They are simply a perpetual asset, redeemable at the owner's discretion.

A laches defense requires that a unreasonable delay in demanding a right that "requires" assertion. No such necessity or requirement is placed upon the time in which Sub-Certificates must be redeemed, and therefore cannot be subject to a laches defense. The only right which must be timely asserted is the Defendant's right to demand specific performance in light of Erskine's refusal to honor the Sub-Certificates. This right has been timely asserted.

c) Based on the law of "Anticipatory Repudiation", the diminution in value of the Sub-Certificates in 1866 did not start any statute of limitations to begin to run against Reverend Castles' claim to have his Certificate of Scholarship honored fully by Defendant.

Defendant's Reply Brief argues that Erskine College's decision to decrease the redeemable value of Sub-Certificates in 1866 amounted to an express breach of the contract

reached with Reverend Castles, and thus began the running of a statute of limitations or laches clock against any claim for damages or specific performance. This is an incorrect assessment and application of contract law in this matter.

American Jurisprudence on the topic of anticipatory breach is thorough in its definition of what constitutes "anticipatory breach" versus actual breach of contract. AmJur on Contract states that:

> "the view prevailing in nearly all jurisdictions is that where there has been an anticipatory breach of contract by one party thereto the other party ***may*** treat the entire contract as broken and ***may*** sue immediately for the breach. ***An anticipatory breach of contract is one committed before the time has come when there is a present duty of performance, and is the outcome of words or acts evincing an intention to refuse performance in the future.*** Such a breach precedes the time prescribed for performance, or at least the time when tender of performance has been proffered. If it does not precede the time of performance or actual tender, it is not anticipatory." 17A Am.Jur. 2nd Contract §733 at 744 (1991)(emphasis added).

South Caroline courts recognize this as the common law of South Carolina specifically. 'A party to a contract breaches it by "fail[ing] to carry out [a] term, promise, or condition of the contract.' Parker v. Shecut, 340 S.C. 460, 479, 531 S.E.2d 546, 556 (Ct. App. 2000) rev'd, 349 S.C. 226, 562 S.E.2d 620 (2002) (reversed on other grounds) (citing Blacks Law Dictionary 130 (6th ed. abr. 1995). Breach of a contract cannot occur until the party *actually fails* to carry out performance when due, not simply indicate that he does not intend to perform if requested. Erskine College's notice that it would only honor Sub-Certificates for partial tuition, when submitted for redemption, can only amount to anticipatory breach of contract as to Reverend Castles because Reverend Castles reserved his right for performance of Erskine's duty under the contract.

Furthermore, under the law of anticipatory breach and repudiation, a party who has received indication of repudiation is not obligated to file suit immediately, nor does a statute of

limitations or laches defense begin to run against his claim. Again, American Jurisprudence is precise in its explanation of this common law of contracts. American Jurisprudence states:

> ". . . repudiation entitles the nonrepudiating party to claim damages for total breach. There is no necessity in such case for a tender of performance, or compliance with conditions precedent, or waiting for the time of performance to arrive, *although this is optional.*" 17A Am.Jur.2d *Contracts* § 737, at 749-50 (1991) (emphasis added).

AmJur goes on to state that,

> ***"If the injured party does not wish to bring an immediate suit for damages, he may elect between two other alternatives -- that is, (1) to threat the contract as still binding and wait until the time arrives for its performance by the promisor, and at such time to bring an action on the contract,*** . . . " *Id.* (emphasis added).

This option to forgo immediate legal action and wait until the time in which performance is demanded (ie await an actual breach of contract), is supported by South Carolina law. In relation to a contract for insurance the South Carolina Supreme Court noted that where an insurer has wrongfully cancelled, repudiated, or terminated a contract for insurance, the insured may seek any of three courses of action: (1) He may choose to treat the policy as still binding, and wait until the policy is payable to challenge the validity of the insurer's cancellation or repudiation, and then sue upon the policy if denied; (2) he may immediately, or at any time, sue in equity to have the policy declared to be valid and in force; or (3) he may maintain an action at law to recover damages for the wrongful cancelation or repudiation. *Davis v. Bankers Life & Cas. Co.*, 88 S.E.2d 658, 660 (S.C. 1955). See also *Cent. Valley Gen. Hosp. v. Smith*, 162 Cal. App. 4th 501, 515, 75 Cal. Rptr. 3d 771, 781 (2008) (holding that when a promisor repudiates a contract, the injured party may immediately seek damages for the breach, or he can treat the repudiation as an empty threat, wait until performance is demanded, and then exercise his remedies if a breach does in fact occur). Both AmJur and the California Court note that if the injured party chooses to wait to exercise legal remedies, the repudiating party has the opportunity to nullify its repudiation. *Cent. Valley Gen. Hosp.* at 515.; 17A Am.Jur.2d Contracts §740 at 753

(1991). Given the reason for which Erskine College was struggling, it is reasonable to believe that such nullification might have occurred in the future once the College had reestablished financial security.

Lastly, it is unclear whether a Erskine College actually set forth a valid repudiation based on its catalogue and newspaper publication. American Jurisprudence suggests that a repudiation creating the right to sue immediately for breach must be "of the whole contract or a promise or obligation going to the whole consideration, and it must be distinct, unequivocal, and absolute." Erskine College, in its time of financial difficulty following the Civil War, published a statement in the Telescope newspaper stating that, "It is proposed to honor the Certificates of Scholarships so far as the resources of the College will admit." *Plaintiffs' Exhibit 9.* This statement constitutes an assurance of Erskine's desire to honor the Scholarships if able, and gave reasonable belief that better circumstances in later years would permit full recognition of the Sub-Certificates. Thus, its a faltering on a *absolute* repudiation of Erskine College's contractual duties. Those better circumstances now exist, and Plaintiff is now seeking its legal remedy to have the contract's validity confirmed.

South Carolina common law also indicates that repudiation by publishing in the newspaper may not suffice to properly convey a repudiation. "The repudiation must be communicated to the other party to the transaction, and not merely to the agent." *Foxworth v. Murchison Nat. Bank*, 134 S.E. 428, 432 (S.C. 1926) (citing *Bement v. Armstrong* (Tenn. Ch. App.) 39 S. W. 899.). There is no evidence to suggest that Reverend Castles was directly informed of Erskine College's intent to redeem Sub-Certificates at a lesser value.

The law set forth by American Jurisprudence and confirmed by South Carolina common law indicates that the actions of Erskine College in 1866 can only amount to, at best, an anticipatory breach or repudiation of the contract reached with Reverend Castles. There is a

legitimate argument that repudiation was not properly conveyed and that the assurances published in the Telescope prevented any outright repudiation. However, even if repudiation occurred, the common law of South Carolina affords *Reverend Castles or any holder of the Sub-Certificates the legal right to preserve a right to seek legal action until after a formal demand for redemption of the Sub-Certificates has been denied by Erskine College.* This did not occur until 2008, and therefore this legal action is not time barred.

CONCLUSION

The Defendant seeks to ask this Court to grant it the *convenience* of escaping a perfectly valid contract. The law does not protect the conveniences of parties, but rather, it protects the rights of parties. Plaintiffs Robert and William Smith have a contractual right to redeem the bearer Sub-Certificates for free tuition attendance at Erskine College, and the law protects this right above the economic disadvantage Defendant will face because of the less than advantageous contract it drafted and entered into with Reverend Castles.

Defendant has not contested that the only two documents exchanged between parties were the Certificate and Sub-Certificates, and as such, these two documents represent the entire agreement between Reverend Castles and Defendant. These two documents identify both parties of the contract, the consideration provided to each, the offer and acceptance are indicated in the language of the documents and the provision of One Hundred and no/100 ($100.00) Dollars; the Certificates are signed by the President and Treasurer of Erskine College, and the Sub-Certificates are signed by the agent of Erskine College. The two documents provide every necessary term needed to construe and implement the contract reached between Reverend Castles and Defendant Erskine College.

The language used in the Sub-Certificates creates twenty-five individual bearer documents, and as bearer documents, they are freely transferable and unrestricted in the duration of their validity, absent express contractual language or an intent which demonstrates otherwise. There is absolutely no language in the Certificates which would provide such limits. Further, the bearer documents each state that their value represents the right to attend Erskine College for free tuition upon surrender of the document. Tuition, though changing from year to year, is unambiguously the dollar figure that the school charges for academic admission per year. By drafting the Sub-Certificates to say that "bearer" need only surrender the individual Sub-Certificate in order for that bearer to receive one free year of tuition at Erskine College, the Defendant has indicated exactly what each Sub-Certificate guarantees.

No ambiguities exist within the contract language that was drafted exclusively by the Defendant. There is no indication of any durational limit which would limit the validity of the Sub-Certificates on either contractual document. Defendant can only point to a single word in extrinsic evidence to support their allegation of an expiration date, and the lack of ambiguity in the actual contract language prevents any consideration of such evidence by the Court. However, even if the Court considered the single word Defendant hangs its case on, the interpretation of the word does not demonstrate a restriction; it simply indicates the number of years of tuition each investment receives and there is further extrinsic evidence which proves this interpretation.

Similarly, there is no ambiguity present in the contract relating to the value of the Sub-Certificates. Defendant drafted the language provided and chose to make the face value of each Sub-Certificate worth "free tuition for one year." This phrase has an immediately attainable value at any given time and does not produce an ambiguity standing alone or in relation to the remaining contractual language. No maximum monetary value is provided, despite Defendant

having the opportunity to do so, and Court must refrain from modifying contractual terms already accounted for by the parties.

Given the equitable nature of the action as well as the filing date, Defendant cannot successfully demonstrate a bar to recovery under a statute of limitations defense. Similarly, the defense of laches also fails. Plaintiffs were not negligent or unreasonably slow in seeking to redeem the Sub-Certificates for tuition. The documents entitle the bearer to surrender each Sub-Certificate whenever free tuition at Erskine College is desired. Thus, it was the prerogative of Reverend Castles and his heirs to withhold the Sub-Certificates until a time of their choosing. The freedom of when a bearer may choose to redeem the Sub-Certificates also demonstrates that a situation which "demands" the assertion of the right to tuition has yet to arise. The nature of the Sub-Certificates themselves, as bearer documents, guard against a laches defense.

For the reasons discussed above, Defendant Erskine College cannot demonstrate any genuine issue of material fact which would support their decision to dishonor the Certificate of Scholarship and Sub-Certificates possessed by Plaintiffs. The contract was, and remains valid. The documents are free of any ambiguity and are rightfully possessed by Plaintiffs. Based on the law and facts of this case, this Court should grant Judgment in favor of the Plaintiff, and under the maxims of equity order Defendant to honor the twenty-five Sub-Certificates as each redeemable for one free year of tuition at Erskine College.

{Signature Block on Following Page}

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April 3, 2014

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	EIGHTH JUDICIAL CIRCUIT
COUNTY OF ABBEVILLE	)	CIVIL ACTION NO. 2011-CP-01-109
	)	
Robert E. Smith and William K. Smith,	)	
	)	
Plaintiff,	)	
	)	**DEFENDANT'S TRIAL BRIEF**
vs.	)	
	)	
Erskine College,	)	
	)	
Defendant.	)	

The Defendant Erskine College (hereinafter referred to as "Erskine") respectfully submits to this Court the following legal brief.

STATEMENT OF FACTS

In 1853, Erskine was a young educational institution, having opened its doors only fourteen years earlier. Its Board of Trustees, seeking to establish an endowment fund to raise $100,000, adopted an Endowment Plan by resolution. See Defendant's Exhibit 1, Erskine 00004-00006. The Endowment Plan was "created by the sale of Scholarships; which Scholarships shall be offered on the following terms and conditions:"

> "1. The payment of forty dollars ($40) shall endow a *single scholarship*, which shall entitle the subscriber to the tuition of *one student* during the term of six years.
>
> 2. The payment of sixty dollars ($60) shall endow a Scholarship which shall entitle the subscriber to the tuition of one or more of his own sons, or of any students he may select, amounting in the aggregate to twelve years.
>
> 3. Any person paying or securing to the Trustees of said College the sum of one hundred dollars ($100) shall be entitled to the education, free of tuition expenses, of one son or nominee **for the term of *twenty-five years***, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years.
>
> 4. No sales of **limited scholarships** shall be binding either on the purchaser or on the Board of Trustees, until scholarships amounting to *fifty*

thousand dollars are sold, (due notice whereof shall be given in the public prints), **after which time all contracts for scholarships made previous to that date shall be binding on the parties concerned, shall become due, and bear interest. On the payment of Scholarships, subscribers or purchasers of the same shall be furnished with a certificate, signed by the President and Secretary of the Board of Trustees of the said Erskine College, guaranteeing to the said subscribers the privileges enumerated by the resolutions of the Board, according to their relative subscriptions.**

***

7. Any individual, association of individuals, or congregation, who shall pay or secure to the Trustees of Erskine College, the sum of five hundred dollars ($500), shall be entitled to a **perpetual scholarship**, to which the party or parties may appoint any pupil he or they may think proper." See Defendant's Exhibit 1, Erskine 00004-00006 (bold emphasis added; italics emphasis in original).

As contributions were made to the endowment fund, Scholarship Certificates were issued by Erskine, together with Subcertificates. Again, the time within which the Subcertificates could be used was limited as set forth in the Endowment Plan. For example, upon paying the sum of $100, the subscriber was entitled to free tuition "of one son or nominee **for the term of *twenty-five years***, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years." See Defendant's Exhibit 1, Erskine 00004-00006 (bold emphasis added; italics emphasis in original). As evidence of the $100 Scholarship, a subscriber was issued one (1) Certificate along with twenty-five (25) Subcertificates. The Certificate and Subcertificates were merely evidence that an individual had subscribed to the Endowment Plan, and the Endowment Plan set forth the terms of the agreement between the individual and Erskine. Under the express language of the Endowment Plan, a subscriber who purchased a Scholarship Certificate for $100 had a term of 25 years in which to use his Certificate, after which the Certificate expired and was no longer valid. See id.

Events of the years following the adoption of the Endowment Plan support this interpretation. From 1853 through the remainder of the decade, Erskine documents indicate that

the Subcertificates would be accepted in payment of tuition. See Defendant's Exhibits 2-5, Erskine 00013, 00029, 00053, and 00061, respectively. Although the Civil War almost completely extinguished the endowment fund, Erskine continued to honor the 1853 Subcertificates through the early 1870s. During this period, the Subcertificates could be used in payment of tuition, although on a reduced basis. See Defendant's Exhibits 6-10, Erskine 00067, 00070, 00071, 00076, and 00086, respectively. At some point during the 1870s, Erskine embarked upon a second endowment plan, which made annual scholarships available for purchase for $20. Thereafter, Erskine catalogs no longer refer to the Subcertificates issued pursuant to the 1853 Endowment Plan or indicate that they may be used to pay tuition.

In 2011, the Plaintiffs filed this declaratory judgment action requesting that Erskine pay for certain Subcertificates which they now hold or provide one year of free tuition for each Subcertificate presented to Erskine. The Plaintiffs contend that their predecessor-in-interest, Reverend J.R. Castles, paid $100 into the 1853 endowment fund, and that they are now entitled to redeem the Subcertificates at current tuition rates. Tuition at Erskine for the 2011-2012 school year was $26,350; for the 2012-2013 school year was $27,915; and for the 2013-2014 school year was $29,310. (Testimony of Greg Haselden, Senior Vice President for Finance and Operations of Erskine).

Erskine contends, however, that the Scholarship Certificate and Subcertificates held by the Plaintiffs expired many years ago, and are therefore no longer valid. Additionally, even if the Scholarship Certificate and Subcertificates did not expire, Erskine contends that the Plaintiffs' claim is barred by the doctrine of staleness of demand, the doctrine of laches, and the applicable statute of limitations.

STANDARD

A declaratory judgment action is neither legal nor equitable, but rather takes on the nature of the underlying claim. Felts v. Richland County, 400 S.E.2d 781, 782 (1991). An action to construe a contract is an action at law. Pruitt v. S.C. Med. Malpractice Liability Joint Underwriting Ass'n, 343 S.C. 335, 339, 540 S.E.2d 843, 845 (2001). An action for breach of contract seeking money damages is an action at law. R& G Constr., Inc. v. Lowcountry Reg'l Transp. Auth., 343 S.C. 423, 430, 540 S.E.2d 113, 117 (Ct. App. 2000). "The one who alleges the contract must prove it by the preponderance of the evidence, - by the greater weight of the testimony." Jones v. Fitzpatrick, 24 S.E. 1030, 1031 (S.C. 1896). Defenses, such as the statute of limitations and laches, will bar recovery. Harvey v. S.C. Dept. of Corrections, 338 S.C. 500, 508, 527 S.E.2d 765, 769 (Ct. App. 2000).

ISSUES PRESENTED

I. The Plaintiffs' claim is barred by the doctrine of staleness of demand, the doctrine of laches, and the applicable statute of limitations.

II. The terms of the contract between the parties is not limited to the Certificate and Subcertificates, but includes the Endowment Plan, which provided that the Scholarship Certificate and Subcertificates expired after a term of 25 years.

III. If the Certificate and Subcertificate constitute the contract between the parties, the contract contains ambiguous terms that require the admission of extrinsic evidence to ascertain the parties' intent.

ARGUMENT

I. THE PLAINTIFFS' CLAIM IS BARRED BY THE DOCTRINE OF STALENESS OF DEMAND, THE DOCTRINE OF LACHES AND, THE STATUTE OF LIMITATIONS.

A. ERSKINE IS ENTITLED TO JUDGMENT BECAUSE PLAINIFFS' CLAIM IS BARRED BY THE STALE DEMAND DOCTRINE.

If the Court determines that the Plaintiffs' underlying claim is equitable as the Plaintiffs

allege in their Brief, then the equitable defenses of stale demand and laches bar the Plaintiffs' action. A stale demand is defined as "one that has for a long time remained unasserted; one that is first asserted after an unexplained delay of such great length as to render it difficult or impossible for the court to ascertain the truth of the matters in controversy and to do justice between the parties, or as to create a presumption against the existence or validity of the claim, or a presumption that it has been abandoned or satisfied." Bell v. Mackey, 191 S.C. 105, 3 S.E.2d 816, 824 (Sup. Ct. 1939) (citing 21 C.J., 211); see also Presbyterian Church of James Island v. Pendarvis, 227 S.C. 50, 59, 86 S.E.2d 740, 744 (1955) (finding the issue in that case came within the definition of "stale demand" as set forth in 21 C.J. 211); All Saints Parish, Waccamaw v. Protestant Episcopal Church in the Diocese of South Carolina, 358 S.C. 209, 595 S.E.2d 253 (Ct. App. 2004) (finding a genuine issue of material fact existed as to whether defendant's counterclaim was stale). Although staleness of demand implies a greater lapse of time than is necessary for laches, which is discussed below, staleness of demand does not require a change in conditions as would render inequitable the enforcement of a claim. Bell, 191 S.C. at 105, 3 S.E.2d at 824. The doctrine of staleness of demand will be applied to bar recovery on a claim even where the statute of limitations has not yet run on the claim. Id.

In Presbyterian Church of James Island v. Pendarvis, the Court found that a trust established in 1713 had been repudiated no later than 1871 and any action to enforce the terms of the trust in 1955 was barred by the doctrine of stale demand. 227 S.C. at 59, 86 S.E.2d at 744. In Pendarvis, more than 80 years had lapsed between when the trust was purportedly repudiated and the subsequent action in which the Court found that any action to enforce the terms of the trust would be barred. Here, Plaintiffs and their predecessors-in-interest have waited 158 years to commence an action concerning the validity of Reverend Castles' Certificate and its

accompanying Subcertificates. Plaintiffs do not assert that Erskine in any way prevented them or their predecessors-in-interest from asserting this claim earlier, but merely that they did not make an earlier claim. Clearly, this unexplained delay by Plaintiffs to assert a claim under the Certificate renders it difficult, if not impossible, for the Court to determine the truth of the matters related to the Certificate and to do justice between the parties. Common sense dictates that the lapse of 158 years prior to Plaintiffs commencing an action on the Certificate is indicative that a claim to enforce the Certificate, if any, is no longer valid and has been abandoned. A party knowing its rights to a claim, as Plaintiffs contend they and their predecessors-in-interest did for 158 years, cannot slumber on their rights, but must act in a timely manner. Under South Carolina common law, the staleness of the demand doctrine bars Plaintiffs' claim for recovery in this action.

B. THE PLAINTIFFS' CLAIM IS BARRED BY THE DOCTRINE OF LACHES.

Laches is an equitable doctrine which arises upon the failure to assert a known right. The equitable defense of laches follows the equitable maxim: "Equity aids the vigilant, not those who slumber on their rights." Eldridge v. Eldridge, 398 S.C. 113, 121, 728 S.E.2d 24, 28 (2012) (quoting Hemingway v. Mention, 228 S.C. 211, 89 S.E.2d 369 (1955)). Laches "is based on the injustice that might result from the enforcement of long neglected rights, the difficulty, if not the impossibility, of ascertaining the truth of the matters in controversy and doing justice between the parties, and on grounds of public policy, its aim being the discouragement, for the peace and repose of society, of stale and antiquated demands." Hemingway, 228 S.C. at 217, 89 S.E.2d. at 371-72.

Laches is defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." Hallums v. Hallums, 296 S.C. 195, 198, 371 S.E.2d 525, 527 (1988). Laches connotes not only an undue lapse of time, which is unreasonable and unexplainable, but also negligence and

opportunity to have acted sooner. Eldridge, 398 S.C. at 122, 728 S.E.2d at 28; RWE NUKEM Corp. v. ENSR Corp., 373 S.C. 190, 644 S.E.2d 730 (2007). A party seeking to establish laches must show (1) delay, (2) unreasonable delay, and (3) prejudice. Emery v. Smith, 361 S.C. 207, 603 S.E.2d 598 (Ct. App. 2004).

The doctrine of laches may bar claims even though the statute of limitations period has not yet expired on those clams. Bell, 191 S.C. at 105, 3 S.E.2d at 816; see also Lyerly v. Yeadon, 199 S.C. 363, 19 S.E.2d 648, 654 (1942) ("In matters of account, where they are not barred by the act of limitations, courts of equity refuse to interfere after a considerable lapse of time, from considerations of public policy, and from the difficulty of doing entire justice when the original transactions have become obscure by time, and the evidence may be lost."). Further "[a] long lapse of time, . . . especially when taken with other circumstances, may create a presumption that a valid right never existed; or that if it existed it has been satisfied, or lost by abandonment, waiver, acquiescence, or equitable estoppel." Id. at 363, 19 S.E.2d at 654.

In Bell v. Mackey, the plaintiff sought an accounting against the administratrix of a deceased administrator and the surety. The administrator was appointed 19 years before the action was commenced and the final and only return was made 17 years prior to the commencement of the action. Most of the records had been lost or could not be found, the administrator had died, the Probate Judge had died, and there were other circumstances which rendered it inequitable to require an accounting. Taking into account all the circumstances, the Supreme Court held that the action was barred by laches. 191 S.C. at 105, 3 S.E.2d at 816.

In the companion cases of Robinson v. Estate of Harris, 388 S.C. 616, 698 S.E.2d 214 (2010); Robinson v. Estate of Harris, 388 S.C. 630, 698 S.E.2d 222 (2010); Robinson v. Estate of Harris, 388 S.C. 645, 698 S.E.2d 229 (2010); and Robinson v. Estate of Harris, 389 S.C. 360, 698

S.E2d 801 (2010), plaintiffs were alleged heirs of a former property owner asserting ownership claims to the property at issue in each case. In the companion cases, plaintiffs were seeking to quiet title and to set aside a prior quiet title action. In all of the cases, the Supreme Court found that laches barred plaintiffs' claims. Specifically, the Court held:

> In reaching our decision, we have thoroughly considered and are empathetic to [plaintiffs'] plight. However, given the specific facts of the instant case, we are compelled to hold the doctrine of laches precludes [plaintiffs] from pursuing their claim. Here, [plaintiffs] *waited thirty-nine years* to assert their rights regarding the 1966 quiet title action. *We find such a flagrant and egregious delay represents the quintessential situation that the doctrine of laches was intended to protect.* For this Court to hold otherwise, we would have to affirmatively reject this well-established equitable doctrine. 388 S.C. at 628, 698 S.E.2d at 221; 388 S.C. at 643, 698 S.E.2d at 228-9; 388 S.C. at 657-8, 698 S.E.2d at 236; and 389 S.C. at 372-3, 698 S.E.2d at 808 (emphasis added).

In Robinson v. Estate of Harris, 391 S.C. 114, 705 S.E.2d 41 (2011), a subsequent companion case to the aforementioned Estate of Harris cases, the Supreme Court held that laches barred a quiet title action by plaintiffs who were challenging a conveyance of property that had occurred in 1946, which was over 55 years prior to the commencement of the current action. The lower court granted summary judgment against the plaintiffs and in favor of the defendants pursuant to S.C. Code Ann. § 15-3-340 (2005). However, because almost 60 years had passed since the conveyance in question and two related estates had been properly probated without any claims by the alleged heirs. The lower court in its order noted that the plaintiffs "'sat idlely [sic] by for a period in excess of fifty-five (55) years assumedly knowing that they may have a right in the real property of Ellis Pinckney.'" Id. at 118-119, 705 S.E.2d at 43. In addition, the Supreme Court favorably cited the lower court's following observation as well:

> It has been almost sixty (60) years since the real property that is the subject of this action was conveyed to Ellis Pinckney. There is no provision in the Code of Laws of South Carolina that accords anyone the right, legally or equitably, to bring an action sixty (60) years after the fact. [Plaintiffs] knew of their rights well in advance of this day. It was incumbent upon the [plaintiffs] to file the appropriate

> action in a court of competent jurisdiction to have those rights adjudicated." Id. at 119, 705 S.E.2d at 43-44.

The Supreme Court held that plaintiffs' "inaction for *many decades* constitutes laches" and laches barred plaintiffs' quiet title action. Id. at 119, 705 S.E.2d at 44 (emphasis added).

Laches clearly applies to the facts of this case and bars Plaintiffs' claim, and further, Erskine has every right to assert such equitable defenses as laches and staleness of demand because Erskine has clean hands and has not acted unfairly toward Plaintiffs or their predecessors-in-interest. Contra, Emery v. Smith, 361 S.C. 207, 603 S.E.2d 598 (Ct. App. 2004) (finding that ex-wife was not barred in receiving ex-husband's retirement benefits under laches because her delay in receiving such benefits was caused by ex-husband's failure to act pursuant to the divorce decree). The Plaintiffs and their predecessors-in-interest have had ownership and possession of the Subcertificates for **161 years**, and they waited approximately **155 years** before asserting a demand. At no time prior to 2008 did the Plaintiffs or any of their predecessors-in-interest make demand for tuition, which was a known right of being an owner of the Subcertificates according to Plaintiffs. Even after making a demand in 2008, Plaintiffs waited almost another 3 years before commencing this action and at that time, **158 years** had passed since the establishment of the 1853 Endowment Plan and the issuance of the Certificate to Reverend Castles. Such delay of at least 158 years can only be described as unreasonable, especially as compared to the unreasonable delay of 17 years found in Bell, and 39 years and 55 years found in the Estate of Harris cases. Equity cannot allow parties such as the Plaintiffs to sleep on their rights for 158 years. In light of all the circumstances, the delay by Plaintiffs and their predecessors-in-interest clearly is unreasonable.

As to prejudice to Erskine, the endowment fund was almost completely depleted by the Civil War, and although Erskine accepted the Scholarship Certificates for a brief period of time after the Civil War, it was on a reduced basis and was not considered payment in full for tuition.

See Defendant Exhibits 6-10, Erskine 00067, 00070, 00071, 00076 and 00086, respectively. Further, there is no mention of this endowment fund in the Erskine catalogs after the early to mid-1870s, and thereby, there is no evidence that Erskine accepted the Scholarship Certificates after that time. Erskine has clearly relied on the failure of Plaintiffs and their predecessors-in-interest to timely present a Subcertificate and has long ago changed its position of accepting such Subcertificates, which is exactly the reason for applying laches in this case. See Chambers of S.C., Inc. v. County Council for Lee Cty., 315 S.C. 418, 421, 434 S.E.2d 279, 280 (1993) ("Under the doctrine of laches, if a party, knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights."). Furthermore, the cost of one year's tuition has grown exponentially over the last 160 years. In 1855, tuition for the preparatory department at Erskine was $12.50 per term and tuition for college classes was $16.00 per term. See Defendant's Exhibit 2, Erskine 0001. From 1866 through 1872, tuition was $40 per term. See Defendant Exhibits 6-10, Erskine 00067, 00070, 00071, 00076 and 00086, respectively. However, the cost of tuition today is drastically more. Tuition at Erskine for the 2011-2012 term was $26,350, for the 2012-2013 term was $27,915, and for the term 2013-2014 was $29,310. (Testimony of Haselden). Under Plaintiffs' theory of this case, each Subcertificate would currently be worth $29,310, and collectively the 25 Subcertificates would be worth approximately $733,000. The unreasonable delay by Plaintiffs and their predecessors-in-interest has allowed their potential recovery to multiply to an amount far beyond the contemplation of either party to the contract and to such an extent as to threaten Erskine's continued existence.

Further, all the parties involved in the initial transaction are deceased and their testimony is unavailable. While Erskine does have some recorded minutes and other documents from the

period in question, it is by no means complete. There are gaps in the documentation that would benefit from testimony by a party to the transaction and would help in ascertaining the intention of the parties to the Certificate. "Courts have the inherent power to do all things reasonably necessary to ensure that just results are reached to the fullest extent possible." Jones v. Leagan, 384 S.C. 1, 19, 681 S.E.2d 6, 16 (Ct. App. 2009). The only just result in this case, where Plaintiffs and their predecessors-in-interest waited more than 158 years to assert a claim under Reverend Castles' Certificate, where all of the witnesses to the transaction are deceased, and where Erskine would be extremely prejudiced in having to accept 25 Subcertificates that were initially secured for $100 but which can be viewed as being collectively worth approximately $733,000, would be for the Court to find that the doctrine of laches applies. As a consequence, the doctrine of laches the Plaintiffs' claim.

C. THE STATUTE OF LIMITATIONS IS APPLICABLE IN THIS CASE BECAUSE THE UNDERLYING CLAIM IN PLAINTIFF'S DECLARATORY JUDGMENT ACTION IS ONE AT LAW NOT EQUITY.

Plaintiffs contend that the statute of limitations is not applicable in this case because they are seeking specific performance, which is an equitable remedy. A declaratory judgment action is neither legal nor equitable, but rather takes on the nature of the underlying claim. Felts v. Richland County, 400 S.E.2d 781, 782 (1991). "Unless the cause of action and the relief sought in a declaratory judgment action are distinctly equitable, the action will be considered one at law." Harvey v. S.C. Dept. of Corr., 338 S.C. 500, 507, 527 S.E.2d 765, 769 (Ct. App. 2000) (finding underlying cause of action was legal even though employees attempted to invoke the court's equity jurisdiction by praying for retroactive relief); Noisette v. Ismail, 299 S.C. 243, 247 n. 1, 384 S.E.2d 310, 312 (Ct.App.1989), rev'd in part by 304 S.C. 56, 403 S.E.2d 122 (1991). "An issue essentially

one at law will not be transformed into one in equity simply because declaratory relief is sought." Felts, 303 S.C. at 356, 400 S.E.2d at 782.

In Plaintiffs' declaratory judgment action, they seek a construction of Reverend Castles' agreement with Erskine. The Complaint does not specifically reference an underlying cause of action. Further, in the Prayer for Relief of the Plaintiff's Complaint, Plaintiffs request either monetary damages or specific performance for Erskine's breach of its agreement with Reverend Castles. See Complaint, p. 3. Thus, Plaintiffs' underlying claim should be construed either as an action to construe a contract or as a claim for breach of contract, both of which are actions at law. Pruitt v. S.C. Med. Malpractice Liability Joint Underwriting Ass'n, 343 S.C. 335, 339, 540 S.E.2d 843, 845 (2001 (an action to construe a contract is an action at law); R& G Constr., Inc. v. Lowcountry Reg'l Transp. Auth., 343 S.C. 423, 430, 540 S.E.2d 113, 117 (Ct. App. 2000) (an action for breach of contract seeking money damages is an action at law). As an action at law, the statute of limitations is applicable. Harvey, 338 S.C. at 508, 527 S.E.2d at 769.

D. THE PLAINTIFFS' CLAIM IS BARRED BY THE STATUTE OF LIMITATIONS BECAUSE THE LIMITATIONS PERIOD BEGAN ON THE DATE THAT THE CERTIFICATE WAS ISSUED, OR AT THE LATEST, AT THE END OF THE 25 YEAR TERM, WHICH WAS 1878.

There is no doubt that the Certificate and Subcertificates in question are negotiable instruments. Langston v. South Carolina Railroad Co., 2 S.C. 248, 251, 1871 WL 4541 (1871) (holding a bearer coupon bond is negotiable). If there is no time period placed on the negotiable instrument, it is payable on demand. Black's Law Dictionary defines a "note payable on demand" as "a note that is due at once . . . on presentation or at sight." Black's Law Dictionary 517 (4th ed. 1968). Certainly, the Subcertificates were payable upon presentation to the Treasurer of Erskine. The language of the Certificate indicates as much: "Tuition is to be obtained on the surrender of

the accompanying Subcertificates." The language of the Subcertificates goes further: "This being surrendered to the Treasurer of Erskine College, entitles the bearer to One Year's Tuition in said College." See Defendant Exhibits 11-12. Further, Plaintiffs claim that the instrument in question contains no time period, but is instead, payable upon the demand of the holder. See Plaintiffs' Trial Brief, pp. 1, 4-5. As such, the Certificate and its accompanying Subcertificates are, based on Plaintiffs' own argument, payable on demand.

The long-standing law of South Carolina, dating back to the first quarter of the nineteenth century, holds that a negotiable instrument payable on demand is due immediately, and that the statute of limitations runs in favor of the maker of the instrument from the date of the execution of the instrument. See Coleman v. Page's Estate, 202 S.C. 486, 25 S.E.2d 559 (1943) (citing cases therein). Plaintiffs attempt to circumvent this law by characterizing the Certificate and Subcertificates as a "bearer bond." The South Carolina Supreme Court in considering bearer bonds has discussed and applied the law of negotiable instruments and promissory notes. See Langston v. South Carolina Railroad Co., 2 S.C. 248, 253, 1871 WL 4541 (1871) (when discussing a coupon bond the Supreme Court applied the rules applicable to promissory notes since both are negotiable instruments); see also Sparagon v. Georgia, 548 S.E.2d 118 (Ga. Ct. App. 2001) (finding no distinction between a bond and a promissory note when determining the accrual of a right of action). There can be no dispute that the law of negotiable instruments payable on demand apply to the Certificate and its accompanying Subcertificates.

The Plaintiffs argue that the statute of limitations did not begin to run until the Subcertificates were first presented to Erskine in 2008. However, this argument was specifically rejected by the Supreme Court of South Carolina in the Coleman case. The Court's attention is

also directed to 51 Am.Jur.2d Limitation of Actions § 162 (2000), citing Gossard v. Gossard, 149 F.2d 111, 112 (10th Cir. 1945), and Bogart v. George K. Porter Co., 223 P. 959, 964 (Cal. 1924):

> If a demand is necessary before suit in order to perfect a contractual right of action, one cannot indefinitely and unnecessarily extend the bringing of the suit by deferring the demand, but must make it within a reasonable time. If the demand is not made within a reasonable time, the action becomes barred.
>
> If the time for demand is not indicated in the contract, the time specified in the limitations statute for bringing suit (calculated from the time of the contract) ordinarily, unless there are peculiar circumstances affecting the question, is to be taken as the demand period.

Importantly, in all of the cases cited above, the lapse in time between the execution of the note and the filing of the suit was, while outside the applicable limitations period, dramatically far shorter than in the present action. In the Coleman case, for example, the note was executed in 1924, and the claim was filed in 1941, a delay of 17 years. In Gossard, the note was executed in 1903, and the action was filed in 1943, a delay of 40 years. In Bogart, the note was executed in 1905, and the action was filed in 1947, a delay of 42 years. In all of these cases, the courts ruled that the statute of limitations barred the plaintiffs' claims.

In the case currently before the Court, the Court should find that the statute of limitations began to run either immediately upon the issuance of the Certificate to Reverend Castles because the Subcertificates were payable upon demand or, at the latest, after the initial 25 year term beginning in 1853 and ending in 1878, which could be viewed as the demand period. Under either construction, more than a reasonable time period has passed, especially in light of the shorter time periods upon which the courts referenced above based their rulings in favor of those defendants. Because the time in which to file an action based on the Certificate has long since expired, the Plaintiffs' claim is barred by the statute of limitations, and Erskine is entitled to judgment.

Noticeably, the Plaintiffs cite no authority to support their argument that the statute of limitations would not begin to run until they made a demand for payment under the circumstances of this case or that these bonds remain perpetually valid and enforceable. Even a case cited by Plaintiffs only stated that a negotiable instrument payable on demand "is not due, without demand, until after the lapse of a reasonable time within which to make a demand." Morgan v. U.S., 113 U.S. 476, 598, 5 S.Ct. 588, 501 (1885) (noting that the bearer bonds at issue were not payable on demand; instead, they contained a time period for redemption). Nowhere in that opinion does it state that negotiable instruments payable on demand remain perpetually valid and enforceable.

Further, the out-of-state cases cited by the Plaintiffs for the proposition that an endowment investment in exchange for a service or scholarship unrestricted in duration remains valid for so long as the entity exists is not applicable in this case. In Hopkins v. Women's Medical College of Pennsylvania, 331 Pa. 42, 200 A. 32 (1938), the scholarship at issue was *perpetual*. The parties clearly contemplated that the Alliance of Catholic Women of the Archdiocese of Philadelphia (ACWA) would have the right to send a qualified candidate to the Women's Medical College of Pennsylvania (WMCP) every year and thus had a perpetual right. When the WMCP refused to continue to honor the agreement, ACWA immediately sued for enforcement. Thus the Pennsylvania Supreme Court was not required to determine if the statute of limitations or an equitable defense would bar the ACWA's action. See also Allumnae Ass'n of William Penn High School for Girls, v. Univ. of Pennsylvania, 306 Pa. 283, 159 A. 449 (1932) (application of the statute of limitations or equity defenses of laches and staleness of demand were not issues before the Pennsylvania Supreme Court in that case).

In this case, the Scholarship to which Reverend Castles or his successors-in-interest was entitled was limited and not perpetual like the scholarship at issue in Hopkins. Even if the

Plaintiffs' assertion that the contract between Reverend Castles and Erskine contains no express term of duration is true, the contract is not perpetual. "[P]erpetual contracts have not been favored in South Carolina and are generally upheld only where the perpetual nature of the agreement is an express term of the contract." Carolina Cable Network v. Alert Cable TV, Inc., 316 S.C. 98, 101, 447 S.E.2d 199, 201 (Ct. App. 1994) (citing Childs v. City of Columbia, 87 S.C. 566, 70 S.E.2d 296 (1911)). In Childs, the South Carolina Supreme Court held:

> Where the parties to a contract express no period for its duration, and no definite time can be implied from the nature of the contract or from the circumstances surrounding them, it would be unreasonable to impute to the parties an intention to make a contract binding themselves perpetually.

87 S.C. at 572, 70 S.E. at 298. Here, the contract between Reverend Castles and Erskine does not contain an express term stating the contract is perpetual. Therefore, it is not reasonable to impute to the parties of this contract an intention to make the contract binding perpetually, unlike the scholarship at issue in Hopkins.

For the reasons set forth above, Erskine is entitled to judgment because the statute of limitations clearly bars Plaintiffs' claim.

E. THE PLAINTIFFS' CLAIM IS BARRED BY THE STATUTE OF LIMITATIONS BECAUSE THE CONTRACT WAS FIRST BREACHED IN 1866.

Erskine closed for the Civil War during the fall of 1861 and reopened in the fall of 1866. The Civil War and its aftermath wiped out the funds of the endowment. Thereafter, beginning in 1866, Erskine devalued the Subcertificates to such an extent that by 1872, Erskine credited subscribers with only one-fourth of the cost of tuition. See Defendant Exhibits 6-10, Erskine 00067, 00070, 00071, 00076 and 00086, respectively. This action by Erskine of devaluing the Subcertificates was a breach of its contract with the Plaintiffs' predecessor-in-interest, Reverend Castles. A breach of contract action accrues at the time the contract is breached or broken. State

v. McClinton, 369 S.C. 167, 631 S.E.2d 895 (2006); see also Sparagon, 548 S.E.2d at 121 n. 15 (stating that repudiation of a bond's terms would establish a cause of action and start the running of the statute of limitations). Contrary to Plaintiffs' claim, Erskine notified the subscribers of its breach of its agreements by publishing its action in various types of publications.

In 1866, Erskine changed the provisions of the Endowment Plan by providing that a student could pay tuition by submitting $32 in gold along with one (1) Certificate of Scholarship per year. See Defendant Exhibits 6-7, Erskine 00067 and 00071, respectively. In 1867 through 1872, Erskine again changed the provisions of the Endowment Plan to provide that a Subcertificate could be presented for a credit of $10 towards the $40 tuition per year. Notice of these changes to the Endowment Plan were published in the Minutes of Synod, the Erskine College Catalogue and The Associate Reformed Presbytery. See Defendant Exhibits 7-10, Erskine 00070, 00071, 00076 and 00086, respectively. These publications were available to church men, such as Reverend Castles, and notice was publicly given of the change to the terms of the Endowment Plan. Any party holding a Scholarship Certificate should have known at the time that Erskine had devalued the Subcertificates, that a breach had occurred, and that a statute of limitations had been triggered. An action for breach of contract must be commenced within 3 years from the date of the breach, or, under the discovery rule, on the date the aggrieved party could have or should have discovered the breach through the exercise of reasonable diligence. See S.C. Code Ann. § 15-3-530 (2005); Maher v. Tietex Corp., 331 S.C. 371, 377, 500 S.E.2d 204, 207 (Ct. App. 1998). Clearly, Reverend Castles or any other holder of a Subcertificate at that time should have known that the terms of the Endowment Plan and thus the Certificate had been breached in 1866 when Erskine first devalued the Scholarship Certificates. Accordingly, Plaintiffs' claim is barred by the applicable statute of limitations.

As the reduction in the agreed-upon value of the Scholarship Certificate was a breach of the contract between Erskine and the subscribers of the Endowment Plan, including Reverend Castles, then, in such event, the limitations period began to run at that time. Because the limitations period has long since expired, the statute of limitations bars any claim by the Plaintiffs for breach of contract.

II. THE TERMS OF THE CONTRACT BETWEEN THE PARTIES IS NOT LIMITED TO THE CERTIFICATE AND SUBCERTIFICATES, BUT INCLUDES THE ENDOWMENT PLAN, WHICH PROVIDED THAT THE SCHOLARSHIP CERTIFICATE AND SUBCERTIFICATES EXPIRED AFTER A TERM OF 25 YEARS.

Erskine does not dispute the existence of a contract with the Reverend Castles. However, Erskine disagrees with the Plaintiffs' position that the terms of the agreement between Reverend Castles and Erskine are found exclusively in the Certificate and Subcertificates themselves. On the contrary, the contract between Reverend Castles and Erskine extends beyond what is printed on the Certificate and Subcertificates. Within the context of the contract in its entirety, as more specifically described hereinbelow, the Plaintiffs' claim expired many years ago.

For a contract to be binding under South Carolina law, there must be a mutual manifestation of assent, or "meeting of the minds," as to all terms of the contract. Mathis v. Brown & Brown of South Carolina, Inc., 389 S.C. 299, 698 S.E.2d 773 (2010). Acceptance of an offer is a manifestation of assent to the terms thereof made by the offeree in a manner invited or required by the offer. Electro-Lab of Aiken, Inc. v. Sharp Construction Company of Sumter, Inc., 357 S.C. 363, 593 S.E.2d 170 (Ct. App. 2004).

Further, once a contract is before the court for interpretation, the main concern of the court is to give effect to the intention of the parties. Columbia East Associates v. Bi-Lo, Inc., 299 S.C. 515, 519, 386 S.E.2d 259, 261 (Ct. App. 1989). Courts may look to the circumstances surrounding

the bargain as an aid to ascertaining the intention of the parties. Maccaro v. Andrick Development Corp., 280 S.C. 96, 100, 311 S.E.2d 91, 94 (Ct. App. 1984).

In the present case, the printed words found on the Certificate and Subcertificates do not fully state the offer made by Erskine. Instead, the Endowment Plan of Erskine's Board of Trustees stands as a complete statement of the offer, and the payment made by Reverend Castles constitutes his acceptance of the offer. In fact, the Endowment Plan states that "On the payment of Scholarships, subscribers or purchasers of the same shall be furnished with a certificate, signed by the President and Secretary of the Board of Trustees of the said Erskine College, guaranteeing to the said subscribers **the privileges enumerated by the resolutions of the Board**, according to their relative subscriptions." See Defendant's Exhibit 1, Erskine 00004-00006 (bold emphasis added). The Endowment Plan contemplates that the Scholarship Certificate and Subcertificates were merely evidence of the offeree's acceptance of Erksine's offer and the terms of the offer were set forth in the resolutions of the Board of Erskine. The Certificate and Subcertificates are only evidence of Reverend Castles' acceptance of Erskine's offer and of the amount of the consideration exchanged. They do not constitute the entire contract between the parties. The terms of the contract are found in the Endowment Plan.

A. THE ENDOWMENT PLAN ESTABLISHED A CONTRACT TERM OF 25 YEARS.

The paragraph of the Endowment Plan applicable to the contract formed between Reverend Castles and Erskine provides as follows:

> "3. Any person paying or securing to the Trustees of said College the sum of one hundred dollars ($100) shall be entitled to the education, free of tuition expenses, of one son or nominee for the **term of *twenty-five years***, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years." See Defendant's Exhibit 1, Erskine 00004-0006 (bold emphasis added; italics emphasis in original).

Plaintiffs argue that the quoted language was intended to convey 25 individual years of tuition-free education, to be used in perpetuity, in consideration of the said payment. However, perpetual contracts are disfavored in South Carolina, and to be perpetual, the perpetual nature must be an express term of the agreement. See Carolina Cable Network, 316 S.C. at 101, 447 S.E.2d at 201. There was no express term in the Endowment Plan providing that $100 Certificates were of a perpetual nature. In fact, Paragraph 6 of the Endowment Plan refers to **limited** scholarships, and thus, the only reasonable reading of this language is that it sets forth a calendar term of 25 years within which the Subcertificates could be presented.

Under South Carolina law, once a contract is before the court for interpretation, the paramount concern is to give effect to the intention of the parties. Parker v. Boyd, 309 S.C. 189, 191, 420 S.E.2d 850, 852 (1992). Moreover, the parties' intention must be gathered from the contents of the entire agreement, and not from any particular clause of the agreement. Id. Since common sense and good faith are the leading touchstones of construction of a contract, where one construction of a contract makes it unusual or extraordinary and another construction, which is equally consistent with the language employed, would make it reasonable, fair, and just, the latter construction must prevail. Farr v. Duke Power Co., 265 S.C. 356, 218 S.E.2d 431 (1975). A contract should receive a sensible and reasonable construction, and not such construction as will lead to absurd consequences. Twenty-Ninth Avenue Corp. v. Great Atlantic & Pacific Tea Company, Inc., 311 S.C. 275, 428 S.E.2d 734 (Ct. App. 1993).

The paragraph at issue in this case is best examined by breaking it down into clauses. Specifically, the clause "of one son or nominee for the term of *twenty-five years*", should be considered. Of note is the use of the word "term." Erskine contends that the parties intended the word "term" to mean "a fixed period, [or] a determined or prescribed duration." Black's Law

Dictionary, 1639 (4th edition, 1968). The only means of giving a sensible, reasonable, and fair effect to the clause of the disputed paragraph is to find that this language created a calendar term of 25 years within which one designee of Reverend Castles was entitled to education free of tuition, and after which the contract expired.

Also, the last clause of the paragraph states as follows: "of two or more pupils at the same time, amounting in the aggregate to twenty-five years," provided circumstances in which the calendar term of 25 years might be reduced. However, there is no reasonable interpretation which could extend the calendar term beyond 25 years. It is unreasonable to argue, as the Plaintiffs contend, that two or more students would have more than 25 years to present Subcertificates, but one student would be limited to "for the term of twenty-five years."

The intention of the parties is revealed by viewing the section of the Endowment Plan in which this paragraph appears as a whole. This section reads:

> "1. The payment of forty dollars ($40) shall endow a *single scholarship*, which shall entitle the subscriber to the tuition of *one student* during the term of **six years**.
>
> 2. The payment of sixty dollars ($60) shall endow a Scholarship which shall entitle the subscriber to the tuition of one or more of his own sons, or of any students he may select, amounting in the aggregate to **twelve years**.
>
> 3. Any person paying or securing to the Trustees of said College the sum of one hundred dollars ($100) shall be entitled to the education, free of tuition expenses, of one son or nominee for the term of ***twenty-five years***, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years." See Defendant's Exhibit 1, Erskine 00004-00006 (bold emphasis added; italics emphasis in original).

When these three paragraphs are read together, it becomes clear that the Trustees of Erskine intended to create a comprehensive scheme based upon the age of the son for whose benefit the subscriber made payment to the Endowment. The first numbered paragraph allowed a subscriber a calendar term of 6 years within which the tuition of a designated student would be considered

paid. This option would be particularly useful to a subscriber who desired to enroll a student of or very near college age.

Significantly, there is no language in this paragraph worthy of a construction that the subscriber was entitled to 6 years of tuition at any time. The word "during" is an expression of time; the phrase "during the term of six years" can only be reasonably interpreted to mean "at some time within six years."

The second numbered paragraph allowed a subscriber a calendar term of 12 years within which the tuition of one designee would be considered paid. In the alternative, it allowed a subscriber to enroll more than one designee, with the caveat that the term would be reduced accordingly. This option would have attracted both a subscriber enrolling two prospective students at or near college age, and a subscriber wishing to provide for a prospective student of grade-school age.

The third numbered paragraph, and the paragraph that would apply to Reverend Castles, would be useful to a subscriber hoping to eventually enroll more than one student of grade-school age, or to enroll a young child or newborn.

With these paragraphs viewed as a whole, it becomes obvious that the only sensible interpretation of the intention of Erskine was that the Trustees of Erskine passed the Endowment Plan in an effort to grow both its student body and its endowment. The above-quoted paragraphs reflect that effort, in that Erskine clearly sought to offer a variety of options for enrollment under scholarship to potential subscribers based on their individual needs as parents or sponsors. If a parent or sponsor had one child starting college within 6 years, they bought the $40 Scholarship. If a parent or sponsor had a child expected to complete college within 12 years, or if they had two or more students expected to complete college within 12 years, they bought the $60 Scholarship.

If a parent or sponsor had infant children (or grandchildren) expected to complete college within 25 years, they bought the $100 Scholarship. Parents or sponsors could choose between three different time frames – 6 years, 12 years, or 25 years – depending upon their circumstances. However, it is not reasonable to interpret the language of the Endowment Plan so as to give parents or sponsors more than 25 years, or as the Plaintiffs contend, more than 150 years, to present the Subcertificates.

B. HISTORY SUPPORTS THE INTERPRETATION THAT THE SCHOLARSHIPS ISSUED PURSUANT TO THE 1853 ENDOWMENT PLAN EXPIRED AFTER 25 YEARS.

Further supporting the interpretation of the Scholarship Certificates and Subcertificates described above is the historical context surrounding the life of the 1853 Endowment Plan. The Endowment Plan was established in 1853 and included issuance of the Certificates and Subcertificates of the type provided to Reverend Castles. In subsequent years, the minutes of Synod and the catalogs printed by Erskine for the benefit of its current and prospective students made reference to the 1853 Endowment, and specifically to the Subcertificates. See Defendant's Exhibits 2-7 and 9-10, Erskine 00013, 00029, 00053, 00061, 00067, 00070, 00076, and 00086, respectively. In 1871, the Trustees of Erskine undertook efforts to begin a new endowment. Thereafter, the new endowment was underway, and the 1853 Endowment was no longer mentioned in Erskine catalogs. The strong inference arises that the 1853 Endowment was no longer mentioned because the Subcertificates were no longer being presented by subscribers or recognized by Erskine, as the time period for their use had expired.

C. THE ENDOWMENT PLAN DISTINGUISHED BETWEEN "LIMITED" AND "PERPETUAL" SCHOLARSHIPS.

After setting forth the three levels of scholarships discussed above, for terms of 6, 12, or 25 years, the Endowment Plan provides the following:

> "4. No sales of **limited scholarships** shall be binding either on the purchaser or on the Board of Trustees, until scholarships amounting to *fifty thousand dollars* are sold, (due notice whereof shall be given in the public prints,) after which time all contracts for scholarships made previous to that date shall be binding on the parties concerned, shall become due, and bear interest. On the payment of Scholarships, subscribers or purchasers of the same shall be furnished with a certificate, signed by the President and Secretary of the Board of Trustees of the said Erskine College, guaranteeing to the said subscribers the privileges enumerated by the resolutions of the Board, according to their relative subscriptions.
>
> ***
>
> 7. Any individual, association of individuals, or congregation, who shall pay or secure to the Trustees of Erskine College, the sum of five hundred dollars ($500), shall be entitled to a **perpetual scholarship**, to which the party or parties may appoint any pupil he or they may think proper." See Defendant's Exhibit 1, Erskine 00004-00006 (bold emphasis added; italics emphasis in original).

Paragraph 4 of the Endowment Plan, with its use of the phrase "limited scholarships," refers back to Paragraphs 1 through 3 of the Endowment Plan, discussed in detail above and pertaining to scholarships of limited times. Paragraph 7, on the other hand, proposed a separate means for a subscriber to procure a "perpetual scholarship."

Importantly, the word "perpetual," as used in Paragraph 7, describes a measure of time. "Perpetual" is defined by Black's Law Dictionary, in relevant part, as "unlimited in respect of time." Black's Law Dictionary 1140 (6th ed. 1990). A scholarship purchased with the gift given pursuant to Paragraph 7 would have effect for an infinite amount of time. Taken in the context of the entire Endowment Plan, the word "limited," as used in Paragraph 4, was used as the opposite of "perpetual." Therefore, a "limited scholarship," which would include a scholarship secured by

the Subcertificates in the possession of the Plaintiffs, was to have effect for a limited amount of time.

In summary, in consideration of the wording of the individual phrases of the paragraph at issue in this case, of the context of the paragraph within the comprehensive time-based scheme laid forth by the Endowment Plan, and of the historical events which followed the Endowment Plan, it is plain and clear that the only sensible, reasonable, and fair interpretation of the disputed paragraph is that it created a limited term of 25 years within which the contract between Reverend Castles and Erskine was to be effected. As a result, the Plaintiffs' claim expired by 1878.

III. IF THE CERTIFICATE AND SUBCERTIFICATE CONSTITUTE THE CONTRACT BETWEEN THE PARTIES, THE CONTRACT CONTAINS AMBIGUOUS TERMS THAT REQUIRE THE ADMISSION OF EXTRINSIC EVIDENCE TO ASCERTAIN THE PARTIES' INTENT.

Even if the Certificate and Subcertificates constitute the entire contract between Erskine and Reverend Castles, this contract contains ambiguous terms that require interpretation of the Endowment Plan to ascertain the parties' intent. "An ambiguous contract is a contract capable of being understood in more than one way or a contract unclear in meaning because it expresses its purpose in an indefinite manner." HK New Plan Exchange Prop. Owner I, LLC v. Coker, 375 S.C. 18, 24, 649 S.E.2d 181, 184 (Ct. App. 2007). When a contract is ambiguous, the court's primary objective must be to discern the intent of the parties. Ecclesiastes Prod. Ministries v. Outparcel Assocs., 374 S.C. 483, 497, 649 S.E.2d 494, 501 (Ct. App. 2007). In ascertaining intent, the court will examine the totality of the contract and the language used by the parties. The court will also strive to discover the situation of the parties, along with their purposes at the time they entered the contract. Id. at 498, 649 S.E.2d at 502. To determine the intention of the parties to an agreement, "the subject matter, the surrounding circumstances, the situation of the parties, and the

object in view and intended to be accomplished by the parties at the time...are to be regarded." Id. at 499, 649 S.E.2d at 502 (quoting Brady v. Brady, 222 S.C. 242, 246–47, 72 S.E.2d 193, 195 (1952)).

First, the term "twenty-five years" in the Certificate is subject to more than one interpretation. This term could reasonably be interpreted as a limitation of the duration of the Certificate. As pointed out earlier, this interpretation is supported by the Endowment Plan and clearly represents the intentions and expectations of the parties to the contract.

Second, the Certificate and the Subcertificates contradict each other and create an ambiguity, which requires the extrinsic evidence of the Endowment Plan to interpret. The Certificate indicates that Reverend Castles is entitled to 25 years of tuition. There is no language indicating that anyone other than Reverend Castles could use this Certificate, including his heirs and/or successors. However, as pointed out by the Plaintiffs, the Subcertificates indicate they are payable to whoever holds the Subcertificate; thereby indicating they are transferable. See Defendant's Exhibits 11-12.

Because there is an ambiguity in the Certificate and Subcertificate, the Court must look to the provisions of the Endowment Plan and the circumstances surrounding the Endowment Plan. Erskine was a young educational institution at the time the 1853 Endowment Plan was established. Erskine encouraged Associated Reformed Presbyterian ministers, presumably like Reverend Castles, to financially support the Endowment Plan. The provisions of the Endowment Plan provide that subscribers to the Plan will have "the privileges enumerated by the resolutions of the Board, according to their relative subscriptions." See Defendant's Exhibit 1, Erskine 00004-00006. Reverend Castles purchased a $100 Scholarship, which by the language of the Endowment

Plan, and as discussed above, created a limited term of 25 years within which the contract between Reverend Castles and Erskine was to be effected. Consequently, the Plaintiffs' claim has expired.

CONCLUSION

Because Plaintiffs and their predecessors-in-interest unreasonably waited 158 years prior to bringing an action to enforce the Certificate and its accompanying Subcertificates at issue in this case, the Plaintiffs' action is barred by the doctrine of staleness of demand, the doctrine of laches, and the applicable statute of limitations. Further, the only reasonable interpretation of the contract between Reverend Castles and Erskine is that the contract contained a definite term of 25 years within which it was to be effected, and after which the Certificate and Subcertificates were no longer valid, and thus Plaintiffs' claim must fail. For the reasons set forth herein, Erskine is entitled to a finding by the Court that the Plaintiffs' Certificate and Subcertificates are null and void or otherwise unenforceable.

Respectfully submitted,

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By: _____

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May 19, 2014
Greenwood, South Carolina

Defendant's Exhibit 1

ERSKINE COLLEGE,

PLAN OF ENDOWMENT.

Whereas, a number of Colleges in the country are adopting the plan of Endowment by Scholarships; and whereas, it is important that Erskine College should be placed on an equal footing, in this respect, with other colleges, and in circumstances to afford an education, not only as thorough, but also as cheap as any other Institution in the land; therefore,

Resolved, That the following plan of Endowment be adopted by the Board of Trustees for Erskine College, viz:

An Endowment Fund of a Hundred Thousand Dollars shall be created by the sale of Scholarships, which Scholarships shall be offered on the following terms and conditions:

1. The payment of forty dollars ($40) shall endow a *single scholarship*, which shall entitle the subscriber to the tuition of *one student* during the term of six years.

2. The payment of sixty dollars ($60) shall endow a Scholarship which shall entitle the subscriber to the tuition of one or more of his own sons, or of any students he may select, amounting in the aggregate to twelve years.

3. Any person paying or securing to the Trustees of said College the sum of one hundred dollars ($100) shall be entitled to the education, free of tuition expenses, of one son or nominee for the term of *twenty five years*, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years.

4. No sales of limited scholarships shall be binding, either on the purchaser, or on the Board of Trustees, until scholarships amounting to *fifty thousand dollars* are sold, (due notice whereof shall be given in the public prints,) after which time all contracts for scholarships, made previous to that date, shall be binding on the parties concerned, shall become due, and bear interest. On the payment of Scholarships, subscribers or purchasers of the same shall be

furnished with a certificate signed by the President and Secretary of the Board of Trustees of the said Erskine College, guaranteeing to the said subscribers the privileges enumerated by the resolutions of the Board, according to their respective subscriptions.

5. All sales of scholarships which shall be made after the fifty thousand dollars specified in section fourth is obtained, shall be for cash.

6. The purchaser of a limited scholarship may enjoy the advantages of the same, at such time, and at such intervals, as may suit his convenience.

7. Any individual, association of individuals, or congregation, who shall pay or secure to the Trustees of Erskine College, the sum of five hundred dollars ($500), shall be entitled to a perpetual scholarship, to which the party or parties may appoint any pupil he or they may think proper.

8. The funds arising from the sale of scholarships shall be invested in bonds or stocks of the State, or of the United States, the Banks of the State of South Carolina, or well secured individual bonds, and the interest or income only arising from such investment shall be appropriated to increase the advantages of Education in said College.

9. All scholarships created by these proceedings, both limited and perpetual, may be transferred by bargain or sale, or assigned or devised by Will: and in the case of intestacy, they shall pass to the administrators as other property.

10. Unless the sum of fifty thousand dollars ($50,000) be raised by the 1st of August 1855, the above scheme of Endowment shall be abandoned.

11. All students sent to said College on any of these scholarships shall be subject to the regulations and discipline of the Institution.

12. Subscriptions to the perpetual scholarships shall in all cases be binding; but the subscribers will not be required to make payment until one year after the date of their subscriptions: and whenever the money is paid, they shall receive Certificates securing to them the benefit of their scholarship.

Resolved, That the following form of Bond be adopted by the Board of Trustees to carry out the foregoing act establishing scholarships in Erskine College:

SCHOLARSHIP BOND.

Whereas, the Board of Trustees of Erskine College, Abbeville District, South Carolina, in order to raise the sum of Fifty Thousand Dollars, and upwards, for the purposes of education, did on the 8th day of April, A. D. 1858, pass certain resolutions to the effect that the subscription and payment of certain sums should entitle the person or persons so subscribing, to the privilege of so many years' School

arship in the said Erskine College, as by said Resolutions will more fully and particularly appear.

Now, know all men, that we, the subscribers in order to entitle ourselves to said privilege, and in order to contribute towards raising said sum, do hereby acknowledge ourselves held and firmly bound unto John L. Ellis, the Treasurer of said Board, his executors, administrators or assigns, in the sums of money annexed to our names, to be paid to the said treasurer, his successor in the office of treasurer, or assigns, for which payment, well and truly to be made, we severally bind ourselves, our executors and administrators, firmly by these presents.

The condition of the above is, that, if said sum of Fifty Thousand Dollars be raised on or before the first day of August, 1855, then the sums subscribed by us below, are to be paid as aforesaid, to bear interest from the time the said sum of Fifty Thousand Dollars is raised by subscription: but in the event the said sum of Fifty Thousand Dollars shall not be raised on or before the first of August, A. D, 1855, then the subscriptions below are to be null and void.

Given under our hands this the day respectively on which we hereunto subscribed the sums severally annexed to our names.

Done at Lindsay Hall, Erskine College, April 8, 1853.

J. I. Bonner, Secretary. E. E. Pressly, President.

Defendant's Exhibit 2

EXPENSES.

Tuition in the Preparatory Department, (per term,) $12 50.
Tuition in the College Classes, (per term.) $16 00.
Boarding, Lodging and Washing, $8 to $10 per month.
Fuel and Light to each room, $8 to $10 per annum.
Contingent expenses $1. per term.

Those who have Scholarships can of course pay their Tuition with Sub-Certificates.

Tuition, whether in cash or Sub-Certificates, invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a Student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If Parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

MODERN LANGUAGES.

Prof. R. L. Patton is well qualified to give instruction, to those who may desire it, in the French and Italian Languages—for which a reasonable compensation will be demanded.



Erskine00013

Defendant's Exhibit 3

EXPENSES.

Tuition in the Preparatory Department, (per term,) $12,50.
Tuition in the College Classes, (per term,) $16,00.
Boarding, Lodging and Washing, $8 to $10 per month.
Fuel and Light to each room, $8 to $10 per annum.
Contingent expenses $1 per term.

Those who have Scholarships can of course pay their Tuition with Sub-Certificates.

Tuition, whether in Cash or Sub-Certificates, invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagance.

MODERN LANGUAGES.

Prof. E. L. Patton is well qualified to give instruction to those who may desire it, in the French and Italian Languages. For this a reasonable compensation will be demanded.

Defendant's Exhibit 4

The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the Third Monday of March.

It is very important that Students should enter or return to College at the beginning of the Session, since an absence of a few days at a time when a branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

Expenses.

Tuition in the Preparatory Department, (per term,) $12,50.
Tuition in the College Classes, (per term,) $16,00.
Boarding, Lodging and Washing, $9 to $12 per month.
Fuel and Light to each room, $8 to $10 per annum.
Contingent expenses, $1 per term.

Those who have Scholarships, can of course, pay their tuition with Sub-Certificates.

Tuition, whether in Cash or Sub-Certificates, invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a Student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

Defendnat's Exhibit 5

Session and Vacation.

The College Session commences on the First Monday of November, and closes on the Second Wednesday of August. The Session is equally divided, without intermediate vacation, into two Terms; the second commences on the Third Monday of March.

It is very important that Students should enter or return to College at the beginning of the Session, since an absence of a few days at a time when a branch of study is commenced, seldom fails to embarrass the whole course, and some are unable to make up the loss.

Expenses.

Tuition in the Preparatory Department, (per term,) $12,50.
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Those who have Scholarships, can, of course, pay their tuition with Sub-Certificates.

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If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

Defendant's Exhibit 6

TUESDAY, 10 A. M., September 18, 186

Synod met. Opened with prayer by the Moderator. Mem
bers present as before.

Dr. J. P. Pressly, from the committee on Overtures, submit
a report to the effect that certain persons in Ohio had applied
be received under the care of this Synod; the committee recom
mend that this petition be referred to the Presbytery of K
tucky. This report was adopted.

Mr. Bonner submitted the following report on Erskine Coll
which was adopted:

REPORT OF COMMITTEE ON ERSKINE COLLEGE.

From the report of the Board of Trustees we learn that
E. L. Patton has tendered his resignation of the Presidency
Prof. J. P. Kennedy of the Professorship of Latin in the Ins
tion, and that these resignations have been accepted by
Board. That Rev. R. C. Grier, D.D., has been re-elected to
Presidency, Rev. J. P. Pressly, D.D., to the Professorship
of Greek, and Rev. E. L. Patton to the Professorship of Lat
The two former of these have accepted the positions to wh
they have been called.

That about two-thirds of the endowment fund have been
by the reverses of war, and that in consequence it has been d
mined to charge tuition at the rate of $40 per annum in gol
$32 in gold and one certificate of scholarship per annum.

That Dr. George W. Pressly was at a late meeting appoin
an agent to solicit funds for the benefit of the College. Your
committee would recommend that the action of the Board in
several matters referred to be approved by Synod.

In the report of the treasurer it is stated that there are abou
twelve thousand dollars in the shape of private notes, still
to this College. Your committee would recommend that the
treasurer be directed to solicit at least the interest on said no

In view of the present state of the College and the increas
demand for ministers it seems to your committee important th
the attention of the churches should be called to the Institution
And as the Synod has no common medium of communicat
pastors must do the work. The importance of the College to the
Church will not be questioned—the history of the Synod, its
crease and prosperity since the College was founded and be
a feeder of our Theological Seminary, and thus has contin
supply the church with ministers of her own training, and the
fore in full sympathy with her, these things show too plainly
need further development the claims of the College upon the
Church.

For the last five years the exercises of the College have

Defendant's Exhibit 7

(d) That tuition be fixed at forty dollars per annum, but any one holding scholarships, or perpetual scholarships, on the presentation of one of these, shall be allowed ten dollars per annum in the payment of tuition.

(e) That an agent be appointed to visit the churches under the care of this Synod, raise subscribers to the Twenty Dollar Association, and enlist the interest of the people in the enterprises of the Church; the said agent to receive a salary of nine hundred dollars and his expenses paid.

(f) That the College and Seminary be combined for the present, and the same corps of Professors serve both.

Your Committee notice with pleasure the memorial of the Alumni Association, addressed to the Synod, earnestly urging upon her attention the interests of the College, and generously offering to co-operate in sustaining and advancing their *Alma Mater*.

We recognise this as an encouraging fact in connexion with the College in its present depressed condition, and would recommend that Synod cordially accept the proffered assistance, and that each alumnus be requested to interest himself in carrying out the above scheme of sustentation.

Your Committee have had their attention called to the fact that there are a number of subscribers to the old Endowment whose notes are yet unpaid.

In view of the changed circumstances of the country, we recommend that these claims be settled by a fair and generous compromise; and that the treasurer and agent be fully empowered to make said settlements.

J. I. BONNER, Chairman.

Dr. Hemphill submitted a report on Presbyterial Reports, which was adopted, and is as follows:

REPORT ON PRESBYTERIAL REPORTS.

The Committee, to whom was referred the Presbyterial reports, have had the same under examination, and are pleased to notice the encouraging accounts of the work of the Lord in the congregations under the care of Synod.

The blessing of God has rested on the labors of the husbandman, as well as upon the work of the ministry.

Sickness has prevailed in some sections—death in others. Three ministers have been removed by death, we trust to the heavenly inheritance, viz., Revs. J. L. Young, J. M. Young, and Josiah Moffatt.

Your Committee recommend that Rev. John Miller prepare a biographical sketch of Rev. J. M. Young; that Rev. David Pressly prepare a sketch of Rev. J. L. Young, and Rev. R. C. Grier write a sketch of Rev. Josiah Moffatt, and that these sketches be published in the *Associate Reformed Presbyterian*.

The report from the Memphis Presbytery states that four ruling elders of that Presbytery departed this life since the last meeting of Synod. The names of these officers are not given, which we consider an oversight.

Two Presbyterial reports direct the attention of Synod to the condition of the colored population. The report of the First Presbytery says: "There ought to be a more general and direct effort on the part of the Church to enlighten and convert this people."

The Memphis report "urges a more vigorous and persevering effort in behalf of this people having claims upon us."

Your Committee recommend that a committee be appointed to devise some plan for the better instruction of the freedmen.

Erskine00070

More laborers are wanted. The cry
s not local nor denominational; but
omes from every part of the wide-
pread field, and from every branch
f the church, "come over and help us."
n no case have we observed the sup-
ly equal to the demands: but many
nportant fields have been left unoc-
upied, or, at least, only partially cul-
ivated. At the same time, wicked-
ess abounds and the enemies of the
ord come in like a flood—conse-
uently, we need more agents to
ield the sword of the spirit against
em. Therefore, "pray ye the Lord
f the harvest that he would thrust
t laborers into the harvest, for the
arvest is great, but the laborers are
ew." But as God has subsidized
o the Church his great talents and treasures of
orce yet, as we can only expect an
dequate supply of ministerial force
hrough the ordinary channels. The
ious and hopeful must be sought out,
ncouraged and directed to the great
ork of preaching the gospel. Pa-
ents must dedicate their sons to the
ork. If they cannot educate all,
ey must fall back upon the custom
f the olden time, and select one, the
rst born, or the most promising, per-
aps, and direct all the energies of the
mily for the furnishing of this Sam-
l to minister before the Lord.—
esides, another great want of the
hurch is the re-establishment of
eaching like Parochial Schools and
enominational Colleges. These
ave long proved to be nurseries for
is church. They furnish facilities
hich other institutions do not—and
eing founded in the prayers and lib-
ality of the church, and surrounded
ith a religious atmosphere, God has
en pleased to bless them, and they
ave in turn been a blessing round
bout.

st to select only one more want
mong so many, a religious press and
ered literature is likewise a grand
esideratum. In this age of progress
e denomination can be expected to
ourish that will not support a reli-
ious press—something is wanted as
common medium of communication,
outh-piece for the whole church,
ying its weekly visits to every fam-
, where parent and child can read
gether the wonderful works of the
rd in the distant parts of his king
m, and rise from the perusal, glow-
g with love and zeal for the glory
d and the good of souls. You may
pense with your coffee or choco-
e or tea, your cloths and silks, as
u have so recently done, without
y diminution of real happiness
t with your religious newspaper,
ver—no, never. S. N. N.

MERIDIAN, ALA.—A correspondent
ites: "The University has opened
th a good number of students, and
ers are expected. From seventy-
e to eighty have matriculated in
several schools, which, consider-
g the short crop of cotton and gen-
l despondency of the people, is re-
couraging."

All you could have desired to have
done for your manly husband now
sleeping in the dust has been antici-
pated. I think * * * The little
Bible you gave him when he separa-
ted from you is at my house with all
its precious treasures within—by your
own hand for his comfort and consola-
tion during his absence.

He parted with this Bible last of all
earthly things. His wife was upon
his lips all the time waking or sleep-
ing in the delirium of fever or in his
freedom from it, still he talked of her.
* * * No more manly spirit fell
in his country's cause than that of
Capt. Prather. * * *

P. S. Since writing the foregoing I
looked at that little Bible. The plait-
ed hair of yourself and child is there
—a number of sweet momentoes that
tell their own tale, is there. * * *
I received several letters from him
whilst a prisoner at Johnson's Island,
and furnished him a full and complete
outfit of clothing whilst there. I
would be pleased to hear from you at
any time my dear Madam, and believe
me most respectfully the Southern
widow and orphan's friend.

S. G. K.

ERSKINE COLLEGE,

THE friends of this Institution will be gratified to learn that it is again in operation. Since the summer of 1861 it has not enjoyed its former prosperity, owing to the withdrawal of the students, then in attendance, to connect themselves with the army and the continued demand for the services of all the young men of our country until the close of the war. It is believed that now both the Church, by whose instrumentality the College was established, and the country call for its services in sustaining the banner of LIBERAL EDUCATION. In conformity with this conviction it has been re-organized and opened for the reception of students, and has met that degree of public confidence that warrants the hope that ere long it will resume its former career of distinguished usefulness. Rev. E. C. GRIER, D. D., its former President, and a corps of experienced Professors are employed in conducting its operations.

The disasters of the late war have imposed the necessity of a change of the terms of admission, a large part of the funds of the College having been lost in the failure of the Confederate Government. It is proposed to honor the certificates of the scholarship so far as the resources of the College will admit.

Tuition per year, $40 in specie, or its equivalent in currency, or $32 and one sub-certificate of scholarship and $5 College fee, both half yearly, in advance. Fuel, light, and washing charged extra.

Notice is extended that indigent young men who have been maimed in the war will be admitted free of tuition on application and presentation of certificate of good moral character. A similar certificate is demanded of all applicants for admission.

The Collegiate Year begins on the First Monday of October and ends on the 3d Wednesday of July. In ordinary circumstances it is better for students to enter at the beginning of the Collegiate Year, yet they will be admitted and classed according to attainments at any time.

By order of the Faculty.

JOSEPH F. LEE, Sec'y.

Due West, S. C., January 1, 1867.

FOR PALATKA,

Fernandina, Jacksonville, and all Landings on the

ST. JOHN'S RIVER.

THE SPLENDID STEAMSHIP

EDWIN FORREST

(1,000 Tons Burthen)

CAPT. LOUIS M. CONSTER, will sail from Adger's Wharf for the above places every FRIDAY NIGHT, at 10 o'clock, until further notice.

For Freight or Passage, apply on board or to Office of the Agency, 17 Vanderhorst's Wharf.

J. R. AIKEN & CO., Agents.

Jan. 7 1867, 1, 3m.

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discouraged.

The Collegiate year opens 1st October and closes 3d Wednesday of July. Summer session begins 1st March. But pupils are received at any time, and will be charged from the time of entering.

For further particulars address the subscriber.

J. I. BONNER.

Due West, S. C., January 7, 1867, 1, 3m

College of Charleston, S. C.

THE FACULTY of the College of Charleston would respectfully inform parents and guardians of young gentlemen desirous of obtaining a College Education, that this Institution has been re-opened under very favorable auspices and at a greatly reduced rate of which are only Forty Dollars per Annum, payable quarterly. Students from the interior can obtain board at reasonable rates, in respectable private families residing in the city.

ADMISSION.

Candidates for admission into the Freshman Class will be required to be well versed in Cæsar's Commentaries, Virgil, Cicero's Select Orations, and Sallust. They must also possess accurate and minute knowledge of the Latin Grammar and Prosody.

In Greek, they will be expected to possess a thorough knowledge of Valpy's Greek Grammar, Anthon's edition, and be able to translate and parse with readiness any portion of Jacobs's Greek Reader, the first two books of Xenophon's Anabasis, and the first two books Homer's Iliad.

In Mathematics, their knowledge will be expected to include Arithmetic (including Fractions, Vulgar and Decimal,) Extraction of Square and Cube Root's, Young's Algebra through simple Equations, and first three books of Legendre's Geometry.

Geography, both Ancient and Modern, will be the subject of rigid examination.

N. B.—Students will be admitted to a partial course, upon special application.

FACULTY.

N. R. MIDDLETON, LL D., Pres't
Professor of Logic, Political Economy, and the Evidences of Christianity, and Every Professor of Moral and Political Philosophy.

Rev. JAMES W. MILES, A. M.,
Professor of the Latin and Greek Languages and Literature, and of Roman and Greek Antiquities.

LEWIS R. GIBBES, M. D.,
Professor of Astronomy, Physics and Chemistry.

JOHN McCRADY, A. M.,
Professor of Mathematics.

F. A. PORCHER, A. M.,
Professor of History, Ancient and Modern, Rhetoric, Belles Lettres, English Composition and Elocution.

F. S. HOLMES, A. M.,
Professor of Geology, Palæontology and Zoology, and Curator of the Museum.

LEWIS R. GIBBES, A. M.,
Secretary of the Faculty.

Jan. 1, 1867, 1, 2t.

J. J. CUNNINGHAM,

NO. 2, WHITE'S BLOCK,

ABBEVILLE C. H., S. C.,

DEALER IN

DRY GOODS,

MILLINERY GOODS,

Notions,

Clothing, Hats and Caps,

BOOTS, SHOES, GROCERIES,

Wood and Willow Ware,

Hollow Ware,

CROCKERY and GLASS WARE

SADDLERY, &c., &c.

☞ Goods will be given in exchange for all kinds of country produce, and the highest market price allowed for the same.

J. J. CUNNINGHAM.

Jan. 7, 1867, 1, 1t.

The Christian Reformed Presbyterian
V. 1 #1 Jan 7, 1867

Defendant's Exhibit 9

Expenses.

Tuition per year, $40.
Boarding and Lodging, $12 per month.
Fuel and Lights to each room, $10 to $15 per year.
Washing can be procured at 60 cents per dozen.
Contingent Fee, $3 per year.

Those who have paid-up Scholarships can pay $10 of their tuition with a sub-certificate.

One Scholarship of $100, in the new endowment, pays tuition for five years.

Tuition invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

MODERN LANGUAGES.

Prof. R. L. Patton is well qualified to give instruction, to those who may desire it, in the French and Italian languages; for which a reasonable compensation will be demanded.

Defendant's Exhibit 10

Expenses.

Tuition per year, $40.

Boarding and Lodging, $12 per month.

Fuel and Lights to each room, $10 to $12 per year.

Washing can be procured at 60 cents per dozen.

Those who have paid-up Scholarships can pay $10 of their tuition with a sub-certificate.

One Scholarship of $100, in the new endowment, pays tuition for five years.

Tuition invariably in advance.

This statement may be sufficient to satisfy inquiries which are frequently made in respect to the necessary expenses of a student at this place. Every one knows that clothing, pocket money, and all matters of this sort, depend entirely on the indulgence of parents and the habits of their sons.

If parents would deposit funds in the hands of some member of the Faculty, with directions respecting its economical disbursement, there would be less occasion to complain of extravagant expenses.

Defendant's Exhibit 11

No.

ERSKINE COLLEGE, SOUTH CAROLINA.

CERTIFICATE OF SCHOLARSHIP.

THIS CERTIFIES that, for and in consideration of One Hundred

Dollars, paid to JOHN N. YOUNG, Treasurer of the Board of Trustees of Erskine College and to

his successor in office, Rev. W. R. Castles is entitled to Twenty five

Years of Tuition in said College; which Tuition is to be obtained on the surrender of the accompanying Sub-Certificates—Each Sub-Certificate entitling to One Year's Tuition.

E. T. Pressly, President

J. P. Kennedy, Secretary

DUE WEST, S. C.

Defendant's Exhibit 12

SUB-CERTIFICATES.

This being surrendered to the Treasurer of Erskine College, entitles the bearer to *One Year's Tuition* in said College.
No. 725 1846

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No. 725 1846

STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)

ROBERT E. SMITH and
WILLIAM K. SMITH

Plaintiffs,

vs.

ERSKINE COLLEGE

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Civil Action No.: 2011-CP-01-109

AFFIDAVIT OF WILIAM K. SMITH

PERSONALLY appeared before me William K. Smith, who, being first duly sworn, says:

1. The original owner/ purchaser was Reverend JR Castles

2. It is believed that Robert and Kent Smith are related through marriage 1-3 generations prior to Leon Carroll Smith.

3. The certificates were, and had been, in the possession of our grandfather; Leon Carroll Smith (Aug. 16, 1902 / Dec. 17, 1976) of York, South Carolina; at the time of his death in December 1976.
(Buried at Beersheba Cemetery, Clover/ York County, South Carolina)

4. They were passed to his son, Leon Carroll Smith (Feb. 10, 1935 / Jan. 22, 1982) of York, South Carolina. He was our father and passed away in January of 1982.
(Buried at Beersheba Cemetery, Clover/ York County, South Carolina)

5. They became our possession upon his death.

6. The original Certificates that are the subject of this action are in my and my brother's possession.

FURTHER AFFIANT SAYETH NOT.

William K. Smith
William K. Smith

SWORN TO BEFORE ME THIS 29th
DAY OF JANUARY, 2013

Notary Public for the State of South Carolina
My Commission Expires: April 25, 2017

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
MAR 29 2016
SC Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Trial Court Case No.: 2011-CP-01-109

Appellate Case No.: 2015-001660

Robert E. Smith, and William K. Smith ..... Appellants

v.

Erskine College .....Respondent

PROOF OF SERVICE

I certify that I have served a filed copy of the Record on Appeal to the attorney for the Respondent, by placing them in the U.S. postal mail, postage pre-paid on March 28, 2016, addressed to its attorney of record, Roy R. Hemphill, Esquire, P. O. Box 1547, Greenwood, SC 29648.

W. Joseph Maye
jmaye@oldcourthouse.com
DAVIS FRAWLEY, LLC
140 East Main Street (29072)
Post Office Box 489
Lexington, South Carolina 29071
Tel: (803) 359-2512
Attorney for Appellants