

# THE VARSITY

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## THE PASSING YEAR.

Like vikings came the rude blasts of November,  
Chanting aloud the death-song of the year ;  
Sadder and bleaker came the pale December,  
With haggard woods and fitful dying ember,  
And leaves all dead and sere,  
Withered and sere.

I sit alone where the bright hearth-logs, gleaming  
Into the gusty night, red sparks do send ;  
The chimney's moan doth answer to my dreaming,  
And the Old Year hath to me all the seeming  
Of a familiar friend,  
An old but vanished friend.

Bloweth the winter ! From his forest leaping,  
Loud Boreas cometh from bleak Arctic field :  
Cometh with white gust in the midnight sweeping,  
And findeth the Old Year, like some Norse king, sleeping  
Upon his battle shield,  
With white locks on his shield,

West Claremont, N.H.

WILLIAM WILFRED CAMPBELL.

## TORONTO UNIVERSITY'S CLAIMS ON THE LEGISLATURE AND GOVERNMENT.

The graduates of the University of Toronto are interested in knowing the history of the claim of the University on the Government, set forth by Dr. Wilson in his address to the Convocation of University College, on the 14th October last, shortly it is, that the "University Income Fund" is, by an Act of the former Province of Canada, entitled to interest at six per cent. on the value of the land expropriated by the Province in the University Park, for the new Parliament Buildings.

This claim has now matured, and is based upon the provisions of an Act of 1853 (16 Vic., chap. 161), which authorized the Crown to expropriate "part of the University Endowment lying at the head of the College Avenue, and not required for collegiate purposes," as may be found requisite for the buildings, for the better accommodation of the Government and Legislature; and which, when set off, were declared to be "vested in the Crown for the public uses of the Province."

To the power of expropriation thus given to the Crown, the Act attached as a condition:—

"That the ground which shall be so set off and taken for the purposes aforesaid, shall be valued by competent persons to be appointed by the Governor, and that the interest of the value thereof so ascertained, at six per cent. per annum, shall be paid yearly out of the Consolidated Revenue Fund, to the credit of the University Income Fund, and shall form part thereof." The ordinary vendor's lien for unpaid purchase money was discharged and a charge or lien on the Consolidated Revenue Fund was created as the University security. And the Act provided the means by which this charge on the Consolidated Revenue Fund should be recouped, namely, by a sale of the present site of the Parliamentary and Governmental Buildings, and of the water lots in front thereof; and it enacted that the proceeds of such sale should form

part of the Consolidated Revenue Fund, "a sufficient amount thereof being invested in Provincial securities to produce yearly an amount of interest equal to that payable to the University Income Fund, as hereinbefore mentioned."

During the same year the Crown was constituted the trustee of the University Endowment by an Act (16 Vic., chap. 89), which vested in the Crown all the lands and property as well as all property given, devised or bequeathed to the University to be held by the Crown "in trust" for the purposes of the University and College. These provisions constituting the Crown a trustee of the University lands under an express trust for the University and College, have been re-enacted in C. S. U. C., chap. 62, R. S. O. chap. 211, and in the Act of last session, 40th Vic. chap. 44.

In 1858 the University Senate did what if done by a private trustee, would have been denounced as "a gross breach of trust," by making over as a free gift to the citizens of Toronto, under colour of a nominal lease for 999 years, about 50 acres of the best situated and most valuable portion of the University trust property in the city, "for the purposes of a Public Park." The Senate then induced the Legislature to pass the Act 22 Vic. ch. 110, condoning this breach of trust of theirs in squandering a valuable portion of the endowment for the benefit of the citizens of one municipality in the Province. And now, save under some forfeiture clauses in the lease, a trust property, said to be worth nearly half a million of dollars to the capital of the Provincial University endowment, cannot be recovered back or made available for the purposes of the original trust of supplementing the revenues of the Provincial University. Guided by the reasons which are said to have influenced the then Senate to commit this breach of trust, the present Senate are free to use it as a precedent to make similar free gifts to the citizens of other municipalities of portions of the University trust property, situate within their respective corporate limits; and thus repeat, in these later days, the waste which characterized the University authorities of earlier times.

The University Act of 1853 gave the Senate, subject to the provisions vesting the property and income in the Crown, "the management of, and superintendence over, the affairs and business" of the University; and by sec. 52 the Crown could direct the particular purposes to which the University Funds should be applied, or could place the whole or any part of them at the disposal of the University Senate or College Council. And it gave the Senate a control and spending power over the University Income Fund which practically constituted them the trusted guardians of that fund to see that all its legitimate accretions were gathered in, and that it was preserved for University purposes.

The Act of 1858, which condoned the Senate's "breach of trust," may be referred to as giving a legislative interpretation of the extent of the controlling power of the Senate over the University lands and endowment, for it recites that "the Chancellor, Vice-Chancellor and members of the Senate of the University of Toronto deem it expedient, with a view to the interests of the University, to set apart a portion of the lands now vested in Her Majesty on behalf of the said University for the purpose of a Park." And this legislative recognition of their powers should be kept in view in dealing with the claim now made.

Doubtless it was for the purpose of preserving and pro-