

Appendix
(D. D.)

7th May.

the Chancellor, President, Professors and Scholars of the proposed University, and gave to that Corporation under the style of "The Chancellor, President and "Scholars of King's College at York in Upper "Canada," n capacity to take, hold and possess, not as personal estate, for the use of the College.

The members of the Council who come under neither of the designations of Chancellor, President, Professors or Scholars, are not made by the Charter constituent members of the Corporation, and they therefore apprehend that they can concur in no act for surrendering the Charter,—in other words, that they cannot yield up a grant they have not received.

It is true that the Charter provides for the existence of n Council within the Corporation, who are to frame Statutes, Rules and Ordinances for the good government of the College, and to manage its revenue, property and affairs; which Council is to consist of the Chancellor, President and seven of the Professors whenever n sufficient number of the latter shall be appointed being members of the Church of England. It is true, also, that in order to provide for the filling up of the Council nt the first institution of the College, and previous to the appointment by the Chancellor of seven discreet and proper persons resident within this Province, to constitute in conjunction with the Chancellor and President the first or original Council of the College, n Council has been accordingly constituted by appointing seven persons under the authority of the Charter; but it seems to the Council to admit of no doubt that it is not within the power of the persons so appointed for managing *ad interim* the revenues and property of the College to join in any Act for divesting the College of all its "revenues and property," leaving thereby nothing to be managed;" and it seems to them equally clear that under the general but temporary authority which the Charter gives them "to do such matters and things as to them shall seem "good and fit and useful for the well being and advancement of the College and agreeable to the Charter," the persons so appointed could not join in annihilating the Corporation by the surrender of the Charter itself.

Such an act would not be agreeable to the Charter, but on the contrary directly and immediately destructive of it; and as it could not therefore come within the scope of the authority given to the Council by the general expression above referred to, so it seems to be nt least equally evident that it could not come within the range of any of those powers or duties of the Council which are specifically enumerated, because these all have relation to the promotion and advancement of the purposes of the Institution, and would be plainly infringed by any act tending to its destruction. On the whole, what is here intended to be stated cannot be more distinctly expressed than by saying that these Members of the College Council consider themselves to have certain powers under the Charter, but none over it.

Although the Council have thought it proper to explain their view of this matter so as to obviate any possible misconception, they are nt desirous of enlarging upon this legal difficulty, because they are not sure that the Secretary of State intended to address the request contained in the Despatch to any others than His Excellency the Chancellor and the President, although the general tenor of the Despatch allows that to be implied, and, however this may be, the Council would not be so uncandid as to intimate that the difficulty they have stated is their only difficulty; on the contrary, they wish it to be understood that if their scruples on that point could be removed, they would still not feel it right to concur in surrendering either the Charter of King's College or its Endowment.

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As the Council do not feel, so they cannot profess to feel n sufficient assurance that after they should have thus consented to destroy a College founded by their Sovereign under as unrestricted and open a Charter as had ever passed the Great Seal of England for a similar purpose, the different branches of the Legislature would be able to concur in establishing another that would equally secure to the inhabitants of this Colony through successive generations the possession of n seat of learning in which sound religious instruction should be dispensed, and in which care should be taken to guard against those occasions of instability, dissention and confusion, the foresight of which has led in our Parent State to the making an uniformity of religion in each University throughout the Empire n indispensable feature in its constitution. If the objections entertained by the Council against the surrender of the Charter were not insurmountable, no stronger inducement could be offered than the request which His Lordship's Despatch conveys; for the Council cannot fail to be sensible that such a request can have been dictated only by a supposed necessity for departing from established principles in order to promote the peace and contentment of the Colony.

With the opinions, however, which the Council entertain, and with the opportunity of forming those opinions which their residence in the Colony affords them, they could never stand excused to themselves or others, if they should surrender the Charter, supposing that to be within their power, so long as there is an utter uncertainty as to the measures that would follow. The moral and religious state of more than three hundred thousand British subjects is at present involved in the proper disposal of these questions, and before very many years will have elapsed, more than a million must be affected by them. The Council, therefore, whatever results might be obtained by other means, could not justify to themselves the assuming the responsibility of endangering the very existence of this Institution. They would feel bound to look beyond the movements and discussions of the passing hour, and could not even, if they concurred in the view of present expediency, consent to pull down the only foundation which at present exists in Upper Canada for the advancement of religion and learning upon a system which has not been repudiated by the Government in any part of His Majesty's Dominions.

The College Council would entertain no objection against the surrendering the Charter of Incorporation as n mere formal act, to be immediately followed by the granting of another Charter under the Great Seal upon terms that shall have been fully settled and agreed upon previous to its surrender, so that the existence of a College in Upper Canada should not be dependent upon the chance of the Legislature or the Government devising a Charter which all religious sects, and all parties shall forbear to complain of.

If the power of surrendering clearly lay in their hands, they should feel this caution necessary, because they are strongly impressed with the conviction that the proposition which must be made to the Legislature to concur in framing a Charter for a new College, would either be attended with no effectual result, or would lead to the establishment of such an Institution as would be without an example in the British Dominions, and they are apprehensive that the consequence would very probably be that after the delay of some years, the small chance of n union of sentiments upon this subject might lead His Majesty's Government to give up the attempt, and appropriate the surrendered endowment (which His Lordship declares shall never be diverted from the object of the education of youth) to the advancement of Education in some other manner than by the foundation of an establishment the Council considers to be indispensable to the future welfare of the Colony.