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SPEECH OF THE HON. W. H. DRAPER,

DELIVERED AT THE BAR OF THE HOUSE OF ASSEMBLY AT KINGSTON, CANADA, ON FRIDAY, NOV. 24, 1843, IN DEFENCE OF THE CHARTER OF THE UNIVERSITY OF KING'S COLLEGE, TORONTO.

(From the Kingston News.)

Mr. Speaker, familiar as I have been with business in Courts of Law, and accustomed to represent clients with whose interests I have been entrusted, this situation is nevertheless novel and embarrassing to me.—Novel because, although appearing as an advocate on behalf of the Council of King's College, to defend the rights and interests of that Corporation, yet is this unlike other tribunals; for it is against the omnipotence of Parliament I am to assert them. Authorities, decisions, hitherto ordinary jurisdictions; *ita lex est* is an impregnable position. There law is administered, here it is made. Unlike even committees authorized to try elections, where decisions are held binding, and there is to me by a code of principles and authorities, to which to appeal. My position is embarrassing, because though *defending*, I have no one standing on the same arena, whom I may treat as making the attack; the argument, on my part, must be exclusively in anticipation, while I cannot, except from surmise or deduction, arrive at the arguments which are to be urged in its support; because I am (whose in my present position presuming to inquire who) compelled to assume that this measure, originating here, has, if not its author, some one who adopts it as his own, as well as its advocates, within these walls, and I am therefore, in defending my clients against the measure, unavoidably, though indirectly, assailing those who are, in one sense, the judges of the question, while, in another sense, they may be termed the counsel or partizans of the cause to which I am opposed.—Therefore, though desirous of speaking only of things having reference to the bill, disclaiming all personal allusions, and intending no individual where the forms of speech may compel the adoption of a supposed assailant, I yet must throw myself on the indulgence of the House, claiming not only its most patient attention, but also its most indulgent interpretation, asking you not to forget I am before you as the advocate of others. And, indeed, I have reason to ask for this, seeing the magnitude of the subject, the variety of its details, the incalculable importance of its results; and the more, because I am here alone. I had anticipated the aid of an able and learned friend, whose keen discrimination, untiring research and vigorous faculties would have added weight to my observations, and who, hearing that on which I had touched, would have strengthened what I had commenced, and supplied what I had omitted. Therefore, I again ask from this House every reasonable indulgence. In the first place, I shall take the liberty of submitting to the House the view in which, at the outset, the constitutional question presents itself; and to declare, that the bill now proposed is without precedent in the annals of British legislation. It is far from my intention, even as an advocate, and in that capacity availing myself of every argument to fortify the position of my clients, to resort exclusively to the antiquated notions of prerogative as they may be found in ancient writers; and although I may go back to an early period of English history, I will not maintain any principle which has not been maintained ever since; I will advocate only principles which, though venerable for their antiquity, like some of those massive structures which grace and adorn that glorious country on which we depend, have survived the long lapse of time, the shocks and tempests of change, and rear their lofty summits towards the sky, monuments of the wisdom of their construction, of the imperishable character of their materials—principles which form part and parcel of the constitution as it is; principles, of the truth whereof the very exceptions furnish irrefragable evidence, and which, nevertheless, I humbly submit will be violated, should this measure become a law. The Jura Coronæ, according to an ancient writer, so long as they still remain attached to the Crown, are called prerogatives. When granted, or perhaps more properly speaking, delegated, to subjects, they are franchises. Of these franchises, Corporations form a branch, and Universities are properly civil Corporations. The exclusive right of the Crown to institute Corporations, and the necessity for its expressed or implied consent to their existence, is undoubted, and has been so ever since the reign of Edward III., at which early period it was treated as long settled.—For prescription, by which some Corporations exist, implies a previous grant. This power of the Crown to erect Corporations is nevertheless limited, and these limits explain its true nature and character. When it is intended to establish a Corporation vested with powers which, by the common law, could not be granted by the King's charter, recourse must be had to the aid of parliament; as where it was intended to confer the right of imprisonment, as was the case with the College of Physicians, or to confer an exclusive right of trading, as to the East India Company; or where a court was to be erected, with power to proceed in a manner different from the manner of the common law, as the Courts of the Vice Chancellors at Oxford and Cambridge. And Mr. Justice Blackstone well observes, that (till of late years) most of those statutes which are usually cited as having created Corporations, do either confirm such as have been before created by the King, as in the College of Physicians, erected by charter of Henry VIII, and confirmed by statute 14 and 15, Henry VIII., ch. 5; or they permit the King to erect a Corporation in future, with such and such powers, as the Bank of England (which was a monopoly of a particular character) by statute 5 and 6, Wm. and M. ch. 20, and the British Fishery by statute 23, Geo. II. ch. 24. So that the immediate creative act was usually performed by the King alone, in virtue of the prerogative. I have not failed to observe, that the third clause of the Act may be said to come within the spirit of the rule of enabling the King to grant exclusive privileges, inasmuch as it declares that hereafter "none of the said Colleges, nor any other College or Collegiate Institution of what nature or kind soever, now established or which may hereafter be established in Upper Canada, shall grant or confer, or assume to grant or confer, any of the degrees of Doctor, Master or Bachelor in any of the Arts or Faculties, but the conferring of all such degrees, in the division of this Province, shall henceforth rest solely with and be vested in the said University."—I shall for the present content myself with remarking, as to this provision, that it clearly does not come within the principle of enabling the Sovereign to grant to a portion of his subjects privileges or rights which, of the Crown, should be open equally to all. Its effect will be of a very opposite character, and one to which I shall have occasion to advert hereafter.—With regard to Universities more especially, the observations I have made, as to the royal prerogative, in granting charters of incorporation are peculiarly applicable, my position in that respect is impregnable; and I think I can show that there is no exception to the rule I have laid down in the legislation of Great Britain—in other words, that there is no University there which has been erected by Act of Parliament. The statutes passed in the 13th Elizabeth, were not charters erecting the Universities of Oxford and Cambridge; but confirming certain privileges and making good charters, deeds and grants. Trinity College, Dublin, has its charter from Queen Elizabeth. A papal bull instituted St. Andrew's in 1413, and in 1480 James the First (of Scotland) ratified its privileges. Glasgow was established by a papal bull in

1450, and a royal charter in 1453 confirmed its establishment. Aberdeen commenced with a papal bull in 1494, with a royal charter two years after.—The College, now called King's College, was founded by Bishop Elphinstone in 1505. Marischal College, in New Aberdeen, was founded under royal authority in 1593, ratified by an Act of the Scottish Parliament, and appears to have derived more from legislative authority than any I have named. Edinburgh was founded in 1582 by James the First of England, (Sixth of Scotland); he also increased and confirmed its property and privileges, by successive charters in 1584 and 1612, and in 1621 an Act of the Scottish Parliament was passed, confirming various grants of property made to the town of Edinburgh, for its support, and among other things ratifies the previous grants and charters. The University of Durham owes its existence to a royal charter, dated the 1st June, 1837, and the London University, to two charters, one dated 28th November, 1837, and the other 5th December, 1837. All the English Universities have derived their charters direct from the Crown; and to that at Dublin, the same remark applies. Nothing has been granted by legislation, which it was the prerogative of the Crown to grant, and no alterations have taken place in any charter without the previous consent of the College itself. With respect to these Universities, therefore, my position will be found literally correct, and with regard to the Scotch, virtually so; though a discrepancy as to them would be unimportant, as they were not founded as ours were, under the operation of the English law. Even in our own experience, we have cases in point. The University of Queen's College, at Kingston, owes its foundation to a royal charter, the act of the legislature creating it having been disallowed; and Upper Canada Academy, now Victoria College, which is the strongest exception to the rule I have been able to find, owes its incorporation to a royal charter of the 12th October, 1836. In incorporating a totally new University, therefore, I think it may be asserted that the Colonial Legislature are assuming to do that which the Parliament of England never did—which the Parliament of Great Britain never did, and which the Parliament of the United Kingdom of Great Britain and Ireland never did.—Were the objection therefore confined to the exercise of this power in the erection of a new Corporation without a royal charter, and making that new Corporation an University, it would rest upon the solid foundation of the undeviating practice of the legislature of that country from which, as regards Upper Canada, our common law, and, as regards the whole Province, our parliamentary precedents and practice are adopted and derived. But the objection does not stop there. This bill goes much further. The precedent of Victoria College may shew that the Crown will assent to an act extending the privileges of a Collegiate body, already incorporated by the Crown; but this bill proposes to take away privileges granted by the Crown, by its royal charter, under the Great Seal of the Empire; by the force of an Act, by the giant omnipotence of Parliament, to rescind the King's charter—abrogate its charter—annul the rights it has created. Surely, if the erection of an University be unprecedented, and may therefore be assumed to be not properly a legislative but a prerogative right, the destruction of a royal charter is more unprecedented, and must be open to still graver doubt and objection.

I shall proceed to demonstrate that the crown cannot constitutionally exercise such a power. In doing so I shall, I apprehend, afford some ground for the inference that the Crown could not assent to such a measure; and, therefore, that this legislature ought not to pass it. Inasmuch as the King's charter creates Corporations, the Crown may mould and frame them. In the first instance, as it thinks fit; so also, the King may, by consent of the Corporation, afterwards remodel them and grant additional rules for their governance, consistently with the principles of law; and this explains the reason why many instances may be found of more than one charter to the same incorporated body. But it is a clear principle that the King cannot, by his prerogative, diminish or destroy immunities once conferred and vested in a subject by a royal grant. For though the crown may grant a new charter to an existing Corporation, yet it rests in the option of that body to accept or reject such new charter; because the King cannot take away, abridge, or alter any liberties or privileges granted by him or his predecessors, without the consent of the individuals holding them. It is true, no particular form of acceptance is necessary. Acting under a new charter is of course an acceptance; even not objecting seems to determine the election. The instance of King's College and Marischal College at Aberdeen affords a striking illustration of the correctness of the position. After the abolition of Episcopacy in Scotland, Charles the First resolved to apply part of the revenues of the different Sees to the support of the Universities, and he appointed a commission to inquire into the state of those of old and new Aberdeen, the result of which was his executing a charter uniting them as one University, under the name of King Charles University of Aberdeen. The two Colleges did not accept this new charter; they continued separate, and were so recognized in an Act of 1641, by which the grants of certain rents to them were ratified. A second attempt to form and incorporate them into one University was made about the year 1784, but proved abortive; nor have the labours of the royal commissioners in 1836, or 1837 produced, so far as I am aware, any different result. I venture to affirm, that the Imperial Parliament has not united these two Universities and Colleges against their will. I have thus, I trust, sufficiently maintained my position, that the King cannot diminish, abridge, or take away privileges conferred by his grant. Upon what principle the Legislature can call upon the Crown to concur with them in so doing, remains to be shown. The Crown holds its prerogative for the protection of the subject, not for his oppression. I have already shown that the Crown cannot, if it would, take back that which it has once granted; the attempt would be dishonour. I admit there is an omnipotence in Parliament, but there is another power co-equal with it; there is a moral force which may be brought to bear upon it; because there cannot be an act of injustice done which will not, one day or other, recoil upon the perpetrators. I will not inquire what extreme case might call for and justify such an exercise of parliamentary omnipotence, but I venture on the assertion, it ought to be an extreme case. Of all measures, this bill (a bill I cannot refrain from designating one of pains and penalties, of forfeiture and deprivation) is the very last with regard to which the advocate should rest on the conclusion, "*Stet pro ratione voluntas.*" It may be urged that the royal charter of incorporation has already been subjected to legislation, and that thus a precedent is afforded for the present course. It is true the charter was amended by the statute 7 Wm. IV. c. 16, of Upper Canada; but to this I answer, there are three important considerations which entirely distinguish that case from the present. First, the prerogative was not invaded, for the King invited the attention of the Legislature to the matter; second, no right or privilege granted by the charter was taken away; and third, King's College offered no opposition, but accepted the amended charter, and went into operation under its provisions.

I have thus briefly endeavoured to show, first, that the Legislature cannot, without infringing on the prerogative, erect a new Corporation, with University powers and privileges; and, second, that it cannot, consistently with principle, as a mere act of will and power, deprive a Corporation of the rights and franchises the Crown has lawfully conferred on it. That the bill is open to both exceptions cannot be denied. If either is sustained, I humbly submit, they should cause its present rejection: if both are sustained, then their combined force leads to a conclusion, that the Legislature cannot constitutionally transfer franchises given by the Crown to a Corporation which has them under a Royal charter, to a new Corporation erected by itself. No one can deny that the bill is open to this exception; and that by its passage the Legislature would assume to itself the prerogative and say, you, the Crown, have granted away for stated purposes certain portions of your lands; we, the Legislature, place them to other uses. King's College was erected by a charter of Geo. IV. given in 1828; it was erected as a College, with University powers; it was not created a University with colleges within it, but as a College, to which was added the powers of a University; the distinction is important. And here, Sir, I would solicit the attention of this honourable House to a brief consideration of the rights and privileges this bill aims to take away. By its operation, the power of regulating the studies necessary to qualify students taking degrees,—regulating the proficiency indispensable to obtaining degrees, and the time to be previously passed in academical study—the power of conferring them—the holding a convocation—in short every power and characteristic of our University is destroyed. Not only this, but its power over collegiate discipline is made secondary and subordinate, the powers conferred on this new University by the 15th section of the bill being in such large and general terms as to control the collegiate authority for almost every purpose. Let any reflecting man ponder over the concluding words of the charter, which are substantially these—"We will, that these our Letters patent shall and may be good, firm, valid, sufficient and effectual in the law, according to the true intent and meaning of the same, and shall be taken and adjudged in the most favourable and beneficial sense, for the best advantage of the said Chancellor, President, and Scholars of our said College, as well in our Courts of Record and elsewhere, and by all and singular Judges, Justices, Officers, Ministers and other subjects whatsoever of us, our heirs and successors"—let him then remember that this College, founded on these good, firm, valid, sufficient and effectual letters patent, has within the last six months matriculated its first students; that whatever complaints have been urged against it, no application has been made either to the Crown or to the Judges, who may visit on behalf of the Crown, to exercise the visitorial powers and functions, and to enquire into and check and control abuses; that no pretence exists of legal forfeiture, or if it does, that no proceeding had been instituted to bring such a question to judgment before a competent tribunal, the only constitutional mode of proceeding in such a case—(indeed if there was such a legal forfeiture, legislation would not have been resorted to)—but that the first step taken is, the introduction of a bill of disfranchisement an attempt to sweep away all the powers and privileges, as well as all property granted by the Crown; and what must we think of the value of a Royal Charter, or of the respect it commands in this Province—what must be think of the security of rights, immunities and privileges resting on the Royal grant alone? I would ask, if there would exist much respect for Royal Charters in future? If as a binding hold upon Royal and national faith, they would be regarded with confidence? Another branch of the Constitutional question comes unavoidably under consideration on examining the third clause. I allude to the words by which the Crown is absolutely restricted from hereafter erecting any College or Corporate body with University powers. I have for a different purpose, referred to these words already; I now call attention to them, as containing the assertion of a right in the Legislature virtually to supersede and abolish, not merely rights the Crown has granted, but also the prerogative and authority of the Crown for the future, to make similar grants. An examination of the 30th clause, in connexion with the 3d, clearly shews that such will be the effect of the measure, for that clause enacts that upon Her Majesty, her heirs or successors, or other persons, &c., conveying property, real or personal, of sufficient value in the opinion of the Board of Control of the University, for the endowment of a College, it shall and may be lawful in any Charter of Incorporation which it may please Her Majesty, her Heirs or Successors, to grant under the Great Seal of the Province, to declare such College incorporated with the said University. What is the effect? It is a direct limitation and prescription of the Prerogative of the Crown; if passed, the Crown cannot give another Charter. Individuals, who may be desirous of giving their property in what they conceive to be the best way, for the promotion of a sound, religious system of Education, cannot do so, if they desire to apply it to any Institution in which the Divinity of our Church is taught, for there will remain no power to create an University, though the gravest objections to the management of that proposed by the bill, may exist. The two clauses taken together, amount to this:—No new University may be Incorporated *per se*; but the Crown may erect Colleges under certain circumstances, and Incorporate them with this University. In other words, the Sovereign, either under the Great Seal of the Empire, or of the Province, cannot exercise the Prerogative of Incorporating an University in Canada; but may under the Provincial Great Seal, Incorporate an endowed College, to be subject to this University. But the bill does not stop here. Hitherto the objections to it, are, first, the interference with or assumption of the Royal Prerogative: second, the deprivation, as a mere act of power, of rights and privileges conferred by the Crown; third, the infringement of the rights of the Sovereign. The next objection I have to urge is, that it is a direct measure of confiscation, without even the form of trial: of forfeiture without either legal conviction or judgment. This bill has not confined its attack (for so I may call it) upon the privileges of the College, but the 36th and 37th clauses take away all the real and personal property of King's College, and appropriate it to the University purposes of the new created Corporation. The temporary provision of £500 per annum is too trifling an exception to render it necessary for me to qualify the expression. In this disposition of the property I am almost disposed to think that it has been forgotten that the original Charter of 15th of March, 1828, was to *King's College*. From an examination of this charter it is obvious that the erection of a College was the primary object. It begins with granting that there shall be "at or near our town of York in our said Province of Upper Canada, from this time, one College, with the style and privilege of a University, as hereinafter directed, for the education and instruction of youths and Students in arts and faculties, to continue *for ever*, to be called King's College.—To continue *for ever*. Surely there can be no misconception of the meaning of that term—all must know its import. The incorporation is of the Chancellor "of our said College," the President "of our said College," the Professors "of our said College," and the persons admitted as Scholars "of our said College." This corporation was enabled from time to time to "have, take, receive, purchase, acquire, hold, possess, enjoy, and maintain *to and for the use of the said College*, any messuages" &c., "in Upper Canada, to the yearly value of £15,000 sterling;" and moreover, "to take, purchase, acquire, have, hold, enjoy, receive, possess and retain all or any goods, chattels, charitable or other contributions, gifts or benefactions whatsoever." In pursuance of the intention of the corporation, the Crown did grant lands for an endowment, which could only be given or taken according to the charter, viz: "to and for the use of the College." I mean this must be the legal effect of every grant to them by their corporate name. But by this bill the lands so granted are to be given to a new University; such a one as no Royal Charter ever yet was granted for, leaving nothing to the College, to the use of which the land was granted. The Venerable Society for the Propagation of the Gospel in Foreign Parts, presented £500 worth of books of the standard divinity of the Church of England to the College, and this library is also to go to the new University, which is to have no Professor of Divinity or any Lecturer, class or examination in Divinity whatever. Can any one help enquiring "Hœc utrum lex est, an legum omnium dissolutio?" Where can a parallel to this be found in the annals of constitutional legislation? Corporations have been dissolved, and their estates have escheated to the Crown. Such was the confiscation of property by Henry VIII. on the dissolution of monasteries. I am not driven to justify that proceeding: that is for those to do who would make it a precedent. There the corporations to which the lands belonged were dissolved, and they consequently devolved upon the Crown. But I cannot help remarking that those lands, originally set apart for religious and charitable purposes, and the loss of which for those purposes has been deeply felt, were granted, in no small portions to laymen; and yet since the Royal grant, one does not hear of proposals to deprive the Bedford family or the Duke of Devonshire of the lands so derived. Other forfeitures on legal principles, there have been many; but no analogous case I can find which could be quoted as a precedent or an authority for this proceeding.—True, their lands were the domain of the Crown, so were once all the lands in Upper Canada when they were granted; why is the grant less sacred and less binding than the grant to U. E. Loyalists, to militia-men and to settlers? or than those large—and as I have not unfrequently heard them called improvident—grants to Government Officers, Executive Councillors and others, of former days? or than grants, of which there have been many, for any purpose of a specified public character. Of the profuse grants to private individuals in this country, without saying whether they were wise or unwise, this much I will say, however much they may have been condemned, forfeiture has never been thought of. When lands are alienated from the Crown for such purposes, they are alienated forever. In the eye of the law, all those grants are equally sacred—why are they less so in the eyes of lawmakers? True, the lands of King's College were granted for a specific use and purpose, and one in which the whole Province has a deep interest. A misapplication might have rendered individuals responsible, and called for and justified their removal. For this the power of the Crown and of its courts is enough; and therefore, more especially without legal proof and legal judgment, legislative deprivation and (may I be excused in using the term which alone conveys my sense and meaning) spoliation, is not even to be thus palliated. Besides this, no supporter of this measure can sustain it on any such pretext, without falsifying the preamble, which, whatever may be the strength of the reasons it advances, contains not the most distant allusion to any such cause as calling for Parliamentary interposition, as rendering necessary this proposed law. The comparatively recent proceedings in England respecting charitable Corporations should not be overlooked. Time does not permit more than an allusion to them, but I cannot help inviting attention to the careful and scrupulous investigation which preceded any action; second, to the spirit of justice in relation to the declared object for which those Commissions were instituted, in remedying abuses, restoring to their proper uses what had been misapplied, or where the fulfilment of original uses had now become impossible, the selection of others the nearest thereto that were permitted in accordance with the original intention. And though these lands were granted that they might be employed for a use most valuable to the people of Upper Canada, and not confined to them, are there no other grants of land for the advancement of religion and science, in which other portions of the people of Canada are interested, and which rest on the royal and national faith? In Eastern Canada, two millions of acres of land are held for such purposes on a similar tenure, and if the principle of this Bill be now adopted, there may come a time in which they will, on a similar want of principle, that these lands will in like manner be interfered with. In short, if the principle on which this Bill seems based—the exercise of power—be carried out, where will it stop? To what interests may it not be extended? Let all who feel, or are interested in any such, pause before they furnish such a precedent, as I humbly contend this bill affords. If by their aid it is established, a day may come when they shall have cause to exclaim,—"Quam temere in nosmet legem sancimus iniquam." Not only does this Bill take all property away from King's College, but it appropriates the lands (by the exclusive devotion to the new University) in a manner which leaves unfulfilled a large part of the objects and intentions of the donor. I have already offered some observations on what I conceive to be the primary object of the charter. I must now claim a brief attention to its details. It appears to me that by this charter it was intended to combine the Collegiate domestic discipline with the professional or University system of instruction.—Among many reasons, which an examination of the charter will suggest, for this opinion, I may notice the incorporation as a College with University privileges, the power to make bye-laws respecting the salaries, stipends, provision and emoluments of and for the President, Professors, *Scholars*, &c., thereof. Now, it seems to me, that the word "Scholars" used here, means something different from an ordinary student or undergraduate, *to* and *for* whom there is no salary usually provided salary or stipend. I conceive that it was intended there should be some Scholarships endowed, as at Oxford, Cambridge and Dublin, open to competition, attainable by examination and proficiency, placing the successful candidate on the foundation of the College—opening the education to those who might otherwise be unable to attain it, and stimulating the youth to exertion by the prospect of honourable reward, thus materially aiding in fulfilling the intention of the founder, as stated not in the preamble to the Bill, but in the preamble to his charter, namely: the education of youth in the principles of the Christian religion, and their instruction in the various branches of science and literature which are taught in the Universities in the United Kingdom. The large amount of real estate which the corporation was permitted to hold, countenances the opinion that it was intended to provide for the continued residence and support of many devoted to literary and scientific pursuits, according to the system of those Universities. It is only by such collegiate establishments that men can be induced to devote themselves to learning as their sole pursuit, instead of as a mere auxiliary to other pursuits. To take away the means of making a sufficient provision for such men, you destroy all hope of there being any reward for learning, and those memorable words become applicable with which Dr. Hackett closed his celebrated speech in defence of them at the bar of the Long Parliament, in 1641:—"Upon the ruins of the rewards of learning no structure can be raised up, but ignorance; and upon the chaos of ignorance, no structure can be built but profaneness and confusion." Such was the prophetic language of that eminent man; God in His mercy avert from us its realization. Any such object ceases to be possible when the endowment is thus taken away, and thus is one of the objects of the donor defeated. Again, the power of granting degrees in Divinity, as well as in arts and other faculties—the provision that no religious test or qualification should be required of or appointed for any persons admitted or matriculated as Scholars within the said College, or of persons admitted to any degree in any art or faculty therein, "Save only that any persons admitted within our said College to any degree in divinity, shall make such and the same declarations and subscriptions, and take such and the same oaths as are required of persons admitted to any degree of Divinity in our University of Oxford"—show clearly that among the objects for which the Institution was erected, and consequently among other uses for which the endowment was granted, was the establishment of a Professor of Church of England Divinity, for the instruction of such as should desire to graduate in that faculty. And though the amended charter did away with those provisions which gave to its government an exclusive religious cast and character, and did away with all tests for degrees, it neither abrogated the power of granting degrees in Divinity, or prescribing any other course of study in that faculty than that which the original charter obviously intended, or altered the powers of the College Council to make statutes for the performance of divine service, and the studies, lectures and exercises necessary to take a Divinity degree. Though no test of any kind but the test of qualification was to be required for any degree, yet I repeat it, it cannot be doubted that the Divinity was intended to be that of the Church of England. This object will of course be defeated by the proposed bill, as regards the University, but it does not stop there: it also deprives King's College of the means of giving effect to it under the powers which this bill still leaves to that institution. Again, the endowment was clearly intended for the erection of buildings suitable to the design of the original charter—a design which the amended charter in no way interfered with. Collegiate buildings, fit for the residence of students, and within which a domestic discipline could be enforced, were within the design, and were therefore among the purposes of the endowment. The appropriation of the endowment proposed by the bill renders it impossible that this portion of the object of the charter and grant can ever be fulfilled. No one can read the charter and not see that the intention was to erect suitable buildings, and to provide the means for that purpose. But this bill only *permits* the erection of Colleges somewhere on land belonging to the University—whether at Toronto or elsewhere, it is not said—provided they can get the money. To say that mode of employing this endowment of King's College, which the bill suggests, is a better mode than that proposed in the original charter and grant, is, I apprehend, no argument to be urged in favour of either taking away the power and privileges or the property given. It proves too much, and therefore proves nothing. For if that be a true reason for revoking a grant from the Crown for one purpose, it ought to be equally good to revoke any grant of which the Legislature may think a better use can be made. [illegible]

bill, presents her man, who has just signed the Thirty-nine Articles, and taken the oath of abjuration and supremacy: who has declared he believes the Mass and idolatry and transubstantiation a heresy. The pliant conscience of the University makes him, too, a Doctor, and gives him his diploma, which is her certificate of his qualification to teach men the road to heaven. Room for the next, and Queen's College sends her pupil, who believes not in different orders of Ministers, who laughs at the apostolical succession of the Church of England, disapproves of liturgies and settled forms of prayer, though he concurs with the latter Church to its dissent from the Church of Rome. *Alma mater* smiles on him and sends him forth to the world her beloved son, well qualified to teach the world Divinity. Next comes the Methodist from Victoria College, differing from all who have preceded him, with a different church government, and a difference in some articles of faith. No difference does this make to our conscientious University. Her arms expand with equal readiness to enfold him; and her diploma of sound Divinity is given to him also. One might have imagined it would have stopped here; but no; like Messilina, "*nondum satiata*," she courts others to her embraces, careless of all other qualifications but the annual revenue of 1000 bushels of wheat. This munificent endowment provided, she is open to new-comers. Hitherto it may be said that every Church represented in the four Colleges agreed on some cardinal points of belief: but here we perceive the invitation held out to those whose intrinsic merits supersede the mediatorial sacrifice of Atonement, who would reduce the Saviour of Man to their own level by denying his divinity, and who reject, because they cannot comprehend the mystery of the Trinity in Unity—the Socinian may likewise present himself, and in like manner receive the certificate of being a teacher of sound Divinity. Such is the expansive conscience of our University; and thus the solemn farce and mockery proceeds. I am unable to comprehend how any man of conscience could sign a diploma conferring such a degree on one whose religious opinions he believed to be heretical, or receive a diploma at the hands of a man whose orthodoxy he was bound by his sincere belief to controvert. Another objection to the bill, and a ground upon which King's College cannot accept it, is, that the legislation of the University is paramount over all the Colleges. It is to the Chancellor and Convocation of the University that the power is given, among other things, to legislate concerning "the studies, lectures, examinations," "and all matters regarding the same," not merely of the University, but "of the different Colleges." Such is the enactment of the 15th clause, and a comparison of the 29th and 31st clauses will show that virtually, though not nominally, the University retains legislative power over divinity studies, inconsistent with the professed freedom of the several colleges in this particular. King's College may resume her charter, but if she professes to pass any law, it is subjected to the revision of the University, without a Professor of Divinity, unless one from some of the Colleges. This is a departure from practice, to which she cannot consent. In Oxford, the colleges have long had the entire domestic management. The London University is confined to the granting degrees in Arts and the Faculties of Medicine and Law. They have no power of conferring degrees in Divinity, and therefore do not profess to teach it. The ground of the entire exclusion of all religious tuition may be inferred from the following anecdote. The late Mr. Wilberforce thought that education, without religion, was a most dangerous weapon to place in any man's hand, and when the establishment of that University was under discussion, he suggested the propriety of making the students read Paley's Evidence of Christianity, "My dear Sir, you forget our Jews," was the answer. "Well, then," said Mr. W., "What say you to Paley's Natural Theology?" "You do not consider our infidels," was the reply.—Bad as the rejection of all study of divine knowledge certainly is, the indiscriminate adoption and corruption of all systems of theology is worse—the one simply abstains from teaching the truth, the other ranks on one common standing, the advocates of truth and the disseminators of error. To a system like this, which requires and can possess no standard or criterion upon which the fitness for degrees in Divinity, can be determined, King's College cannot assent. The representation in the Caput, provided for each College by the 9th clause, assumes the existence of several Professors. Now, as the University Professors will be the teachers and lecturers in all arts and faculties, but divinity, it is absurd to assume that there will be any other than professors of divinity in each College; the more particularly as the fees payable to professors whose income will be partially derived from the endowment, will be much less than those charged by professors in Colleges who have nothing else to depend upon. What will be the occasion in any college, at first, for more than one Theological Professor, who would probably be the President or Principal of the College also? If he were a member of the Caput as Professor, would he also be eligible to be elected Vice Chancellor? Whether he would or would not, the representation of King's College, deprived of its endowment, would probably be confined for some time to one professor, in a body authorised to legislate concerning her affairs, her professorships, masterships and teacherships, the studies, lectures, examinations, and all matters relating thereto within her walls, and the number, residence, and duties of her Officers, Professors, Masters, Teachers, Scholars and Servants. To this representation in a body clothed with such powers, and consisting, as regards all the University Professors, of persons taking no religious test whatever, King's College could not assent, for after losing her University privileges, she is thus deprived of that power which, in English Universities, every College has. The erection of a Board of Control is another objectionable feature. It is, as to secular purposes, unprecedented, and it may be confidently asserted, will destroy the working of the University. It is artfully exempted from responsibility, while it is entrusted with powers, on the due exercise of which, if not every existence, certainly its reputation and character for literature and discipline must depend. Its functions are partly of a legislative character, and one of the thirty-nine members thereof may not be those who have the slightest knowledge or experience of University matters. They are to select Examiners, recommend candidates for the Professorships, for the University. For the discharge of such functions, one would imagine there would be in such a body something like harmony. But the evident effect of the measure will be to bring together at this Board so many elements of discord, that anything like harmony in their deliberations can hardly be anticipated. Who are they to be?—First, the Lord Bishop of Toronto, as representing King's College, a Professor from each College, next the Roman Catholic Bishop, the Judges, the Mayor for the city of Toronto, the members for the city and the four ridings of York, and twenty others, to be appointed by the Governor. Now, I think, if you look at the parties thus brought together, it will be admitted that scarce a measure could be submitted to them upon which they would not disagree. Even among the Clergy you will find different shades of opinion; but if that was got over, there are the members for the city and ridings, and if they could agree at that Board, if I may believe the public newspapers, there is a place in which they do not agree so well as would be desirable, added to these, however, you have twenty others. Even if this difficulty was removed, and something approaching to harmony existed among its members, still large bodies