

was shipped some days ago. It should be arriving at the camp now, but congestion of railroad traffic has caused some delay in its delivery.

There are over 22,600 men at Camp Wheeler.

THE USE OF THE MCKAY BEQUEST TO HARVARD UNIVERSITY

HARVARD University can not share the Gordon McKay bequest with the Massachusetts Institute of Technology, according to the decision by the full bench of the Supreme Court which declares invalid the agreement between the two institutions under which Harvard suspends its instruction in applied science and devotes three fifths of the income of the McKay endowment to the maintenance of the engineering departments at the Institute. The decision is on the petition of Harvard to have the court ratify the agreement. It means that Harvard, which abolished the Lawrence Scientific School to merge its scientific courses with those at Technology, will have to reestablish a school of applied science under its administration. The court, in its decision, written by Judge DeCourcy, says:

We are constrained to instruct the plaintiff corporation that it can not lawfully carry out this agreement between it and the institute, as far as respects the property received by the university under the deeds of trust and the will of Gordon McKay.

In substance the plan agreed upon between Harvard and the Institute of Technology devotes three fifths of the endowment to an engineering school, which is not only located at the institute but is conducted and controlled by the institute instead of by the university. We can not assent to the assertion of counsel that "the school of applied science on the Charles River embankment is a Harvard school, a department of Harvard University."

Education and research in the five branches covered by the agreements are to be transferred from the university to the institute, and there conducted under the provisions of the agreement as part of the latter's curriculum. The Harvard professors associated with those courses shall become members of the faculty of the institute, and the property and equipment which the university may hold for the promotion of instruction in industrial science shall be devoted to the courses so conducted.

The faculty which determines the conditions of entrance, prescribes the courses that lead to degrees, largely shapes and carries to practical application the instruction and discipline of the school, and mainly influences the appointment of professors, is the faculty of the institute, notwithstanding that 14 of its 120 members come from the university.

The effective instrument is the deed of trust executed October 30, 1891, and confirmed by a codicil November 5, 1891. McKay was then seventy years of age. He had been a successful manufacturer and inventor of machinery. He was a man of artistic tastes, a lover of music and had traveled extensively in Europe. From 1864 or 1865, for more than twenty years, his home was in Cambridge, near the college yard; he took a leading part in supporting the Symphony concerts in Sanders theater and was brought into friendly relations with many of the college teachers and students. He appreciated the advantages of combining training in the exact sciences with liberal culture in the atmosphere of the university. During all those years there was a close personal intimacy between him and the late Professor Shaler, long connected with the university and appointed dean of the Lawrence Scientific School in 1891; and with the latter McKay discussed his scheme for the disposition of his fortune.

The income of the McKay endowment must be administered according to the intention of the founder, Gordon McKay, even though it be at variance with our views of policy and expediency.

Reading this instrument in the light of the circumstances already referred to it seems reasonably clear from its expressed provisions and implied limitations that Mr. McKay intended that not only the investment of the endowment fund, but the education which his endowment was to make possible should be under the control and direction of the university, its government and administration.

He selected as a trustee to carry out his purpose a great educational institution, one whose ability adequately to carry out his plans he was familiar with, and with whose historic name he desired to associate his own in perpetual memory.

In our opinion this intention of Gordon McKay is not in fact carried out in the agreement in controversy, as we have construed its provisions in their practical operation.

ANNUAL MEETING OF THE AMERICAN ORNITHOLOGISTS' UNION

THE thirty-fifth annual meeting of the American Ornithologists' Union was held in