

Appendix
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The rental of the leased lands when transferred to the University, was estimated at about £1,000 per annum. It appears highly improbable that even that small income could have been collected; and this is strongly supported by the fact of the present large accumulation of arrears of rent. In many cases also there was an engagement to renew, and of course until these renewals expired, the annual revenue must have remained very low. The greater part of the lands which were not leased would most probably have continued uncultivated to the present day, for the applicants would either have withdrawn their claims on finding that they could not obtain the fee simple and secure their improvements, or, if they accepted a lease, would merely have used it for the purpose of stripping the land of timber; Upper Canada College could not have been built or supported; the site of the University could not have been purchased or improved, and the opening of the Institution must have been postponed to a period indefinitely remote; a great part of the property would be lying uncultivated, and most probably plundered of the timber; a considerable portion of the small income withdrawn from the service of the Institution for the payment of the Land Tax; the lease-holders dissatisfied that they were debarred the privilege, which the settler most highly values, of securing his improvements by purchase for his family,—and the whole community discontented that the wild lands of the Institution were stopping the progress of improvement, whilst the objects for which the Endowment was granted were wholly neglected.

The Committee cannot dismiss this part of the subject without expressing their surprise that the Memorialist should not have supported his opinion relative to the applicability of the Statutes referred to, by citing the portions of those Statutes on which his argument was founded, and producing the opinions of professional men qualified to pronounce in such a matter. Nor can they forbear adding that the visitors are the proper authorities for deciding questions of this nature; and that according to the usage or laws of every University with which they are acquainted, such subjects never have been nor are referred to the Chancellor.

In this University such a course is peculiarly objectionable, inasmuch as by the Charter the highest Officer is a member of the Council, and thus participates in the responsibility for the acts of that body; hence it has been the practice of the Council to submit a copy of the Minutes of each meeting for the information of His Excellency, when he has not been present.

But the Memorialist founds a collateral proof "of the intention of the Government that no portion of the Estate should be alienated," on the fact that the University was authorized "to take from the proceeds of lands sold to the Canada Company £1,000 per annum, which latter sum for sixteen years was intended for the erection of the requisite buildings." The Memorialist seems to forget that if the grant of that annual payment be evidence of the intention of the Government, that no portion of the Estate should be alienated, the withholding of it after little more than a fourth of the period for which it was promised is equally conclusive of their opinion that the further sum required for Buildings should be taken from the University funds; nor can it be believed that it would have been expected by any one who had the least acquaintance with the state of the Endowment, that the annual income derivable from the rents would have been sufficient at once for the current expenses of the Institution, and for the erection of the necessary Buildings.

The Memorialist also advances in confirmation of his views, "that whenever the Council has considered the subject (*scilicet* alienation,) on its being formally brought under their notice, the alienation of the Estate by sale has invariably been stopped, but the custom appears to have again continually crept in, apparently when members were off their guard, and sometimes when there was not even a quorum of the Council present."

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The Committee are not aware that the Council have ever stopped the practice of selling the lands of the University through any doubt of their right to alienate the Estate in that way; nor is there any record on the Minutes of the Council since its first meeting, which would warrant such an opinion. They certainly have at different times for various reasons suspended both selling and leasing, and the question of retaining a considerable portion of the Estate as a permanent Endowment has been more than once brought forward. The majority of the Council, however, never declared their concurrence in this until April, 1844, when a recommendation of the Land and Building Committees to the effect, "that 100,000 acres should be reserved as the perpetual Endowment of the University," was carried.

The Committee are of opinion that the words of the Memorialist, "whenever the Council has considered the subject on its being formally brought under their notice, the alienation of the Estate by sale has invariably been stopped," do not give a correct view of the action of the Council or their motives on the occasions to which reference is made.

In July, 1839, the Resolution passed by the Council on the subject was in these words, "that until a new valuation of the lands belonging to the University be made, no more applications to lease or purchase be entertained."

In December, 1839, the President "suggested the propriety of the Council taking into consideration, whether some limitation should not be placed to the alienation by sale of the University Lands,"—but the subject was deferred.

In January, 1840, the subject was again noticed, and again deferred.

In February, 1840, "the Lord Bishop of Toronto moved that 100,000 acres of land be retained as the permanent Endowment of King's College, and 25,000 acres of land be retained as the permanent Endowment of Upper Canada College; the said lands to be placed under lease of 21 years, and that at the expiration of each lease, the same be renewed with such rise of rent as may be determined by Arbitrators." After some discussion this motion was withdrawn, and the following motion was substituted, and was assented to by the Council; "that before concluding upon the propriety of permanently retaining any considerable part of the estates belonging to the University and Upper Canada College, the Council are desirous of obtaining correct information on the value of the lands held, and of the returns stipulated for, and actually received under leases already granted, which information it is understood is in course of being obtained; in the meantime all further grants of leases or sales of land to be suspended." The reason of the withdrawal of this motion, although not recorded on the Minutes, was the decided objection expressed by the Chancellor, who was then present, to keeping a landed Endowment.

The next occasion on which the Committee find that the subject is noticed on the Minutes, was in January, 1841, when the consideration of applications to purchase to the extent of 5,400 acres was deferred, "the Council proposing at their next meeting to take into consideration whether it may not be advisable to adopt some new regulations on the subject of alienating the College property."

In March, 1842, the Report of the Finance Committee was presented, in which the principle of alienation by sale is recommended, even to the extent of all the lands then leased. This Report was adopted by the Council.

The Committee are not aware of any further action on or notice of the subject by the Council, until April, 1844, the particulars of which have already been given.