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SPEECH
OF JOHN HILLYARD CAMERON, ESQ.

AT THE BAR OF THE LEGISLATIVE ASSEMBLY, IN DEFENCE OF THE UNIVERSITY OF KING'S COLLEGE AT TORONTO.

(From the Montreal Courier.)

Sir, in approaching a question of such magnitude, and involving interests so great, and principles of such mighty import, as that against which I have been sent to plead, I do so with the greatest diffidence. My course is surrounded with many difficulties and disadvantages, through which an advocate in an ordinary case and under ordinary circumstances has not to thread his way—which he has not to encounter.—When called upon at a moment's notice to appear at the Bar of no ordinary tribunal, without preparation, to argue the case committed to me, it appears to me, indeed, an almost hopeless task to convince many Honourable Members of this Assembly who have already expressed their opinions on this momentous question, and who, I have perhaps too much reason to fear, wish more to refute the arguments which I shall bring forward in opposition to this Bill, than to listen to them that they may be convinced. I appear at this Bar not only as the Counsel of King's College, but in the issue of this question my deepest feelings are concerned, and I stand here also as a member of that Church which is to be affected by this measure; this is a feeling of which I cannot divest myself, and I would not if I could. The Bill against which I appeal is not alone a Bill affecting the rights of the Church to which I belong, but one which strikes at the root of principles hallowed by the sanction of centuries, and blended in the very body of the British Constitution. In attempting to put a stop to its progress, it may be said with truth that I appear in the name and on the behalf of every individual of this Province, and through my voice tens of thousands cry against it, for if this measure pass, where is the right so sacred, where is the liberty so inviolable, where is there life or limb secure, from the destroying power of legislative enactments? When I contemplate the interests involved in this question, when my mind dwells upon the great and fundamental principles which its success or failure must destroy or confirm, it is a subject of regret to me that the cause of King's College has not been committed to an older advocate than myself,—to an older and more experienced man; but this I know, although the choice might have fallen upon an older and a more experienced advocate, it could not have been entrusted to one who would have entered upon it with a deeper feeling of interest in the question, than myself. There was a time when the College might have chosen for its Counsel a gentleman, whose transcendant abilities all the Bar of Upper Canada justly acknowledges, and who upon a previous occasion had so ably and so eloquently advocated its cause. But it could no longer do so: his opinions have undergone a change: he could no longer appear to plead its cause, for he is a member of the Colonial Legislature, and the author of the measure against which it appeals. I have too high an opinion of my profession to suppose that any little paltry consequences springing out of the position of that Hon. gentleman have induced him to change his mind, and to give the weight of the authority of his opinion to this measure; on the contrary, I feel bound to believe that the new action he has taken in this matter has sprung from a sense of duty and rectitude of purpose. The cause of King's College having been entrusted to my advocacy, I desire on its behalf to give the true history of the original grant and Charter, and the nature and extent of the legislative amendment made thereto, things which I have reason to believe are not generally correctly known. It is well known that long prior to the foundation of King's College, in the year 1797, an appropriation of lands was made for two purposes; the first was for the endowment of Grammar Schools, and the second for the establishment of an University. Now, I will ask, had an University been founded at that time upon the provision then made, and a Charter granted thereto, with an endowment from the Crown, would it have been other than a Charter in its character exclusively Church of England? No! every man knows that such would not have been the case—no man will contend that the Charter that would have been given would not have been to all intents and purposes an exclusive Charter, —a Charter in every respect similar to those of the Universities of England. When these lands were set apart, it was with the full intention of the Crown that they should be granted as endowment to an institution whose Charter was in the same terms as that under which King's College was originally erected. But it has been said that these Grammar School Lands have been changed from the original intention, diverted from the purpose to which it was intended that they should be applied. What are the facts? When in 1825 a Corporation of Upper Canada, called the Canada Company, contracted for the purchase from the Government of the Crown and Clergy Reserves, the latter having afterwards been given up by agreement, a difficulty arose in consequence of a large portion of the Crown Reserves being then in lease, and these leased lands, to the extent of 228,000 acres, were excluded from the sale, either because the Crown did not desire to sell them from under the lessees, or because the Canada Company did not choose to take them with all the liabilities attached to them, and the trouble that they might have in completing the sale. An application was then made to the Government of the day, that these Crown Reserves might be granted to the University in lieu of the same number of acres of the University and School Lands, which should be retained by the Crown, and the Crown having assented to this application, these Crown Reserves were set apart for the University, and the same quantity of the lands previously set apart for the University and Schools was resumed by the Crown, those resumed lands being of very inferior quality, and thereby instead of the Grammar School Lands being diminished in value, they actually received a better quality of land than they were actually entitled to obtain under the original reservation. Upon application these lands were given to the University, and in exchange an equal quantity restored of bad lands in various parts, and the whole endowment applied as at first intended. There can be no question with respect to King's College itself, that when the venerable prelate now at the head of the Diocese of Toronto applied for its Charter of incorporation—and in saying this I believe I shall be borne out by a member of this Hon. Assembly who was at the time in London—I say that when that venerable prelate applied for that charter, it was with difficulty obtained, because it was not of a sufficiently exclusive character, because it did not prescribe the taking of the usual tests by students. The Government of the day and the Archbishop of Canterbury considered that it was not restrictive enough, and they wanted the tests to be introduced into the Charter. How, then, if this was the case,—if instead of the Church of England desiring to impose the tests and restrictions before existing, the Archdeacon of York had pleaded with the Crown to grant this charter without these restrictive clauses, and with difficulty obtained it as a concession from the Government—how, then, can it be said that the Church of England wishes to impose restrictions upon learning, that she wishes to cramp it by the operation of her religious observances, and to confine University education to youth who acknowledge her doctrine, alone. And let it be remembered that this was the first instance in which a charter of such a liberal character had been granted by the British Government—it was the first instance in which a charter given by the Crown, and endowed by the Crown, had been granted without these restrictive tests. I would ask any one to point out where is the charter granted in any colony which is not of a Church of England character? I would ask, who can point out a single instance in which that character was not conferred upon the Institution so founded—a single instance in which those restrictions were abandoned, until conceded to the Charter of King's College? Let the Colleges of Nova Scotia, of New Brunswick, of the Bahamas, of Calcutta, be referred to, and all will be found to be Church of England Institutions. How, then, can it be said, that attempts have been made to give this Institution a character it was not intended to possess—how, then, can it be said that fraud or deception has been practised to obtain the exclusive use of its benefits to the members of the Church of England, when it is shown that in every like Institution incorporated up to the time that it received its charter, the same exclusion was made a vital portion of its character, and in no one instance has it been done away with. It is true, that this charter, divested of the usual restrictions, was made the foundation of others, and for the second time another College was established without them. To apply myself to the charge of fraud or misrepresentation, said to have been practised by those who obtained the Charter of King's College, which is the first point which now demands my attention—how can it be said with any show of truth or reason, that either fraud or misrepresentation was used to obtain the Charter of King's College as it stood, when it is known that prior to it there is not an instance of a charter having been granted without an exclusive Church of England character? Then, in what position is King's College placed by this Bill? Is it nothing that at this late period of the Session, a Bill should be introduced to destroy that institution, to despoil it of its liberties and privileges, to take away and to distribute its endowment, without a copy of that Bill having been officially sent up to the College, for at the time I left Toronto, no such copy had been received there? Is it too much to say that the College has been taken by surprise, when it had no other guide but public rumour in judging of the nature of this measure, and was not able to put into my hands *a brief* founded upon the provisions of this Bill? Is it too much for it to ask, when on this account it pleads for delay—when it pleads for delay, because it believes that every member of the Church of England looks upon this University as now constituted as an established right—because it believes that this Bill is no more satisfactory to other denominations than it is to the Church of England,—is it then, I say, too much for me to ask for delay for this Session, that when next this Honorable body shall assemble, their table may groan under the weight of petitions from the East and from the West, from the North and from the South, against this measure? Is it too much for me to ask, when I declare that those petitions will receive the signatures of 20,000 inhabitants of Upper Canada at least, the signatures of men not confined to the Church of England, but Roman Catholics, Methodists, Unitarians, aye, and even Presbyterians too? The Council of King's College felt deeply the manner in which it had been treated, in respect of a measure affecting its existence, and have placed in my hands a series of Resolutions, embodying their feelings upon the subject of the proposed alteration, or rather destruction of its Charter, directing me to read them to your Honorable House, as a protest against this Bill, that it may not again be said that it consented to the surrender of its Charter, and because it cannot consent to any Legislative interference. It complains of the way in which it has been treated in this matter, when no official notice was given to the Corporation of the College that it was the intention of the Government to introduce a Bill of this nature, this Session; and it protests against this oppressive and violent spoliation, for I, as an advocate, must call things by their right names, and I should detract from the honour of my profession if I did not, and spoliation is the right name for this act. On account of its not having received that notice which was its due, from the Administration, in an assembly of its Council, an assembly not confined to Members of the Church of England, it passed these Resolutions, which I shall now proceed to read to this Honorable House:—

Whereas the College Council have within two days been put in possession (not officially), of three bills, which are stated to have been already introduced into the Legislative Assembly, by one of which it is among other things proposed to be enacted that "notwithstanding any thing contained in the Charter of the University of King's College, the said College shall not hereafter have, exercise, or enjoy, any of the rights, powers, and privileges of an University, or hold any convocation, or confer any degrees." And by another of the said bills, it is proposed to be enacted that there shall be erected and established at or near the city of Toronto an University, to be called the "University of Upper Canada," with power to "confer degrees," but from which the authority is to be expressly withheld of "passing any statute, rule, or regulation for religious observances by the Students of the said University." And by the other of the said bills it is proposed to be enacted "that as soon as the intended new University shall be established, all and every the land and other real estate and effects which have been granted by the Crown to King's College, and all monies, debentures, and securities for money of what nature or kind soever, arising from the sale or rental of any lands so granted as aforesaid, or purchased or procured or taken by, for, or through the means of any such lands, or any sale or leasing thereof, or for the security of any debt due to the said University of King's College now in its possession, or to which the said King's College is legally or equitably entitled, shall be vested in and become the property of the University of Upper Canada"—

Resolved, 1. That this remarkable project of transferring from the Corporation created by the Crown all the property to which it is legally or equitably entitled, to another corporation to be created by the Colonial Legislature, seems to be founded upon an assumption that by allowing the Colonial Legislature [most unwisely, as the event has proved] to make a few alterations in the Royal Charter, chiefly for the purpose of dispensing with tests which are only matters of positive regulation in regard to discipline, the identity of the College has been destroyed, so that its estates have become common property, and may be applied to the support of any other Institution.

2. That such an assumption is as clearly contrary to law, as it is to reason and justice.

3. That considering that the privileges which it is thus proposed to abolish, were conferred upon King's College by a Royal Charter under the great Seal of England—that they have not been in any manner abused, and that no allegation of the kind has been made the ground of these measures; considering that the property which is thus to be torn from its lawful possessors, was granted to King's College by his late Majesty King George the Fourth, by letters patent such as form the foundation of every man's title to real estate in Upper Canada; considering also that the representative of the Crown in this Province is, by the Royal Charter, Chancellor of the University of King's College, we cannot but think that we might have reasonably looked to the law officer of the Crown for the most strenuous support in opposing measures so directly repugnant to the royal grants, as those of which he has consented to be the introducer.

4. That what aggravates, if it be possible, the injustice of the proposed measures, is the extraordinary circumstance, that while by these Bills it is proposed to leave Queen's College and Victoria College the option of retaining all the privileges of their Charters, or surrendering them in their discretion, and of attaching themselves to the intended new University, no such option is to be afforded to King's College, which is to be stripped peremptorily and at once of all the privileges and property which it enjoys under its Charter.

5. That except by a short and imperfect memorandum communicated to two of its members, which they were not at liberty to notice or to make the ground of any discussion or proceeding, no opportunity whatever has been afforded to the Council of knowing, still less of addressing themselves officially to the Government in respect to these measures, which seem to have been deliberately resolved upon for annihilating the privileges of the College, and depriving the corporation of the property.

6. That upon whatever considerations the Government of this Province may have thought it right to deny to the corporation, the protection of those legal principles, to which other corporations throughout the British dominions owe the security of their rights and property, it is in our opinion the duty of the College Council to contend to the utmost against measures, which they believe to be unsanctioned by any precedent or authority—that if it shall become necessary they will appeal for the purpose to the Government in England,—and will pursue every legal remedy within their power to the last resort—feeling a strong assurance, that when the subject comes to be calmly discussed and clearly understood, both the love of justice and the fear of consequences must lead to the admission, that those legal and constitutional principles which are every where essential to the security of property, can no more be withheld from King's College than from other corporations.

But if, at the last, it shall appear that the intended destruction of the rights of the corporation, which we represent, must be successful, (which we do not think possible), we shall, at the least, have the consolation of having done our duty in resisting measures such as we believe will have been, up to that time, wholly without example; but to which cupidity and love of change, when found to be unfettered by any legal restrictions, will render it difficult hereafter to set bounds.

I read these resolutions, that it may not be said hereafter that the Corporation of King's College had not protested against the Bill in the strongest manner —that the members of this honourable body may not be able to say that it did not to the utmost of its power protest against this high-handed act of spoliation, because it only sent counsel to appeal against it. The Council of King's College desire that this record of their opinion shall be handed down to posterity, that there shall be nothing found in their acts by which a neglect of duty can be charged against them,—that there may be nothing implied from any act left undone that they have surrendered in one tittle the trust placed in their hands. It has been for years an established principle of Constitutional law, that the Crown, having once granted a charter, has not, at any future period, a right to interfere therewith, to demand any alteration of its provisions, or to dictate any new method in its management. This was a principle fully admitted during the reign of Edward III., and was then old and established beyond a doubt. It is admitted that with respect to such corporations as require the aid of parliament for the creation of some of their powers, the principle is different, and were the King's College placed in that position, its case would be altered as regards immunity from all interference. It is well known, for I believe that every member of this honourable House has seen the able speech delivered before this branch of the Legislature, by the learned counsel entrusted with the defence of the rights of King's College, at the last Parliament in Upper Canada; it is well known, I say, that in no other instance but this, has a charter of this nature, granted by the Crown, been attempted to be interfered with by any other power than the Crown itself. It is well known that the franchise, such as is given to corporations, must proceed from the Crown alone. It is well known that the Imperial Parliament has not within itself the power to erect an University, therefore is the Crown, and the Crown alone, the proper authority to seek any amendment or alteration in a covenant in the first place made between that corporation and the Crown. And why is it so—why is it that the Crown alone can create a University? Because the Crown is the fountain of honours, and degrees conferred by Universities being honours, therefore it is necessary that the charters of all institutions, conferring that which is a portion of its prerogative, should proceed from the Crown.—There is no doubt that the Crown can refuse its consent to any measure contrary to the prerogative, but in these enlightened days it seldom interferes, unless the measure submitted for its sanction is one which trenches upon the power of the Sovereign. But it is laid down in every book upon Constitutional law that the Crown can refuse its consent when it thinks fit.—It is known that in the Imperial Parliament the Sovereign can, without reproach, refuse to assent to any measure which attacks or abridges the prerogative; and if it is so in the Imperial Parliament, how much the more so is it here in a Colonial Legislature! But the Crown has no more right to take away a right once granted than an individual has to recall a gift given and accepted. By the granting of a charter, the Crown has pledged its faith upon its inviolability, and it cannot, at any future period, draw back—it has guaranteed the enjoyment of certain rights and privileges to the holders, and it can never take them away without their consent. When once a charter has been granted, the Crown, being the granter, cannot recall that gift: but it can, if the corporation require it, grant another, which, however, the latter is not bound to receive; it may refuse it altogether, if it thinks proper, or it may receive that portion of it which accords with its views and reject the rest. If that is the case—and that it is the law, none will deny, for it has been clearly and explicitly laid down by Lords Mansfield and Kenyon, and others of the ablest interpreters of the laws of England—in what position does King's College stand? It may be asked why I desire to show that the granting of a second charter does not destroy the first; that its acceptance is not compulsory, and that it may be in part accepted and in part refused. I answer that it is because I wish to prove that the charter first granted to King's College was not entirely abrogated by the amendments made therein by the Provincial Legislature, but that those amendments subsequently made might be in part accepted and in part refused. If chartered corporations have the power to accept and refuse so much of the amendments made to the original covenant as they think fit—and that is a point which, it must be admitted, is clearly established—are there not many acts done by the University of King's College, which, I might contend, in absence of evidence to the contrary, would prove that they did not receive in whole the amendments made by the Legislature.—The charter of King's College, as originally granted, provided that there should be therein a Professor of Divinity, who should be a member of the Church of England, and who should subscribe the articles and tests of the University of Oxford; that that Professor should confer only those degrees in Divinity which he could confer upon members of his own Church subscribing in like manner. But the amendment of 1837 established a different principle entirely; it said that no religious test should be required of students, or those admitted to take degrees. What is the case as respects the Professorship of Divinity, and the religious observances in that College? Has there been one single act done, or is there any proof to show that it accepted this portion of the amendment? No; if it desired to take this ground, there is nothing to declare that it did accept it, and, therefore, it could not now be brought under its provisions if it still refused to receive it. How, then, does the College stand as regards the law, in the absence of proof of the acceptance of the whole amended charter? Its original charter is not destroyed by the modifications of the second, and the amendments of the second can only be applied to it so far as they have been accepted, it being left optional with the corporation to receive such parts as it pleased, and those only; and abundant evidence might then perhaps be adduced to show that King's College has not accepted that portion of the amendment to which I have just now referred. Does it appear that they have adopted that part which says there shall be no longer any religious test administered? No! Does it appear that they have adopted that part which provides that degrees in Divinity may be conferred upon others than those subscribing the doctrines of the Church of England? No! I may contend that the religious observances of the institution, and its proceedings, stamp it to be a Church of England University. I may contend that it is not changed; that the alterations presented by the Statute of Amendment were not received, were not acted upon, were not acknowledged; but that from the time when it was first created until now, it has been, and still is, in very deed a Church of England University. The Professor of Divinity is now a Professor of the Church of England, and if degrees were conferred, would they not be conferred on those alone who subscribe to the Articles and take the tests prescribed by that Church? Therefore, in the absence of such evidence, I might hold it to be proved, that, in its power to do so, in so much has the College rejected the amendments of the Legislature, and that it has accepted them in so much only as it has acted up to their provisions. And shall it now be said that it is to be deprived of all its rights, stripped of its endowments, and placed in the extraordinary and humiliating position in which this Bill aims to place it, upon the plea that its acceptance of these amendments has justified the course, when I have been able to contend that there is no evidence whatever that these amendments have been all received? Yes, I ask, is this to be done under the plea that it is an act of kindness, that it is a work of mercy, that it is all for its benefit;—what! all for its good, when its privileges are gone?—what! all for its benefit, when its endowment is taken away and parcelled out?—Meet me upon the highway, and, having robbed me of my purse, leave me to get through a foreign land without it, and then tell me that it is an act of charity; then try to persuade me that it is all for my own good! If the law in Canada is the same as in England, it is established that the original charter was not destroyed by the amended one; that the College was not bound to receive the amended charter, as a whole; and that there is no proof that it did receive it. Now, let us turn to another country, a country on the same hemisphere, but now under different institutions to our own —let us turn to the United States of America, and learn how chartered grants made by the Crown of Great Britain, when that country was one of its colonies, were treated by the Crown itself. Do we not know that many grants of land were made in the then British Colonies, and many charters granted for proprietary governments therein? In these covenants between the Crown and the grantee, there were certain conditions made as well as a property granted, and, therefore, in failure of the acts covenanted to be done by the grantee, such grants may be looked upon as subject to the same treatment as corporate institutions whose charters were forfeited by nonuser, or abuse? And do we not know that cases did arise in which the Crown was called upon to interfere in consequence of the misuser of these grants; but that it had no authority to destroy the charter without judgment having been first rendered against it upon a prosecution for nonconformance with its covenants? Do we not know that even when judgment was rendered against the charter, and by that judgment it ceased to exist, yet the Crown did in no instance proceed one step further —that it never exercised its authority to take away the property, although that property was granted by the Crown in consideration of the performance of the service the sentence of forfeiture against the charter declared to have been unfulfilled? I say, if this can be shown from history—if I can prove that such has been the law, as acknowledged by some of the greatest and most learned Crown Officers of Great Britain, and that it has, in every case, been fully acted up to—if I can prove this, I say, who can point out why a new law and a new practice is to be made for King's College? If it can be shown that the Crown has not exercised the power of resuming a grant thus made, and thus forfeited; that it has not the power to take away a charter given, without a judicial judgment, rendered against the holder upon a specific accusation, surely the legislature can have no authority to assume a higher prerogative—surely this is a strong reason why it should not interfere at this time? A proprietary charter was granted to Lord Baltimore upon certain conditions, the Crown subsequently found that these conditions were neglected, that the powers conferred by the charter were not exercised according to its provisions, but most shamefully abused. Under these circumstances, let me ask, did it take away the charter by a summary process? Did it by a legislative act step in between its own act and the grantee, and, destroying the first, strip the latter of his grant? No, it was not so; but specific charges were made against Lord Baltimore, those accusations were preferred in a judicial court, judgments were obtained upon them, and the civil government conferred by the charter upon his lordship, was taken away by the course of law. But although the government was taken away for misuser and nonfulfillment of the covenants upon which it and the grant of land attached thereto were obtained—although the charter itself was revoked and destroyed, yet the land was not resumed, but still remained vested in the grantee as securely as though his charter still existed, and all its covenants had been fulfilled. Such was the manner that the Crown in those days regarded the rights which it had conferred by its grants; such was the sacred character placed upon the grants of its charters, that it acknowledged that its further interference would be contrary to law, and jealous of its own rights, it was still more jealous of the rights of its subjects, and it never so much as pretended that it had the power to take back an endowment, when once it was granted, without the consent of the grantee.—Then, I say, are not these things proved—that the Crown cannot take away a charter without a judgment; that even in cases where that judgment has been rendered, it has not recalled or divested the right of property granted, though it has resumed the right of government; and that the Crown cannot, after having once conferred a charter, force a second upon the grantee, but must leave him free to accept or reject it in part or whole, as he may think fit. If the Crown, after the granting of one charter, shall confer a second upon the corporation, and they shall find therein something new, some advantageous privilege or greater immunity than was bestowed by the first, they may accept it in so far as relates to that single provision; or if they find nothing therein to complain against, they may accept it as a whole; but the acceptance of this second charter in no ways destroys the operation or power of the first, but is an addition thereto. In this manner, it is well known that in England there exist corporations holding their rights under more than a dozen charters, granted under different Sovereigns, and each conferring some new privilege, or to meet some new emergency, and yet all these charters have been accepted without the one destroying the authority of another. Therefore the granting of the Amended Charter of King's College did not annul the original, nor did it take away its powers; the Act of 1837, on the contrary, acknowledges that Charter, and, acknowledging it, acts upon it by reciting it. The Act of 1837 never pretended to take away the original charter, but it professed to be an amendment of it; and I have contended, in so far as those amendments shall be proved to have been accepted by the Corporation of King's College, in so far as it received them—thus far, and no farther, does their effect go. That Act, as regards the Corporation of King's College, stands in the same position as if it were a new charter granted by the Crown, and as the Crown had not the power to force a new charter upon the University against its will, so has not the Legislature authority to compel its acceptance of those amendments in a greater degree than the College thinks fit to comply. Might I not urge that the Corporation of King's College has not accepted the amended charter as a whole;—might I not urge that it has been brought as an accusation against it, that the University has never been divested of its character as a Church of England institution, retaining to this time its Divinity Professorship in the same manner as it was entitled to do under its original charter, although it cannot but be admitted by all parties that it is open for the education of the youth of all denominations of Christians in the Province.—Then, I say, if the Crown had not the power to force these amendments upon the College, surely the Colonial Legislature has not? If it is unjust in the Crown to interfere in its endowment—if it is contrary to law for it to strip it of its property—surely it is not just or legal for a Colonial Legislature to do so? It was determined, in Sir James Smith's case, reported in 4, mod. 52, that the Corporation of London was not dissolved by the judgment as recited in the Act of 11 W. and M., Stat. 1, ch. 8, which was, "that the liberty, franchise, and privilege of the city of London, being a body politic, and should be seized," for the word "of" being omitted before the word "being," the judgment was not against the corporate existence of this city, but against the franchises it enjoyed, and Holt said, that a corporation might still exist after its franchises were taken away, for that these were not essential to it, but only a privilege appertaining to it. The primary judgment passed upon a corporation for abuse is, that its rights, liberties, immunities, and properties be seized until further ordered; and the final judgment is, that they be seized into the king's hands; but so jealous is the English Legislature of privileges and grants, that, in consequence of this error, it declared the judgment to extend no further than to strip the corporation of its franchise, and still allowed it to exist in every other respect. How, then, can this Honourable House lay claim to an omnipotence which the superior Legislature, which by its act created this, never assumed? How is it possible that a Colonial Legislature can claim to exercise a higher authority in this matter than that which gave it existence, and which has the power, by its act, at any time to dissolve it? The Imperial Parliament, theoretically, is omnipotent; but it does not turn its power against the law. The Colonial Legislature has power only over such matters as are committed to it by its constitution, and yet it would now arrogate an authority equal to that of the Imperial Parliament, and greater than that of the King himself. If this Colonial Legislature passes an Act which militates against the Statutes of the Imperial Parliament, that Act is void by the provisions of the constitution which gave both to the Colonial Legislature. The Colonial Legislature has power to make such loans as are not repugnant to the Imperial Statute by which it was called into existence; and such is the constitution under which this House holds its rights, that any law which it may pass that is contrary to the provisions of the Act of Union, or of any Act of the Imperial Parliament which refers expressly or by intendment to Upper or Lower Canada, or to Canada, becomes, in virtue of this restriction, null, void, and of no effect. And, I would ask, is there not something in this Bill for the destruction of King's College, and the destruction of its property, which touches upon a law of England, which contravenes its very spirit, aye, which strikes at the root of one of the fundamental principles of the British Constitution. The Act of Union provides that all those laws of England which, by necessary intendment, applied to either Upper or Lower Canada prior to the passage of that Act, shall still continue in force.—And, I ask the Members of this Honourable House, I appeal to you, whether there is not something in the provisions of *Magna Charta*, which, by necessary intendment, applied to Upper and Lower Canada prior to the Union, although they did not exist as dependencies of England when that Charter was given, and which has been perpetuated by that Act? I ask, whether the stipulations of *Magna Charta*, that no man shall be disseized of his liberties, lands, or tenements, without trial in due course of law, were not in force in Canada prior to the Union, and are they not now existing? Is it possible that it shall be said that the subjects of the British Crown in Canada are not entitled to the same privileges—are not possessed of the same liberties—are not guarded by the same immunities that British subjects are in other dependencies of the Empire? But if, as I have said, if British subjects in this Colony are clothed with all the rights possessed by those in the Mother Country, then I say that this Bill is an act in contravention of one of the great principles of Magna Charta; that it is one of those acts which, militating against the laws of the Imperial Parliament, is declared by the Act which creates this Assembly to be null, void, and of none effect. The 46th section of the Union Act declares that all laws then in force in Upper and Lower Canada, which have not been expressly repealed or varied by that Act, or shall not be repealed or varied by any Act of the Legislature of Canada, shall, to all intents and purposes, continue to subsist. But was there not, prior to the Union Act, any law, other than the application by necessary intendment of Magna Charta, which bears upon this question? Yes! there was; the first Act passed in Upper Canada, in the year 1792, declares that in all matters of controversy relative to property and civil rights, resort should be had to the English laws as they then stood, for the rule of decision, and one of those laws was that provision of Magna Charta which laid down that no man should be disseized of his liberty, lands, or tenements, without trial according to law. Then is Magna Charta clearly one of those laws perpetuated by the 46th section of the Act of Union, and therefore I say that the Bill before this Honourable House is one which it cannot pass, because it is unconstitutional—because it is in express contravention of an existing law, and contrary to the provisions of that Act of the Imperial Parliament which created this honourable body. This I hold to be the correct view of the case, based upon laws all affirming each other. Now let me look at this Act, which has been brought forward at so late a period, and which is sought to be carried through the Legislature. Let us look at this Act in its true character. Is it a legislative Act—is it an Act which it is competent to a simply legislative body to perfect as such? No, it is no legislative Act, but a judicial Act, an Act enforcing all the authorities of a judicature, for can it be said that an Act which forfeits lands—which takes away rights, liberties, and immunities—destroying an University, is not a judicial Act? If, then, it is a judicial Act, and I contend that such it is to all intents and purposes, why has it not been preceded by all the forms that would have been observed by a judicial body? I would ask, in what manner would a Court of Law have proceeded in such a case; would it have required no testimony?—would it have made no enquiry?—but, taking the truth of every accusation for granted, declared the rights of this College to be forfeited; or, upon the motion of one party, decided against the other, destroyed his privileges, and taken away his property without due process? No! in a Court of Law no such steps would be taken, no such high-handed and oppressive acts would be tolerated; and, therefore, if this House desired to act in a judicial capacity, it surely ought to proceed in the same manner, and with the same forms that would be observed in a Court of Law. Then ought a charge to have been brought against the University by Her Majesty's Attorney General, and the abuses and misuser of the charter proved; then, if this House has any power to proceed in such matters, it would have done so on some grounds; and would not be, as now, found laying itself open to the charge of attempting to deprive a chartered Institution of its rights, its property, its very existence, without an accusation against it, without one crime laid to its charge, not to say proved against it. If it was as it had been said, that this charter had been obtained by misrepresentation, that the Crown had been deceived at the time it granted it, if the matter had not been in the beginning properly stated, there were two ways open, legal and constitutional ways, by which a remedy could be obtained; either by petition to the Crown, or by a writ of *fieri facias*. Then, if it were found that there was nothing against the charter, but that it had been obtained by surprise and improper means, the judgment of a court of law would be, that the grant should be repealed. These two ways were open to the opponents of the College, and by either of them, had there been good cause, its charter might have been destroyed, or resumed by the Crown, and it is clear that these legal and constitutional means not having been taken by the Legislature, it cannot now, with any show of justice, attempt to effect it by worse means. It may be pretended that this corporation may be dealt with in the same manner as a public corporation, and that therefore the Legislature has a right to interfere with its charter, because, although chartered by the Crown, it was endowed with public lands. But I contend that the corporation of King's College is a lay eleemosynary corporation, and although it grants degrees, that circumstance does not alter its position; and it is still in every respect one over which the public can exercise no control. It is clear that a private individual could found a college, endow it, and upon that foundation and endowment, obtain a charter as unrestrained as the most liberal can desire; that college might open its doors to admit persons of all denominations, and such a corporation would undoubtedly be a benefit to the public; and the charter obtained on this foundation might commence in the same manner as the preamble of the charter of King's College. But could it be said that because it was open to all denominations, without reference to sect or religion, that the Legislature of England could call it a public institution, and would presume to deal with it accordingly? Would it not be contended that any act of legislation thereupon would be an interference with private rights, and contrary to every just and equitable principle? Would not the interference of the Legislature in such a case be scouted? and what is the difference between that case and the one before this honourable House? In this case, the Crown has granted the lands which form the endowment; but does that grant make the institution more a public one than if the grant had been made by a private individual? Is there a single law which can be pointed out—is there a single existing principle in the British Constitution, upon which it can be said to do so? Has not the Crown a right to take its property and give it to individuals? Do not all who hold lands in this Province, hold them under a grant from the Crown? And if the Legislature has a right to deal with grants of lands to Universities, why has it not the right to interfere with those made to private individuals? Will it be said that in the magnitude of the grant, consists the difference—is it to be pretended that the rule which obtains in great matters, does not apply to small? Then why are not the Townships of Dumfries, of Molton, and of Woolwich, consisting in the whole of 90,000 acres, granted to three individuals—why then, I say, are not these lands resumed? In the township of Woolwich 25,000 acres still stand in the name of the original grantee—why are they not taken back, and applied to public purposes, to the making of roads and the building of bridges? Why is not the same course pursued with what remains unalienated of the Townships of Molton and Dumfries? If lands are to be resumed here, why are they not resumed there? The same principle which applies to 280,000 acres, must apply to 20; the same law must govern all, much or little; and then every man's title to his property will depend upon the will of the Legislature, if it is required for what it conceives to be the public use. The moment that the Charter and endowment was given to King's College, that moment were all its rights, immunities, powers, and privileges entitled to the same protection as if they had been conferred upon a College founded by a private individual. In what respect can it be called a public Institution, and subject to the control and interference of the Legislature? Are its Professors, its corporation or governing body, accountable to the Legislature in any manner? No! there is no way in which it can be said to be a public Institution, but it is entitled to all the privileges and protection of a private Corporation. By the statute 43rd of Elizabeth, chap. 4, Colleges are enumerated among the charities declared by that Act. And Lord Hardwick has laid down "that the charter of the Crown cannot make a charity more or less public, but only more permanent than it would otherwise be;" therefore it is clear that the possession of a Charter does not make this institution more public, or more liable to legislation; but in its position as a lay eleemosynary Corporation, it is as private as a Corporation chartered on the endowment of a private individual. The same doctrine had been decided with respect to St. Catherine's Hall College, which was declared to be a charity within the Statute of Elizabeth.

(To be concluded in our next.)

THE SIN OF DIVES.

It ought never to be left out of sight or forgotten, that it is not the primary purpose of the Parable to teach the fearful consequences which will follow on the abuse of wealth, and on the hard-hearted contempt of the poor,—this only subordinately,—but the fearful consequences of unbelief, of having the heart set on this world, and refusing to give credence to the invisible world which is here known only to faith, until by a miserable and too late experience of existence of such an unseen world, has been discovered. The sin of Dives, in its root, is unbelief: hard-hearted contempt of the poor, luxurious squandering on self, are only the forms which it takes,—the seat of the disease is within,—these are but the running sores which witness for the inward plague. He who believes not in an invisible world of righteousness and truth and spiritual joy, must of necessity place his hope in the things which he sees, which he can touch, and taste, and smell,—will come to trust in them, and to look from them for his blessedness, while he knows of no other: it is not of the essence of the matter, whether he hoards or squanders—in either case, he sets his hope on the world. He who believes not in a God, delighting in mercy and loving-kindness, and that will be an abundant rewarder of them that have