Muhlenberg Co

Scholarly Culture and Character.

AN ADDRESS

DELIVERED AT THE ANNIVERSARY OF

Greenville Presbyterial Academy,

GREENVILLE, KY., JUNE 23, 1858.

BY WILLIAM BISHOP.

LOUISVILLE:
HULL & BROTHER, PRINTERS, MAIN STREET.
1858.

GREENVILLE PRESBYTERIAL ACADEMY.

The next session of this Institution will open under favorable auspices, on the first Monday of September next. Its success during the two years of its existence has exceeded expectations, and inspired confidence in its future support and enlargement. It is the desire of its conductors to render it an efficient agent for the promotion of sound and useful education, for the diffusion of moral and religious truth, for the preparation of young men for the successful prosecution of the studies connected with the learned professions.

The government will be parental, mild, yet firm. No youth will be admitted who refuses to comply with the rules; nor will any one be retained who repeatedly violates them. The absence of the usual incentives to vice, the general morality, the quiet retirement, and the remarkable salubrity of the village, make it a safe and eligible place for the instruction of youth.

The Academic building is large and commodious. It is already furnished with a Library of 1000 volumes for the use of the students, and will from time to time be supplied with all necessary apparatus. The course of study will be somewhat governed by the previous acquirements of the pupil, and the extent to which he proposes to prosecute his education. Four years will suffice for the entire academic course, the youth being reasonably well prepared on admission.

PREPARATORY DEPARTMENT.

FIRST SESSION.

Town's Analysis,
Reading,
English Grammar, (Bullion's,)
Arithmetic, (Ray's,)
Geography, (Colton's,)

SECOND SESSION.

Town's Analysis
Reading Continued,
English Grammar continued,
Arithmetic, (Ray's,)
Physical Geography, (Colton's,)

ACADEMIC DEPARTMENT.

FIRST YEAR.

FIRST SESSION.

Latin Grammar and Reader, (Bullion's,)
Greek Grammar and Reader, (Bullions,)
Elementary Algebra, (Davies')
Analysis and Synthesis, English Language,
Plane Geometry, (Davies' Legendre,)

SECOND SESSION.

Latin Reader, Cæsar's Commentaries,
Greek Reader,
Algebra to Quadratics, (Robinson's,)
Plane Trigonometry, (Davies',)
Surveying, (Davies'.)

SECOND YEAR.

FIRST SESSION.

Virgil, (Cooper's,) Latin Prosody,
Xenophon's Anabasis, (Owen's.)
Latin and Greek Prose Composition,
Solid and Spherical Geometry, (Davies')
Spherical Trigonometry, (Davies'.)

SECOND SESSION.

Cicero's Orations—Livy, (Lincoln's,)
Herodotus—Iliad of Homer, (Owen's,)
Analytical Geometry, (Davies',)
Latin and Greek Prose Composition continued,
Ancient History, (Weber.)

THIRD YEAR.

FIRST SESSION.

Livy, Horace, (Lincoln,)
Iliad of Homer, Greek Prosody,
Analytical Geometry, (Davies',)
Natural Philosophy—Mechanics, (Olmsted,)
Modern History, (Weber,)
Rhetoric, (Blair.)

SECOND SESSION.

Tacitus Germania and Agricola,
Demosthenes De Corona, (Champlin's,)
Natural Philosophy, Pneumatics, Hydrostatics,
Hydrodynamics, Acoustics, Magnetism, Electricity, Optics,
Logic, (Whately.)

FOURTH YEAR.

FIRST SESSION.

Cicero, Tusculans-Quintilian,
Æschylus, Prometheus, (Wolsey,)
Political Economy, (Wayland's,)
Psychology, (Walker's Reid,)
Chemistry, (Silliman,)
Natural Theology, (Paley,)
Astronomy, (Olmsted.)

SECOND SESSION.

Moral Philosophy, (Stewart,)
Sir W. Hamilton's Metaphysics.
Geology, Botany,
Political Philosophy,
Evidences of Christianity,
Anatomy and Physiology,
Lectures on Latin and Greek Languages and Literature.

* Those who do not desire to study the classics may omit them, and taking Mathematics and the Natural Sciences, complete a scientific course in two years. From the above scheme, it may be seen that the course will be as thorough as in any of our Western Colleges.

TUITION FEES—Preparatory Department, per session of five months, $15. Academic Department, $20, with $1 extra. No deduction for absence except in cases of protracted illness. One-half fees in advance. Genteel Boarding in private families at from $2 to $2 50 per week, including fuel, lights, washing, and lodging.

EDWARD RUMSEY, President, Professor of Rhetoric, Logic and Political Economy; JAMES KENNEDY PATTERSON, Professor of Mathematics, Latin, and Natural Science; WILLIAM KENNEDY PATTERSON, Professor of Mathematics and Greek.

(see third page of cover.

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Professor Bishop:

Dear Sir—The undersigned—a committee on the part of the students and friends of the Greenville, Presbyterial Academy—respectfully requst a copy of your Address for publication.

C. F. Wing,
Edward Rumsey,
E. R. Weir, Jr.,
Jonathan Short,
D. W. Eaves.

Greenville, Ky., June 24, 1858.

Gentlemen:

The Address to which you refer is at your disposal.

Wm. Bishop.

To Hon. Edward Rumsey, C. F. Wing, and others.

Louisville, Ky., June 30, 1858.

ADDRESS.

Young Gentlemen of Greenville Academy, and Friends of Education:

We meet on this occasion to express our affection for this Institution and for the cause of human learning. The friends and managers of this Academy design that it shall be a school where young men may receive that discipline of mind and heart which shall fit them for duty and destiny. The students and their parents, the teachers and directors, all have the same object in view, and that is, to lay the basis of a sound and valuable scholarship. In accordance, therefore, with this purpose and the spirit of this hour, I would speak to you on the great topic of human culture and character. With becoming modesty, "I, also, will show you mine opinion."

Some one has said, "Speak the true word, and live the true life." Such a word would I now speak to you, and such a life be it yours to live on earth and in the skies. "Lend me your ears" while I endeavor to analyze the elements that enter into the constitution and character of the true scholar. I would draw an outline or running sketch that may serve as a picture for the student to gaze upon. Thus he may be stimulated to an honorable exertion, and cheerfully and successfully put forth his intellectual energies. My theme is, the Scholar—the grand characteristics of his culture and character. And certainly it is a question of the deepest interest to every human being—so thought the king of thinkers among a nation of thinkers—"Man cannot propose a higher and holier object for his study than education and all that appertains to education."* So have thought the wise and good in every age. Some of the profoundest problems of civilization and humanity are connected with the educational question. As the great laws of the human mind must remain the same, so the

* Plato.

leading principles in the philosophy of education, must be the same, though they are susceptible of new applications with the changing condition of man. Readjustments must be made to meet and control the new forces that are evolved in individual and national history. Hence every generation must re-think the whole subject for itself—nay, more; every student who would be successful, ought to be able to answer for himself the first and principal question in the catechism of the schools—"What is it to be a scholar?" And it is to answer this question, in fact as well as in word, I trust, that you are now engaged in academical studies. "The science of science" is to improve the instrument of thinking, and develop the moral powers. And you have no time to lose in this work. Now is the turning-point in your history. The innocence of childhood has passed away—the dreams of boyhood are exchanged for the vigor of youth—now, then, is the time to lay the foundations of manhood, deep and firm and imperishable.

Says Melancthon, "*Juventutem recte formare paulo plus est quam expugnare Trojam.*" And so we say that every young man who masters his native indolence, and the difficulties that lie in the pathway of scholarship, has achieved a nobler triumph than was ever won at the walls of Troy. A good scholar implies an assemblage of qualities rarely to be found in one man. In these Western States we have plenty of Colleges and "Learned Faculties," but no great abundance of good scholars; and surely there never was an age or country in which they were so much needed for every department of society and every walk of life. Have we, then, no materials here out of which scholars are made? Are there not mind and stamina here—the pith and marrow of humanity? Yes; over these ocean-prairies, and along these grand old rivers, are to be found many a "village Hampden, and mute, inglorious Milton." We have the resources, only let them be developed. We have the minds, and we may have the scholars. But what we need is a higher type of scholarship, presented to our minds as an object toward which we may direct our energies and aspirations. I would hold up before your mind's eye the elements and accomplishments that should be harmoniously united in your character and life, and which may elevate you to the throne of beauty and power.

We are told that Zeuxis, when he would delineate female beauty upon the canvas, had six of the most beautiful maidens of Crotona brought before him, that he might mingle their excellences together, and condense their beauties in one picture, which might stand as the ideal of his mind—and

Helen remains the masterpiece of genius. So in delineating the good scholar, we have to combine the characteristics of the most finished scholars. And as Zeuxis could not get the blush of the sixth maiden, who was too modest to unvail her face, and thus could not give his work the touch of perfection, so it is impossible to imagine or execute a finished portrait of the scholar. Perfection can only be reached when the vail of time is uplifted to let in the flashes of light from the realms of glory. Still we can group together the various elements, and out of these draw a picture of beauty upon the canvas of the mind. If we cannot have a perfect circle, yet we may have a good circle; so if we cannot have a perfect scholar, yet we may have a good scholar. How, then, is he to be known? What are the elements of his culture? What are the traits of his character? Without attempting to give anything like an exhaustive analysis, we may make some practical suggestions that may be of use to the tyro while passing through the different stages of education. And this suggests the fundamental characteristic, and that is excellency of culture. What, then, is the kind of culture essential to the scholar? And here we have opened up before us a wide field of discussion, comprehending the whole educational system, in all its gradations, of schools, academies, and colleges; the ability, aptitude, and enthusiasm of the teacher; the mutual obligations of Church and State to furnish the requisite appliances and incitements for the advancement of learning. In short, here lies a wide range of philosophic thinking. But we must content ourselves, on the present occasion, with a small segment of such a circle of speculation. Thus we may give practicalness to our views, and build our argument upon your own consciousness and moral judgments. In fact, it must be a practical and personal question with each of you; for it depends mainly upon yourselves whether you will be scholars or not. It is not a paradox to say that "Every scholar must be his own teacher, or he will learn nothing." It is a truth having all the force and clearness of an axiom, and must remain true so long as the constitution of the mind remains unchanged. Hence there must be mind upon which to engraft the scholar, and that mind must be essentially active in the process—not the mere passive recipient of the dicta of other men. There must be living forces within the soul of man to shape and mould the materials of knowledge. The mind becomes strong as it energizes, and the student grows into the scholar by the continuous exercise of his faculties. Without this, there can be no thoroughness or depth of

culture; and this is much needed in this time-world of "shams and shows." The tendencies to this superficialism are seen everywhere through all the ramifications of modern society. Depth is sacrificed to brilliancy. Men will not toil for the golden substance; while they will clutch after the gilded shadow. They will not labor for the solid wealth of erudition, but will bound away, *per saltum*, after some pictured phantom. Everything seems to be conducted on the principle of making an impression, of startling the million by some "*chef d'œuvre*" of shallow pageantry. The whole is but—

"A painted ship
Upon a painted ocean."

Now this system of outward seeming, everywhere so destructive of depth of character, is producing among us a sapless and lifeless form of scholarship, with no roots taking hold of the substance of the mind. There is no evolution of the faculties from the center of being, but an outward whirling pageant, like "the fantastic pictures of an ever-revolving Kaleidoscope." The orb of youthful genius and talent that rose with so much promise, and flashed athwart the morning skies, is at last quenched in darkness, and eclipsed forever. There can be no permanency where there is no thoroughness of training.

The sciolist is like the "Bird of Athens—all face and feathers." It is with mother-wit as with mother-earth; we must cast the seeds of discipline deep within her bosom, if we would see the golden harvest waving over the fields of manhood.

We must not deceive ourselves by the sounds that run to and fro over the surface of human life. There is much talk at the present time about popular education and the march of science, and so we trust that there is substantial progress, that the bark of man is carried forward by the trade-winds that sweep across the seas of time. But the mightiest forces are silent in their operations. Amidst the "sound and fury" and the din of rattling wheels, where is that quiet strength and voiceless energy that can only come from thorough mental training? The shallow brook leaps with impetuous noise among the rocks and hills, when nature reigns around in silence; but the deep river rolls on in silent majesty, and on the face of the unsounded sea is mirrored the sleeping energies of omnipotence. So it is with the minds of men whose powers move in the deep channels of discipline. There is a force within them working silently for the good of man. And just as it is when the storm strikes deep into the bosom of the

ocean, that it is lashed into fury, and sends its volumed waves in wrathful voices to the shore; so such men are prepared for every crisis, and ride upon the whirlwind of revolution. Thorough culture, which can only be obtained by patience, by everything for toil."* It is a great law of life in every human acquisition, and it is a postulate in education which cannot be set aside by the innovations and flashy schemes of erratic thinkers. "There is no royal road to learning." We must toil on day after day, in the laborious ascent, until we reach the pinnacle, from which we may have a Pisgah-view of the landscape of truth; just as the traveler must begin at the bottom, and labor upward, step by step, until he reach the apex of the pyramid. But how different is all this from the ideas of "Young America," as he struts across the field of vision, and plumes his "feathers of ostentation" for a flight among the stars! This is "Old Adam," converted into "Young Diabolus," impatient of restraint, intellectual and moral, and away he bounds with the swoop of an eagle; but alas! like Icarus, he finds he was not made to fly, and he lands at last in a worse than Egæan Lake!

There are many who seem to think, in a a telegraphic age, many a silent struggle of the soul and by the severer studies that task the mind, is the right arm of power. It was no new-born strength that gave the Athlete his victory upon the Olympic plains, when he was crowned amidst the huzzas of his countrymen. All this was but the concentrated might of seven years' gymnastic training. So it is no spontaneous flash of precocious genius, but the severest culture of your powers, that will fit you for labor and triumph in the realms of thought and action—"*Posse tolere taurum qui vitulum sustulerit.*" Milo, when a boy, carried the calf, so when he was a man he could carry the ox. In the same way, let the boy learn his lessons thoroughly every day, and he will grow up to be a man with a scholar's power, able to carry a mightier burden than was ever laid upon the shoulders of the Crotonian giant. There must be mental effort, a continuous drilling of the faculties, in order to intellectual improvement and high literary attainments. The comic poet uttered a serious truth when he said that "The gods sell us in an era when almost everything is done by machinery, that the process of youthful culture may be completed by a few months at an academy, or at least by a few walks around a college campus. But "*Festina lente*" is the law of human

* Epicharmus

culture. If machine-poetry can never take the place of the inspirations of genius, so neither can machine-scholarship be an equivalent for a thorough training of the schools.

Perhaps there is nothing more ruinous to the substantial discipline of the young, than the multiplication of institutions, misnomered colleges, attempting to do the work of a college, but in reality bringing ridicule on scholastic culture. "Universities" spring up like mushrooms, which ought to be, and in fact are, huge infant-schools. In one respect, they are unlike the poem of Coleridge, which was said "to be eternal, because it had neither head nor tail." These are headless, but they are not tailless—ascephalous monsters with an eternal tail!

And then we have institutions that seem to be established for the express purpose of exchanging flash-accomplishments for cash-payments. All the severer studies, that may serve alone as a gymnastic for the mind, and a basis of scholarly training, are carefully excluded, doubtless on the principle of exhibiting the "Play of Hamlet, with the part of Hamlet omitted." These are the establishments where girls are manufactured into ladies, and boys into gentlemen. Epitomes of history, scraps of science, called Cyclopædias, elegant extracts of poetry, and homeopathic doses of philosophy, take the place of solid instruction; and if the pupil learns to think at all, it must be in spite of such pedagogic trifling. It must be because he was born with the scholar's star shining brilliantly over the horoscope of life, or rather because there is a soul within him that, like Psyche, "uncaught by net or snare," mounts to her native skies.

This training and taxing the mind to its utmost capacity, is at first, I know, a painful process; but we cannot fight with a law written by the finger of God upon the tablet of consciousness. These pangs and throes of the young thinker are but preparing him for the pleasurable exercise of his faculties, for free spontaneous energy. As Aristotle says, "The roots of discipline are bitter, while the fruits are sweet." If, according to Lord Bacon, there can be no atheism where there is "depth in philosophy," so there can be no sciolism where there is depth of culture.

But the scholar must have breadth as well as depth; he must have a comprehensive as well as a thorough culturing of his powers. I am not now speaking of that obsolete, and, in fact, mythical character, "The universal scholar." Such a being never has existed, and, from the nature of the case, never can exist. Besides, the scholar is tested, not by the ex-

tent, but by the form of his knowledge; or, what is virtually the same thing, the touchstone of every scheme of education is not the amount of knowledge injected into the mind, but the amount of thought generated there. The scholar is known, not by the number of his facts and isolated knowledges, but by the compass of his ideas, by which he breathes into the "*disjecta membra*" the breath of life, moulds them into graceful forms by a plastic power, and links them together like a twisted chain of adamant. He is not a reservoir that only holds what is put in it, but a perennial fountain with gushing streams.

Or to change the figure. The Mississippi must have water to constitute its stream; but the Missouri, rolling its volumed floods from the Rocky Mountains, gives that water its peculiar color and character by intermingling its dark and furious waves. So it is with the scholar. There must be the stream of knowledge, but that knowledge must be impregnated and tinged with the stream of ideas gushing from the springs of his own mind.

Locke compares the mind to a blank sheet of paper, and Upham to a musical instrument. But these are both deceptive analogies. They overlook the essential characteristic of the mind. The mind is not only acted upon by external influences, as the paper and the harp, but has original, suggestive, and spontaneous energies, that analyze, combine, and vivify the objects that pass through the "five gateways of knowledge." Rather compare the mind to a garden, as intimated by the Baconian Antithesis: "As man's nature runs either into herbs or weeds, let us seasonably water the one, and destroy the other." Now, as it is the quickening power of the soil that causes the seed cast into its bosom to germinate and grow into graceful plants; so there are vital forces in the human soul that make the germs of knowledge to shoot up into forms of beauty. And as good horticulture requires the cultivation of the whole garden, so good scholarship requires the cultivation of the whole mind. We cannot put everything in the garden, though we may cultivate every foot of it; so we cannot put everything in the mind, though we may cultivate every faculty.

Comprehensiveness of culture is not to be confounded with universality of knowledge. And there need be no such confusion, if we remember the limitations of the human faculties: "There can be no proportion of the finite to the infinite." We cannot know everything. We must even remain ignorant of much that may be known. God only is omniscient. Universal knowledge is to man an impossibility.

The German philosophers, by a few shufflings and evolutions of the "*mes*" and the "not *mes*," can prove to their own satisfaction that everything is nothing—an absolute nihilism; but methinks it needs no transcendental metaphysics to prove that a "Universal Scholar" is a universal nothing. The idea is about as definite as the conception of "a man standing on infinite space, and whacking away at eternity."

Such "walking libraries" and animated Cyclopædias as Solomon, Aristotle, Leibnitz, the Scaligers, Grotius, Hamilton, and Whewell, may occasionally appear to astonish the world with the vastness of their erudition; but these are the exceptions. And even these had to be trained into scholars before they had the power to carry on their backs the "Lumber of ages." The training of the whole man is the best introduction to the cycle of knowledge; and by the whole man I mean the body, mind, and heart, with all their diversified capacities and powers; man for this life and for the life to come; man as the incarnation of a soul that must live and think and feel, and will, when—

"Flames melt down the skies."

The grandest thing in creation is the human soul. "What a piece of work is man! How noble in reason! How infinite in faculties! in form and moving, how express and admirable! in action how like an angel! in apprehension how like a god! the beauty of the world! the paragon of animals!"*

No part of man, as the masterpiece of the Creator, is to be neglected. Even the body as the organ of the mind—the shell of the soul—must receive its share of attention. As a good scabbard is essential to preserve the brilliancy and metal of the sword, so good health is an essential condition of the highest mental stamina and vigor. "*Mens sana in corpore sano*," is a maxim never to be forgotten by the student; and if he would realize its truth, he must have recourse to the prelections of the four great Doctors—Pure Air, Active Exercise, Strict Temperance, and Clear Water. Under these he must pursue his studies and train his physical powers. Like the flowers, gather freshness and bloom from the Zephyrs of heaven—fish, or hunt, or swing, or meet in the Palæstra, and take a full course in the "Pancratium"; or if you have no better gymnastics, "Shovel sand, or saw wood in a cellar." If such athletic exercises are considered undignified, why, then, leave dignity to pedants and dandies; but let scholars retain good hard sense. Eat little and drink less. Do not

*Shakspeare.

chew, but eschew the weed. Crucify every vile passion that would corrupt the heart and darken the understanding. Practice baptism in all its modes—dipping, pouring, sprinkling, plunging, and immersing. Take the sitz-bath and the douche-bath, and every kind of lustration known to the hydropathic faculty. A tub of pure water, with a good supply of soap, will be far more favorable to the inspirations of genius, than the fabled fountains of Hippocrene and Castalia. A neglect of this simple hygienic discipline has wrecked many a noble mind, and quenched the light of genius forever. It blurs the Attic graces of Addison, the elaborate finish of Pope, and spreads a gloom over the wild egotism of Byron, and the inimitable lays of Burns. It is written in letters of fire, as plain as the "Two Records," in the death of Hugh Miller. An overworked brain and a neglected body tell the sad tale.

> "Reason outsoared itself. His mind, consumed
> By its volcanic fire, and frantic driven,
> He dreamed himself in hell, and woke in heaven."

The casket must be preserved in order to save the pearl ennshrined within it. It is unscholarly, unwise, and sinful, to trample upon the laws of health, for without health the most splendid abilities and attainments are worthless. It is to build a palace upon the ocean-wave, or on the whirlwind's track.

The mind of man is a unit, yet it has many sides; or, to speak in the language of psychology, it is a congeries or complement of faculties. Now, all these faculties are to be compassed by the discipline of the schools.

The memory must be improved; its susceptibility, retentiveness and readiness developed. The reason must be strengthened and enlarged—in its intuitive sagacity, logical acumen, and compendious trains of thinking—as an instrument of investigation and popular instruction—"Reason discursive and intuitive." The imagination must be spurred and guided in its operations, as the soul-inspiring energy of eloquence and poetry, sculpture and painting; or, to use a Coleridgean jaw-breaker, as the "esemplastic" power of the mind. The taste must be trained to detect the beautiful and the sublime, and to pass its "extempore judgments," in accordance with the eternal standard that has been reared in the consciousness of man. There must be a culture of the esthetic sentiments. The conscience, too—God's flaming vicegerent, the kingly faculty—must be educated to a quick and clear discernment of moral distinctions, of the march and

majesty of law. The will, too, must be disciplined as the executive power in man, and as the basis of force of character. And the heart, with all its affections and dispositions, must be touched with "hallowed fire," that, like the heliotrope, it may turn towards God as the orb of light, and, like seraphim, "adore and burn." And, then, there are those vast stretches of the soul—those flashes of heavenly light—those aspirations after the perfect and the infinite—these must come within the scope of spiritual culture. All this is but—

"The Divinity that stirs within us,
And intimates eternity to man."

It seems to be an element of our nature, in which the poetic, philosophic, and godlike are combined. And the proper management of this, is the highest and most enduring culture. "Wouldst thou plant for eternity, then plant into the deep, infinite faculties of man, his fantasy and heart."*

These, then, are the grand characteristics of the mind, and that education must be partial which does not embrace them all within the sweep of its discipline; and therefore only those studies should be selected that are best adapted to reach the highest number and order of the faculties; not those that impart the most knowledge, but those that impart the most power, and best prepare us for subsequent acquisitions; those which are subjectively the best as a "gymnastic of the mind;" those that may serve the best as a whetstone to give the whole mind razor-like keenness, that the owner may in due time lift it up like a polished "ax against the thick trees" of knowledge. What those studies are will be mentioned in the course of our argument.

Moreover, there must be a symmetrical culture. Every faculty must receive its proper proportion of training—the weak points strengthened, the asperities chiseled off—so that the scholar may appear a finished result, "a rounded absolute." We may make this plain by one or two illustrations. We all know what proportion means in architecture—such a relation of the parts in the whole as to produce a pleasing impression. Such was a Grecian temple, and it stands for every age an embodied archetype of genius. The proportions cannot be disturbed without destroying the elements of beauty. So the dome of Saint Peter's at Rome was the grand conception of Michael Angelo's genius, and it must ever be admired by the connoisseur of art. But change the proportions,

* Carlyle.

and you take away both from its beauty and utility. The form was drawn by the hand of genius, and it has since been proved, by the demonstrations of the caculus, to be the curve of the greatest resistance and solidity.

Or take an illustration from the perspective art. The idea of symmetry and proportion must guide the delineations of the pencil; otherwise there can be no esthetic result. So it is in the discipline of the mind; not only must all its faculties be cultivated, but they must receive a proper degree of culture in relation to each other, so that there shall be a graceful and harmonius development of its powers. And all this is essential not only to beauty, but also to power. In this way, the faculties find their proper place, and move in rank and file, as it were, to their work, like the soldiers of a well-trained army to the field of battle. And here is the grand deficiency of many who are called good scholars. They have no symmetry or order in their intellectual constitution. Some are one-sided, one-legged, and one-eyed; some have Chinese feet, and others Indian flat-heads. Some have the most incongruous assemblage of qualities, like the celebrated picture described by Horace, "with a human head, a horse's neck, a virgin's waist, the limbs of many animals decked with the plumage of many birds, terminating in an ugly fish below." Such men are but fishy specimens of scholarship.

Every string must be of the right tension and quality, in order that the right kind of music may be swept from the harp of the mind.

This harmony of culture is the best secured by following the order of nature—by applying the discipline to the faculties in the order of their development in the mind. And we may state it as a general fact, that some of the moral faculties appear first, then the pictorial, then the esthetic, and last of all the philosophic powers. Though every case must have its own peculiarities, and every educator must study the personal psychology of each pupil, in order to discharge successfully his pedagogical functions. And every student must study the philosophy of his own mind in order to reach the highest walks of learning; just as the artist, if he would reach of a high standard of excellence, must visit the galleries Europe, and the studios of the most distinguished of his craft, and drink in draughts of inspiration by the study of their immortal prodnctions.

I need hardly say that the culture of the scholar should be liberal—in opposition to a special or professional training—the mere preparing a man for some avocation or profession in

life; and yet, among many minds, amidst the utilitarian tendencies of the age, this idea has no little popularity. It is dwarfing and stunting much of our American scholarship. Men are looked upon too much as mechanical powers—as mere cogs and wheels in the machinery of society. They are, therefore, educated to a certain work—to move everlastingly, like a slave, in a treadmill.

Liberal education means such a culture as is adapted to freemen, and such should be the aim of every student who would be a sovereign in a democratic nation, and who would be a hero among the million, moving on to the "democratic ages." In other words, the scholar must be educated as a man, and not as a lawyer, a physician, or a clergyman. Let the liberal training come first, and then he may enter with spirit and nobleness of character, and with the elements of power, upon his special training, and discharge, as a freeman of God, the duties and responsibilities of his calling. Let a firm and broad basis be laid, and then you may build a noble and enduring structure upon it. True, you may succeed, if the mere accumulation of wealth is your object, without any liberal furnishment of mind; but then as a scholar and a man you must ever stand, as an inverted cone, among the more solid fabrics of humanity.

The idea which we are trying to enforce stands enshrined in two noble words that have been left us in the two great languages of antiquity. They represent the philosophy of human culture, as understood by the ancient masters of literature and genius. The Greek "παιδεια," indicating such a training as was adapted to the free sons of Hellenic races. It was this training that made them kings and emperors in the realm of ideas, and will secure their ascendency to the "crack of doom;" and the Roman "*humanitas*," intimating a development and enlargement of manhood, a discipline of the grand attributes of humanity. Add to this, the idea of education among the Hebrews, as "a nation of priests," implying sacredness, a segregation from heathen vices and unholiness, a constant discipline of the Theocratic spirit. These are the three great lines of culture in the elder world, and David, Plato, and Tully may stand as grand types of these three civilizations. And the elements of them all converge in the character of Paul as in a burning focus. He stands the model-man and the representative scholar. And these elements are seen blending in pure light, like the colors of the rainbow, in English scholarship, shedding a luster and grandeur over her history and character. They are seen in the hero scholars among the Scottish cove-

nanters and the Puritan fathers. And these are the elements that make the scholar. With such training the man does not sink into a mere industrial or professional automaton. In the pulpit, at the bar, in the shop and field, he is still the man of liberal accomplishments.

We are told that "ideas rule the world;" but as some one has said, "an idea has little force, unless there is a man behind it," just as a lead ball has little force, unless it is projected from the red mouth of a cannon. Liberal training then, is essential to the good scholar; and yet we see many graced with a diploma, certifying to the extent of their attainments in the liberal arts; and some even have a whole alphabet of "semilunar fardels" swinging behind them, like

"A gawcie tail wi' upward curl
Hung o'er their hurdies wi' a swirl;"

And yet they seem incapable of rising above the routine of their calling. They are overpowered by the omnipotence of a shinplaster. This idea is well expressed in the oracular language of an able writer. "The planter, who is man sent out into the field to gather food, is seldom cheered by an idea of the true dignity of his ministry. He sees his bushel and his cart, and nothing beyond, and sinks into the farmer, instead of man on the farm. The tradesman scarcely ever gives an ideal worth to his work, but is ridden by the routine of his craft, and his soul is subject to dollars. The priest becomes a form, the attorney a Statute Book, the mechanic a machine, the sailor a rope of a ship."*

The scholar in the highest and truest sense, is a freeman. His mind is emancipated and liberalized by a rich and generous tuition of his powers, and it is for this purpose that every good student toils over his Greek lesson, his mathematical problems and along the thorny paths of logic. With this view, every good college has selected a curriculum of study, deemed the most conducive to this result. A brief statement of these studies is all that is necessary to this discussion and to this audience. The four studies that stand like columns of majesty in man's intellectual and spiritual culture, are the Classics, Mathematics, Philosophy, and Religion. These are emphatically the liberal arts, the grand instruments of discipline, the emancipators of mind, the fountains of science and art, eloquence and song, faith and love, and all the graces that blossom and bloom upon the face of humanity. These are the wheels upon which civilization moves onward to the

* R. W. Emerson.

conquest of the world. By these agencies God is elevating man, and unfolding his vast plans of Providence and redemption.

"Through the ages his increasing purpose runs,
And the thoughts of men are widened with the process of the suns."

These have ever gone together in our modern history. The Reformation was a grand renewal of religion and letters, and the "installation of philosophy and science," and they will remain together, amidst all historic revolutions, like a twisted cable, to encompass the brotherhood of man.

From these must be drawn the rudiments of liberal education. The student must be well grounded in these foundations of scholarship, if he would be fully equipped for the work of these ages. And, strange to say, there is not one of these studies but what has, at different times, and by different men at the same time, been repudiated as altogether unnecessary in the formation of the scholar. The blind-eyed utilitarian wages a crusade against Classical literature, the womanish dilettante against the Mathematical Sciences, the impertinent sciolist against the philosophical sciences, and the heartless infidel against religious instruction. So that were we to listen to these innovators there would be no material left out of which scholars are made—just as Cowper represents the result of a controversy growing out of Mahomet's "mysterious charge" in relation to pork. Different parts were taken, according to the tastes of his followers,

"Till quite from tail to snout 'twas eaten."

But men of judgment and influence will not listen to their suggestions; and these studies must and will hold their ground as necessary instruments of education. "They have been tested by philosophical analysis and historical fact, and these exhaust every possible mode of proof."

The Classical studies are to be pursued as the best type of discipline, as bringing into generous play the whole circle of faculties, as the scholar's pathway to modern literature, as furnishing the only radical knowledge of our mother-tongue, and as the basis of historical acquisitions and political investigations. The student is thus enabled to trace the river of genius and letters from its aboriginal fountains among the Grecian hills, along the Italian coasts, through realms of Goth and Vandal, until it becomes a deeper and purer stream, washing the English and American shores. An acquaintance with the epic grandeur of Homer, the dramatic power of Sopho-

cles, the condensed energy of Thucidides, the fiery logic of Demosthenes, and the gorgeous speculations of Plato, prepare us to appreciate a Milton, a Shakspeare, a Gibbon, a Burke, and a Bacon. If we would fathom the depth and know the capacities of our own literature, then we must feel the power and beauty of "Tully's voice, and Virgil's lay, and Livy's pictured page."

The mathematics are to be studied, as an exercise of abstract thinking, as a form of reasoning; but in special as conducive to habits of close attention, and as an introduction to the field of natural science and the useful arts—though perhaps, when made an exclusive study, they exercise a pernicious influence over the mind, incapacitating it for moral reasoning, and destroying those deep and spiritual sentiments and intuitions of the human soul. But let not this be a salvo to your conscience, if you hate mathematics, (a mark of genius!) since you may study, with impunity, all that are taught in our colleges.*

As to Philosophy, there is no word more abused in our language. With some, every thing is a philosophy, and every "horn-book" is a philosophy of something. Others are terrified at the very name, as indicating some "*terra incognita*," some jumping-off-place into a horrible abyss, and they are off like a tangent, shouting "Metaphysics!" as one would cry "fire!" in a crowded play-house.†

"God forbid," "says one, "that I should say a word against metaphysics, only if a man should try to see down his own throat with a lighted candle in his hand, let him take care lest he set his head on fire."

Yet after all philosophy is a necessity of our nature. Whether we like it or not we must philosophize. Or, as expressed by Aristotle, and more recently by Hamilton, "If to philosophise be right, we must philosophize to realize the right; if to philosophise be wrong, we must philosophize to manifest the wrong; or any alternative, therefore, philosophize we must." As the science of principles and causes, it is the highest form of thinking, having for its object-matter, man, nature, God. It would answer the questions, "What do I know?" and "How do I know?" It begins with the postulate of Socrates—"Know thyself;" and sweeps along its luminous curve, to culminate in God—the "Father of minds." The philosophical sciences, then, are not to be ignored—whether in the realms of matter or mind. They enable us to

*See an excellent article on the "Utility of Mathematics as an Exercise of the Mind," by Sir William Hamilton. Discus. Phil. and Lit., page 257.

† Sidney Smith.

systematize the materials of knowledge by "binding them into bundles."

Religion must be taught, as the highest necessity of man, taught to all—but especially to the scholar. And, surely, I I need not say that we cannot teach religion without a creed. Doctrines must be taught and believed, in order to unfold the moral life. To talk of religious instruction, and yet ignore, as Carlyle would say, "the Believabilities," is a sheer absurdity. And I need not add that the Bible is the grand text-book of religious principle, to be studied in every school, academy and college in the land; nay, not only the text-book of schools, but of nations. Here is food for pigmies and giants. Other books may teach us much of religion—but they can never go beyond the book of God. This must be the central study, and the touchstone of all theologies. It cannot be superseded, and no combination of forces can take it down from its throne of power. Every objection against it has only strengthened its hold upon the minds of men—just as the oak stands firmer, and strikes its roots deeper, with every storm that beats upon it. The Bible makes good scholars—just as it made good soldiers in the army of Cromwell. Compared with the Bible, as an instrument of moral culture, "There is," as the dying author felt, "no other book."*

"Good and holy men, and the best and wisest of mankind, the kingly spirits of history enthroned in the hearts of mighty nations, have borne witness to its influences, have declared it to be, beyond compare, the most perfect instrument, the only adequate organ of humanity—the organ and instrument of all the gifts, powers, and tendencies, by which the individual is privileged to rise above himself, to leave behind and lose his individual phantom self, in order to find his true self in that distinctness where no division can be— in the Eternal I AM, the ever living WORD, of whom all the elect, from the archangel before the throne to the poor wrestler with the Spirit, until the breaking of day, are but the fainter and still fainter echoes."†

These, then, are the materials to be used in the intellectual and moral culture of the scholar—a sound classical instruction, a judicious mathematical discipline, a vigorous exercise in the high problems of philosophy, and an intelligent faith rooted and grounded in Divine Revelation. And the scholar, thus trained, by these studies, must be conscious of new powers within him. Even trained mediocrity may become more powerful than untutored genius, because it can use more skillfully and dexterously its slender and polished abilities—

* Walter Scott. † Coleridge.

just as the slim and nimble Saladin could do more execution on the field of battle with his flashing scimitar of Damascus steel, than his lion-hearted and giant foe, with his ponderous sword.

We do not deny that there may be a disparity of mental and moral endowments in the original constitutions of men. There must be a natural difference, which no amount of training can ever remove, between a babbling Thersites and a honey-tongued Nestor, a Caliban and a Newton, a John Smith and a Henry Clay. Yet, after all, among the mass of men, the power is to be measured, not by distinguished genius, but by distinguished culture.

The scholar has a power above other men, because he knows how to think. He has the use of his own mind, and can spur and guide it in all its operations. He thinks with originality—not in the sense of being eccentric, advocating some Utopian hypothesis, itching after novelties, dressing up Lilliputian ideas with Brobdignagian words, or trampling upon the "fundamental laws of belief"—but in the sense of thinking for himself, and expressing in his own way the results of his investigations. He thinks with vigor. He buckles on his mind to the object-matter of thought—and holds it there with the grasp of a vice, until he can unravel the tangled problem, or, if unsoluble by the human faculties, until he can cut the "Gordian knot" with his polished sabre. He thinks with clearness. Obscurity is no part of his nature. And, though it may be sublime, like "cloud-enveloped Jove," to sit high-throned in transcendental mist, yet he judges it to be sublimer still to sit in light with the arch of truth, like a rainbow, around his throne. He knows the length of his line and the strength of his arm. He applies the maxim to thinking which Quintilian applied to eloquence—"*Prima est eloquentiæ virtus perspicuitas.*" He thinks with correctness. Neither biased by passion, nor twisted by interest, nor warped by prejudice—he walks right onward to the shining mark. His soul is attracted by the magnet of truth. Like a valiant Iconoclast, he tramples beneath his feet "The Idols of the Tribe, the Idols of the Market, the Idols of the Den, and the Idols of the Theatre. His mind moves in charity, rests in Providence, and turns upon the poles of truth."* He thinks with coherency. His thoughts are welded together like twisted links of gold—fused together by the fires of his own mind, like Corinthian brass. They flow together like drops of quicksilver. Though there is a school of modern literature, distinguished for its oracular sayings, scattered like Sibyline

* Lord Bacon.

leaves, or if collected, "having the same connection with each other that marbles have in a bag; they touch without adhering"—yet the scholar knows that such a loose disjointed style of thinking is no sign of genius or learning. He thinks with method. His thoughts are organized masses, marshalled like troops, upon the field of action. "He looks his subject into shape," whether forming the pictured combinations of the Poet, or the massive arguments of the Logician, whether on the winged steed of Imagination or on the nimble nag of Reason. Thus he is trained to think, and thinking is the very essence of power.

Nor is this all: he knows how to acquire knowledge. He has learned, not only how to handle his tools, but he knows where the materials are, upon which these tools are to operate. The young colt is trained, not to stand gazing upon his trappings, but to try his metal upon the dusty highway. So the young scholar is trained, not to stand gazing upon his sheepskin, but to march forward upon the road of knowledge. The primary object of education, as already stated, is not to stock the mind with knowledge, but to prepare it to make its own acquisitions in every circle of science. To go through a college course is like walking through a splendid palace—every department filled with the most costly treasures of every land. Now, the difference between a scholar and another man is, that the one knows where every door is—he has a key for every lock, and he knows the value of every article throughout all the treasure houses; while the other knows not the entrance, neither has a key to unlock the gates of knowledge, and he is as ignorant of the value of each object as the sons of Ishmael, on their Arab steeds, are of yellow eagles and gold sovereigns. The one walks, like a poet-philosopher, through the crystal palace—while the other, like a rustic peasant, is bewildered and dazzled by the very variety and splendor of the scene; or, to change the shape of the idea: the one has his eyes opened and his ears unstopped, so that he can see every object of beauty, and hear every sound of music around him—while the other continues blind and deaf from his birth—

"Sans eyes, sans ears, sans everything."

The one knows how to read the book of knowledge, while to the other, her pages present nothing but unmeaning hieroglyphics. The scholar is always a learner. He never loses the habit of a student. He learns everywhere, from his own mind and from the minds of others, from the past and the present, from the rock-ribbed earth and the star-paved sky,

from the books of God and the books of men. And all this knowledge is power. Hence, he knows how to read books to advantage; and certainly this is no mean attainment in an age of books. We live in a world of books--from the corpulent quarto to the pocket dew-drop—from the aristocratic volume on the centre table, all flashing in silver and gold, to the plain and more hardy leather backed text books—from the stereotyped editions to the most ephemeral productions of the press. We have books on all subjects—secular and sacred—in all departments of literature, history and biography, philosophy and science, eloquence and criticism, poetry and fiction—books from the four corners of the earth, in all tongues and dialects—from the language of Moses to the language of Burns—books from other ages, freighted with the genius of Italy, Greece and Palestine. Or, as Bacon beautifully says: "Letters, like ships, pass through the vast seas of time, and make ages so distant participate of the wisdom, illuminations, and inventions, the one of the other." And we have books, moral and immoral, truthful and mendacious, for—"Some books are lies fra' end to end."

"Of the making of many books there is no end." They come forth, volume after volume, flying fast upon the wings of the press. And newspapers, magazines, and reviews, dailies, weeklies, monthlies, and quarterlies, fall like a shower of stars, and—

> "Lie thick as autumnal leaves that strew the brook
> In Vallombrosa."

And we have even wooden books; but these we may leave out of our present catalogue. Block-books are only suitable for block-heads.

We may well leave the Bibliomaniac to his own fantastic lamentations, when he mourns over the vast libraries that have been consumed by the Barbaric torch, or have gone down in the gulf of time. There is still plenty of books left, and plenty more are coming, and our hope is that many of these will be consigned to the fire and flood. After such a loss, there would still be a vast world, from which to gather the flowers and fruits of genius, for—

> "Books, we know,
> Are a substantial world, both pure and good;
> Round these, with tendrils strong as flesh and blood,
> Our pastime and our happiness will grow."

Now, amidst all these accumulations of the press, the scholar has a clue by which to thread his way among the labyrinths of literature.

"A good book is the precious blood of a master-spirit, em-

balmed and treasured upon purpose to a life beyond life."* Such a book he knows at a glance—just as a connoisseur would pass an instantaneous decision on the products of the chisel or the pencil. Hence, he knows what books to read. He carries within his bosom a Bibliometer—if I may use the expression—by which to measure their intellectual and moral character. He is not, and cannot be, bound by any mechanical rules, or prescribed courses of reading; yet he does not read indiscriminately, tasting or devouring everything set before him. "The *Hellus librorum* and the true scholar are very different characters." Yet the true scholar is a comprehensive reader, in the sense of the motto—"*Multum legere, potius quam multa.*" He holds converse with the great authors in the different ages of literature. He does not confine himself to mere professional reading, or even to any one department of letters—but he keeps up a proper balance between the claims of poetry and prose, in all their different divisions. He studies, in due proportions, the actual and ideal literature. His tastes are catholic, and his habits of reading, expansive. The old Latin adage, "*Cave ab homine unius libri,*" if taken literally, is a mere paradox. It is only a truth, if intended to teach, that a thorough knowledge of one book—especially if a Shakespeare, or a Bacon—is better than a few superficial and miscellaneous ideas gathered from the "slops and hashes of a catch-penny press." But the scholar, while he swears by no master, steeps and saturates his soul in the very spirit and essence of the author's genius. While he keeps to the main ocean, he yet makes occasional excursions over some adjoining lake, or along some silvery stream, that reaches out among the hills, like arms, from the winding shore. Thus he gathers knowledge from the realm of books. He drinks in life, and health, and beauty, and power, at the fountains of poetic and philosophic genius. He holds communion with the good and great thinkers of the past and the present. As for immoral, indelicate and infidel productions, however great their literary excellencies, he crushes them beneath his feet, as he would a reptile—knowing that neither sublimity of thought, nor felicity of diction, can be compared, for a moment, with virtuous principles and virgin purity of heart, and that—

"The Atheist's laugh 's a poor exchange
For Deity offended."

But while he reads the books of men, he does not forget the book of God. It is with him the "*Alpha and Omega*" of all reading. Its inimitable histories, beautiful biographies,

* Milton.

deep philosophies, profound maxims, matchless poetry, unrivalled eloquence, resistless logic—and above all the sublimity of its revelations, and the grandeur of the scheme by which it would redeem man, these are his study, and he reads them with ever fresh delight. Such is a picture of the scholar among his books By a familiarity with the best authors and the sacred Scriptures, he is continually improving his taste, increasing his knowledge, stimulating his mind to new trains of thinking, and building up his moral being. Thus his culture is an element of power.

Moreover: he knows how to use his acquisitions. He is, in the best sense, a practical man. His accomplishments the better prepare him for the duties of life, and to meet the claims of society and his country. I know the scholar is associated, in the minds of many, with the useless theorist or the visionary alchemist. It is supposed that he has lived so long in the world of shadows, that he knows not how to move in the world of realities; that he is as much a stranger to the actual world as the inhabitant of another planet; that he has been sailing so long on the ocean of ideas, that, like the hardy sailor, he knows not how to walk steady on the "*terra firma*" of facts. But this is a mistake. Facts are useless until they are animated with ideas. The union of thoughts and things has given rise to all the brilliant discoveries and inventions and the industrial and practical operations of all ages.

> "All the past of time reveals
> A bridal dawn of thunder-peals,
> Whenever thought hath wedded fact."

True, the scholar may be ignorant of the forms of business and the technicalities of trade—but I have yet to learn that he is, therefore, a useless member of society. As well say that the architect is a useless man because he is not also a mason. Certainly the man who draws the plan and superintends the work is equally as useful as the man who lays the bricks and stones in the building.

Men there may be, claiming to be scholars, who seem to answer no useful purpose, and to have no place in the practical affairs of life—but this arises either from injudicious training or from some idiosyncrasy of mind, beyond the reach of culture. Education cannot give common sense. When this is wanting there is no remedy but a strait-jacket, or a dose of Hellebore. Such men do not come under the category of scholars at all, and they are not to be confounded with the highest and noblest type of practical character. The true scholar has found his "πουστω," and he has a better than Archimedean lever, with which to move a part of the great world

of humanity. Some of the most illustrious men, deemed mere theorists by their cotemporaries, were, in their laboratories, among their batteries and retorts, or in their libraries, among their books and manuscripts, working out chemical experiments or philosophical problems, that were to change the whole face of civilization, and open up new and wider channels of human activity.

What a flood of light has been shed on the practical movements of this age—and a light that will shine to the end of time, through the discoveries, in philosophy, by such thinkers as Socrates, Aristotle, Bacon, Locke, Reid, and Hamilton; in the physical sciences, by such men as Roger, Bacon, Copernicus, Kepler, Galileo, Tyche Brahe, Newton, Columbus, Harvey, Bell, Sydenham, Hunter, Dalton, Cavendish, Black, Davy, Grey, Wheeler, Franklin, Hugh Miller; and by the inventions of such men as John Faust, Watt, Hargreaves, Cartwright, Fulton, Stephenson, Napier, Godfrey, Bowditch, and Morse, et cetera, to the end of the catalogue. Why, this seems like the roll-call of giants. Blot out their names and their works from the pages of history and you eclipse the brightest orbs in the sky of time. And, then, we have a long list of poets and historians, divines and orators, painters and sculptors, who have their place at the very centre of the living world—moving the muscles and arms of men, and setting in motion the countless wheels of actual life.

Of course, no amount of culture can make every scholar a Newton or a Chalmers; yet, like them, he has the faculty of applying his knowledge. He may not, like them, walk such a splendid orbit, or write his name in the records of immortality; but, if a true scholar, like them, all his learning, and all his attainments, are conducive to his usefulness, turned to practical application, and consecrated to the cause of humanity, and the glory of God. In short, he is wise as well as intelligent. His knowledge is ripened into wisdom—for there is a deep truth in the beautiful language of the poet—

> "Knowledge and wisdom, far from being one,
> Have oftimes no connection. Knowledge dwells
> In heads replete with thoughts of other men;
> Wisdom in minds attentive to their own.
> Knowledge, a rude unprofitable mass,
> The mere materials with which wisdom builds,
> Till smoothed, and squared, and fitted to its place,
> Does but encumber whom it seems to enrich.
> Knowledge is proud that he has learned so much;
> Wisdom is humble that he knows no more.

Yes; wisdom is humble. We are thus reminded of one of the cardinal virtues of the scholar. It remains for us, then, to state briefly the principal element of his character.

What we call character is but the man, with his spirit, dispositions, intellectual tendencies, and moral tastes, ripened and condensed into habits. Hence, man has been called, not inappropriately, "A bundle of habits." Success in scholarship, indeed, success in life, is conditioned on right habits of mind and heart. All the influences and agencies of the family, the school, the church, and the State, are forming the habits and moulding the character of every human being. But, let me say that character and reputation are very different things. Reputation is a shadow—character, a substance. Reputation is a meteor — "a moment bright, then gone forever." Character is an enduring light within the soul—a light from heaven—kindled by no flash "on sea or shore." The object of education is not to gain the acclaim of mortals, or build up a reputation among men—but it is to fix those habits, and stamp upon the human spirit those traits of character, that outlive the ages of earth, and outshine the stars of heaven. Character is eternal, because it is rooted in the immortal nature of man. "If we work upon marble, it will perish; if we work upon brass, time will efface it; if we rear temples, they will crumble into dust. But, if we work upon immortal minds; if we imbue them with high principles, with the just fear of God, and of their fellow-men, we engrave on those tablets something which no time can efface—but which will brighten to all eternity."*

The formation of character is a silent process, though there is nothing more sublime beneath the stars.

Have you ever been at the mint in Philadelphia? You walk through that vast establishment. There is perfect silence everywhere. Voiceless people are moving to and fro. A thousand soundless wheels are whirling around you. Ingots of precious metal lie ready for the silent, but fiery furnace; and how it thrills the soul to see those wedges of gold coming forth, transformed into "things of beauty," and stampt, on the one side, with the face of Washington, and on the other, with the eagle of our country. So it is with the scholar. He comes forth from the training of the schools, with the stamp of character upon him, to fit him for circulation in the currency of mind—not only on earth, but also in heaven.

What, then, are some of the leading elements of character essential to the scholar? And let me begin with one, certainly indispensable at first, and which only becomes more intense with the increase of knowledge and the expansion of the mind—and that is teachableness, or, as it has been happily called, "the modesty of true science." This child-like spirit

*Daniel Webster.

is as necessary to enter the temple of philosophy, as it is to enter the kingdom of heaven. The more the scholar knows, the more humble he becomes, because he becomes more sensible of the feebleness of his powers, the vastness of his ignorance, and the infinite circumference of knowledge that stretches away beyond the ken of his faculties. Humility is the true philosophic spirit. It engenders the love of labor and the love of truth, and sheds the blush of loveliness over the fields of literature. It banishes presumption, dogmatism, and idle speculation, from the realms of science and revelation. It tells us how and when to doubt, and how and when to believe. The true doubter becomes the true believer.

"Who never doubted never half believed,
Where doubt, there truth is—'tis her shadow."

It is only little minds, with shallow attainments, that are puffed up with "science, falsely so called." A painful consciousness of ignorance is the mark of the scholar, while an egotistic conceit of knowledge is the brand of the sciolist—just as an humble estimate of one's own virtuous attainments is characteristic of the Christian, while boastful self-righteousness is the trait of the Pharisee.

This "learned ignorance," as it has been called—this teachable spirit, is ever the accompaniment of great minds and great attainments. It is only shallow heads, with nothing in them, that set themselves up to be teachers, when they should be learners—who would speak, like the Pope, "*ex cathedra*," on subjects entirely beyond the reach of their culture, or their powers. And this mean self-inflation of the ignoramus is often mistaken for the noble self-reliance of the scholar. And literature, science and religion, instead of being peaceful territories, bound together by the amnesty of beauty, truth and love—become the arena of endless logomachies, "the war of the cranes" and "the battle of the books." There have always been such interlopers in the republic of letters. Perhaps no better illustration of this can be given than the theologic and geologic warfare that is now going on. It is not too much to say, that almost all the difficulties that have arisen between geology and revelation, have had their origin in a violation of this spirit of humility. The unfledged theologian and geologist meet together and push with their hornless heads, as if they were real "*bona fide*" "Bulls of Basham," whereas they are but "Asses, plain truth to speak." Perhaps there is no other subject of the present day on which so much paper has been wasted, and so much useless labor expended. Books and pamphlets come thick upon us, duly illustrated with the fine arts, in the shape

of Hebrew hieroglyphics and pre-Adamic monsters. That men, without an adequate knowledge of the Hebrew Scriptures, or of the elements of science, should undertake to adjust the great questions involved in this discussion, is surely the very summation of unconscious ignorance. Let such men sit at the feet of Chalmers, Hugh Miller, Hitchcock and Hodge; let them practice with the geological hammer and crow-bar—the Hebrew Grammar and Lexicon—before they undertake to enlighten the world on such transcendant themes, or contradict the declarations of Scripture and the inductions of science. It has always been true, that "Fools rush in where angels fear to tread." Such men lack modesty, one of the fundamental qualifications of the scholar; they are no more scholars, than the dandy, with his lilliputian importance, is a true gentleman.

But what a relief to turn to such a man as Socrates—the very incarnation of "Wisdom humbled that it knows no more," and declared by the Delphic oracle the wisest of the Greeks, because he taught that "all human knowledge is but a qualified ignorance." And with the same spirit did Plato, his disciple, "profoundly define man 'the hunter of truth,' for, in this chase, as in others, the pursuit is all in all, the success comparatively nothing. 'Did the Almighty,' says Lessing, 'holding in his right hand truth, and in his left search after truth, deign to proffer me the one I might prefer, in all humility, but without hesitation, I should request search after truth."*' This is the true spirit. Teachableness implies a desire to learn—a thirst for truth. It is but another name for the "Inductive Propensity." It shows us our relations to others who have been hunting for truth and searching in her inexhaustable mines—both now and in the days of old.

But while there is humility of spirit, let there also be independence of character. The paradox of the scholar is to blend together—a cautious self-distrust, with a firm self-reliance. And this, so far from being an impossible, is an indispensable attainment. He knows when and how to depend on others, and when and how to depend on himself. On the one hand, he does not ignore the labors of others, whether as thinkers or actors; on the other hand, he calls no man master, but "proves all things, and holds fast that which is good." The right of private judgment is not, with him a mere lifeless theory—but it is a precious truth, to be acted out in the life. Neither school dogma, nor church creed, nor party mandate, can fetter or manacle the soul within him. No ism nor doxy can hang their weights upon the etherial

*Sir W. Hamilton.

wings of his eagle spirit. No human authority can fasten upon him its grappling-irons. He is ever true to himself—true to his convictions; he must and will think for himself, in spite of the wrath of menacing thrones and the frowns of popular power.

While he honors the wise and illustrious men, who have gone before him, for what they have done, and receives from them whatever truth they have excogitated—to incorporate it among his own convictions—yet he knows that there is no monopoly of truth either at the Academe, Cathedral, Kirk or Conventicle. He adopts whatever is true—whether it comes from the councils or symbols of the church, or from the schools or cycles of philosophy and literature—but his faith and conscience he sells to no man. Rapier-like, he cuts through every plausible sophistry, to get at the very heart of things. Thus with a fearless independence, he builds up his own character; self-poised, he stands upon his own granite-faith.

I need not say that all this is very different from much that assumes the name of self-reliance. Some are so independent that they will not believe or do anything known to have been believed or done by others. They will even read nothing, lest they be imitators; and certainly they are original in the fact that they know nothing.

And here we have the philosophy of many of the errors and heresies and Utopian schemes that are recurring in every age of the world. The wheel of time is ever revolving, and the same absurdities re-appear at certain stages in its revolution. As has been intimated by some keen observer, the Devil has but one pack of cards, and amidst the shuffling of the ages, the same ones are appearing again and again. And certainly there have always been fools enough in every generation to manage his cards to his purpose. But is this self-reliance or independence? to be chained unconscious captives to the chariot-wheels of the great Heresiarch? The fact is, there is nothing new under the sun. Every system, whatever its apparent novelty, has had its type in every period of human history. Every new and startling theory is but a rehash of antiquated speculations. Even those who arrogate to themselves the name of "free thinkers" are notorious for their thieving propensities—having received all that is valuable in their systems from Divine Revelation. "They steal the livery of Heaven to serve the Devil in."

It is on this principle that the scholar explains the mendacities and paradoxies of the age—such as Agrarianism, that would cut the ligaments of government and civilization;

Spiritualism, whether indigenous or exotic, that would sap the foundations of religion; Phrenology, that would turn into a burlesque the philosophy of the mind; Phonetics, that would mutilate and even murder our grand old English tongue. Such are specimens of a spurious independence.

While the scholar is ever ready to receive truth from any quarter, and to acknowledge the obligation, when aid is received, still he can think and do and speak for himself. He can never be satisfied with plagiarized thoughts and acts and words. He bows to no sceptre but the sceptre of truth—to no throne but the throne of the incarnate "Boy-God." He goes forth into the world, the church, and the State, an independent man, with the birth-right of freedom stampt upon his brow; and he accords to others the same privilege, only responsible to their Maker. Such a man was John Milton, who fought for the freedom of the press. Such a man was Patrick Henry, who kindled the torch of American independence. Such a man was Andrew Jackson, who crushed the nullifiers, and took in his own hands the responsibility. Such a man was Thomas Chalmers, who delivered the church from the tyranny of secular power. Such a man was Henry Clay, who "would rather be right than be President." Such a man is the true scholar—whether a graduate of college or cabin.

Closely allied with this trait of character is that of earnestness—implying all that is meant by the words, diligence, assidnity, labor, determination, intense application, ardent pursuit, glowing enthusiasm. An earnest man is a beautiful picture of humanity. Whether he is right or wrong, his earnestness of itself is a virtue. The idea is well expressed in the homely and laconic saying of Crocket—"Be sure you 're right, then go ahead." Assuming, for the present, that you are in the right course, let us look, for a moment, at the characteristic of go-aheadativeness as a scholarly accomplishment.

Let us render all due honor to Thomas Carlyle, and men of that school, for what they have done, in battling against the shams of the age. Though earnestness is not all they would have us believe—though it cannot be made a generalization of all the cardinal virtues—yet we are reminded, by them, of a great truth, that had well nigh dropped out of the beliefs and doings of men—that "life is real, life is earnest." Though earnestness is not the factotum of life, yet it puts soul and blood into the creed, and pith and stamina into the character. Blundering energy is better than orthodox apathy, just a sa "living dog is better than a dead lion." Enthusiasm of spirit is to the character what fire is to the steam engine,

or springs to the chronometer. It makes the man go. It makes him—

"Act—act in the living present,
Heart within and God o'er head."

Or, as a better than Longfellow has it—"Whatever his hands find to do," it makes him "do with all his might." Yes, there is a voice sounding way down in the depths of the human soul, and it is for the youthful scholar to hear it, as it wells up from the fountains of his being.

"Deeper, deeper let us toil
In the mines of knowledge;
Nature's wealth and Learning's spoil
Win from school and college;
Delve we there for richer gems
Than the stars of diadems.

"Onward, onward, may we press
Through the path of duty;
Virtue is true happiness,
Excellence true beauty.
Minds are of celestial birth,
Make we then a heaven of earth."

The scholar is not, and cannot be, a mere gentleman of leisure. He is a worker. Work he must, and work he will, through rain and fire and storm. Whatever position he may occupy in life, whether handling the sword, the pen, the brush, the chisel, or the axe, he goes at it "*con amore*." His whole soul is on fire. It is this, more than any diversity of genius or talent, that makes the vast difference between men. The working dwarf must accomplish more than the sleeping giant. A Coleridge and a Macintosh did but little in comparison with some of their cotemporaries of less calibre but more labor.

A fine illustration of this point, it seems to me, is afforded in the life and character of Thomas H. Benton. With less intellect than Webster, less genius than Clay, less acumen than Calhoun—yet, by firm determination, dogged application and unflagging energy, he was able to win laurels among his illustrious compeers, and to fill a large place in the history of his country, at a time when great men were sent to the Senate of the United States.

The same is also true of one who was, in the strictest sense, a scholar. While Benton was dying at the Capital, he was breathing out his soul among the hills of New England. I refer to Dr. E. A. Andrews, the author of the well-known Latin Grammar and Lexicon, and other valuable text-books. A purer and nobler scholar never walked this planet. They both died in the harness, and now they rest from their labors,

and their works shall stand while there is a patriot or a scholar on this continent. These are specimens of this trait of character in different walks of life. Follow their example, and, like them, work out a noble destiny. Like them—

"Be up and doing,
With a heart for any fate;
Still achieving, still pursuing,
Learn to labor and to wait."

Let "Excelsior" be perched upon your banners. Grasp the oars and ride gaily over the flashing waters—while the "minstrelsy of heaven" are harping from the stars—

"My heart is firm,
There's nought within the compass of humanity,
But I would dare and do."

For courage is another virtue in the scholar's character. His heart is firm and brave. He has the heroic spirit. He has within his bosom the metal of the good scholar, with the power of endurance and the power of aggression. He is, every inch, a man.

Prometheus, chained to his wild, woeful rock, for his love of man, with adamantine will defying the Thunderer's power, is a grand type of suffering man, braving the "whips and scorns of time." Beautiful, too, was the spirit of valor exhibited by Leonidas and his three hundred Spartans, at the Straits of Thermopylæ. Such heroism as this, vitalized by Christian principle, is the great want of these last ages of the world.

We are told that Antæus gathered strength with every touch of mother earth, and it was only by lifting him on high that Heracles could fold him in the hug of death. But, with the omnipotent touch of Calvary, we may defy a world of giants.

Need I discriminate? Do I speak of the courage of the pugilist, the duelist, or the ambitious warrior, who sits enthroned on a pinnacle of skulls? Is there not a terrible irony in the words of the poet?—

"One murder makes a villain,
Millions, a hero."

Neither the "Macedonian Madman" nor "the man of destiny" are the true types of heroism: Selfishness, deceit, and vain-glory, are traits of the coward—not of the hero. Had Empedocles the true courage, who leaped into the crater of the volcano, that, like Romulus, he might receive the worship of his countrymen? Was Mahomet a brave man, or an unmitigated liar? And yet Carlyle gives him a niche in his

temple of "Hero-worship." Would you see the true heroic spirit, then turn to such men as Luther, storming the walls of Rome, smiting the Devil to the wall with his ink-horn, and who would go to the Diet of Worms, though he should march through flames, and though there should be as many devils there as tiles on the house-tops.

Look at Knox, the champion of Scottish liberty for church and school—who "never feared the face of man." Look at the heroes and martyrs of the Scottish covenant. See Baxter, the representative of Puritan faith and valor--and the long line of brave men and women, who perished by the thumb-screw, the rack, the wheel and the flame-shroud.

"From torturing pains to endless joys,
On fiery wheels they rode."

See! the heroes of science, patriotism and religion--Columbus, on the ocean, in search of a new world; Newton, in the skies, with his measuring-line among the stars; Cromwell, in the field and on the throne; Washington, as a soldier and a statesman; Carey, walking round the bulwarks of Oriental Paganism; Duff, sounding the silver trumpet of the gospel among the jungles of India; Kane, amidst polar icebergs; and Livingstone, on burning plains.

Higher still. Look at the great Apostle marching over land and sea, or standing before the bigotted Jew and polished Athenian. But, above all, the sublimity of heroism is seen in Him, whose—

"Blessed feet were nailed
For our advantage on the bitter cross."

But now, riding a great conqueror upon his warrior-steed—leading on—

"To glorious war
The sacramental hosts of God's elect."

These are the examples held out before you. It is for you to gaze upon them until you drink in their spirit, and feel your heart leaping within you, to be on the field of action, and take your part in the great "Conflict of Ages."

Beautiful is the story of the Spartan mother, who, when her two sons were going to battle, presented them with a shield, saying: "Either this or upon this." So would we say to you, just entering upon the arena of life. It will be expected of every true man, when the battle is over, either to bring back his shield, or be brought back upon it. You can never be scholars, nor do the work of scholars, in this age, unless you are "courageous and quit yourselves like men."

From what we have said it will be seen that the courage we would insist upon, as an element of character, must be rooted in principle; and this is another virtue in the sisterhood of scholarly characteristics. Stability of principle, supremacy of conscience, incorruptible integrity, is essential to every man—but it sheds over the scholars's life a radiance that is not of earth. Trickery, chicanery, policy, expediency, fraud, falsehood, manœuvering, peculation, rascality, scoundrelism—these may succeed for a while, but the day of retribution comes, and often it comes like an avalanche, and the longer it is postponed, the more terrible are the ruins. Like the mountain lakes among the Alpine summits, day after day, slowly, but surely, gathering force and volume to their waters, until suddenly the barriers are broken down, and, with a voice of thunder, the maddening cataract leaps to the vale below. So it is with those who sail under false colors, and in whose bark of life there is no ballast of principle. The knave, with the garb of saintly virtue thrown around him, may be lionized for a time, and charioted along in splendor—but the day is coming when he must fall before the blow of avenging justice.

Look at the author of "Lacon"—a man of splendid abilities, but without heart or principle—at last cutting his own throat in one of the hells of Paris! See! Cardinal Wolsey, imperious, unprincipled in his ambition, sitting upon the "golden pinnacle" of power, with the world beneath his feet, in a moment levelled to the dust, by the Nemesis of history. What wondrous words Shakspeare makes him speak amidst his fallen greatness?—

"Mark but my fall, and that that ruined me.
Cromwell, I charge thee, fling away ambition;
By that sin fell the angels; how can man, then,
The image of his Maker, hope to win by't?
Love thyself last; cherish those hearts that hate thee;
Corruption wins not more than honesty.
Still in the right hand carry gentle peace,
To silence envious tongues. Be just and fear not;
Let all the ends, thou aim'st at, be thy country's,
Thy God's, and truths; then, if thou fall'st, O Cromwell,
Thou fall'st a blessed martyr."

Even Bacon's hands were not pure. There is a moral stain on the author of the "*Novum Organum*," which justifies the poet in saying that he was "The wisest, brightest, meanest of mankind." Contrast with these the man of steadfast integrity and well regulated moral affections. It must ever be true that conscience is better than genius, and sin must eclipse the brightest scholarship. The successful and happy scholar in

the school and in the world, is the man of principle. He is fair and honest everywhere, and the more he is tried the brighter he shines.

Let me say to you, be pure and true from the first. The boy who cheats his professor, steals a translation for his Greek, or a key for his algebra, is not to be trusted in subseqnent life. Read and study what Horace says of the man of unsullied virtue:—

"Justum et tenacem propositi virum
Non civium ardor prava jubentium,
Non vultus instantis tyranni
Mente quatit solida, neque Auster.

Dux inquieti turbidus Hadriæ,
Nec fulminanti magna manus Jovis;s
Si fractus illabatur orbis,
Impavidum ferient ruinæ."

Yes, the man with fixity of principle can never be moved. Virtue, in the long run, must triumph, and have the ascendancy.

A wiser man than Horace has said: "Let thine eyes look right on, and let thine eyelids look straight before thee. Ponder the path of thy feet, and let all thy ways be established."

Closely connected with this rectitude of spirit, this straightforwardness of conduct, is the idea of responsibility and, if you are rightly educated, this thought will mingle itself, with all the operations of the mind, the affections of the heart, and the actions of the life. How solemn—how stupendous are the responsibilities of educated men? The scholar of the right mould cannot, dare not, and will not, forget his responsibleness for his talents and acquirements.

"Fine thoughts are wealth, for the right use of which
Men are, and ought to be, accountable."

Literary responsibility is a theme of so much magnitude as to require a volume to elucidate its bearings on individual and popular interests. A suggestion or two is all that we can offer on the present occasion. God has given the scholar more capital than he has given others; and He expects him to make a wise investment; and when the "Books are opened," He will demand principal and interest—that is, He holds him answerable for his influence.

Who can estimate the tremendous influences for "bliss or bale," that are emanating from cultivated minds, over this broad land?—yes, over the oceans and continents of the world? Scholars wield a power mightier than the sword—as authors, orators, poets, senators, lawyers, physicians, clergy-

men, teachers, farmers, merchants—as the educators of public sentiment, the managers of the press, the guiders of civilization, in the study, in the pulpit, in the sanctum, on the tripod, in the forum, on the rostrum, on the bench, on the platform, everywhere, at home and abroad, at morning, noon, and night, now, and through the ages, forever more.

From every human being influences are going forth, like waves, in a series of concentric circles, to every shore and age of destiny.

Let me express this idea in language more beautiful and powerful than my own: "Away among the Alleghanies there is a spring so small that a single ox, in a summer's day, could drain it dry. It steals its unobtrusive way among the hills, till it spreads in the beautiful Ohio. Thence it stretches away a thousand miles, leaving on its banks more than a hundred villages and cities, and many thousand cultivated farms, and bearing on its bosom more than half a thousand steamboats. Then, joining the Mississippi, it stretches away and away some twelve hundred miles more, till it falls into the great emblem of eternity. It is one of the great tributaries of the ocean, which, obedient only to God, shall roll and roar till the angel, with one foot on the sea and the other on the land, shall lift up his hand to heaven, and swear that time shall be no longer. So with moral influence: It is a rill—rivulet—a river—an ocean, boundless and fathomless as eternity."

Surely, this is a sublime and fearful truth, and in the case of the man of talents and culture, as there is a mightier influence, so there is an enhanced responsibility. How disastrous must be the result, if the scholar is found fighting against God, truth and humanity? He thus becomes a curse rather than a blessing to his race—a Bohan Upas tree, poisoning and blighting the loveliness that blooms over the face of society. He walks forth, an incarnate demon, with an "infernal machine," for the work of ruin. He roams to and fro, a very imp of hell, with a worse than azotic gas, to put out the light of life in every habitation of man. Can you measure the evil that has been inflicted on the thinking and character of this age by such men as Voltaire, Rousseau, Byron, Shelley, Comte, Strauss, "*et omne id genus*"? Can you estimate the mischievous effects, upon the young, of such books as the "Age of Reason," with its rottenness and blasphemy—or such Reviews as the "Westminster," with its quarterly instalments of vituperation against the Evangelic faith? On the other hand, can you calculate the influence for good that has been and may be, exerted by the man of fur-

nished mind and pure heart—such a man as Thomas Arnold, Archibald Alexander, or the late John C. Young, the accomplished President of Danville College, and, I may add, Alfred Ryors, who has so recently left his college chair for a heavenly throne?

There is a great truth symbolized in the old stanza, in relation to Wickliffe's ashes:—

"The Avon to the Severn runs,
The Severn to the sea—
And Wickliffe's dust shall spread abroad
Wide as those waters be."

The true scholar has a great work to do, and he lives under a sense of his responsibility. He is responsible for the character of our national literature, the right adjustment of the claims of science and revelation, and the progress of light and life, and love and liberty, among the nations. "No one liveth unto himself, or dieth unto himself." This is a law of our being; and we must meet our influence, when to be good will be better than tobe great. To be good and do good, to let our light shine, is the high vocation of the scholar—the grand object of his aspirations. Hence, philanthropy is another element of his character. His heart beats with the love of man. The spirit of brotherhood animates his bosom. He is the true cosmopolite, magnanimous, generous, with sympathies as expansive as humanity. He has a deep insight into the philosophy of human nature; hence he is fully awake to its vanity and glory, ruin and redemption. There is an answering voice within, to the words of the Hebrew psalmist—"Man, made a little lower than the angels, and crowned with glory and honor;" of the Greek sage—"ον τον τρόπον ἀλλά τον ἄνθρωπον ἠλέησα;" of the Roman moralist—"*Homo sum; nihil a me alienum puto;*" of the Scottish bard—

"The rank is but the guinea's stamp;
The man's the gowd for a' that."

And of the English poet—

"Man is one;
And he hath one great heart. It is thus we feel,
With a gigantic throb thwart the sea
Each others rights and wrongs; thus are we men."

He does not forget that he is a man among men. He recognizes the great law of brotherhood, that binds together the race of man. Hence, he administers succor to the helpless, hope to the despondent, encouragement to the erring, comfort to the miserable, and freedom to the oppressed. While he does not lose sight of his individualism, neither does he lose

sight of the law of love and reciprocal affection between man and man. He has no faith in the selfishness that would preach: "Every one for himself, and the devil take the hindmost." No; his is a milder and more genial philosophy. No being, that wears the "Human face Divine," can he ostracise from his affections. That man does not deserve the name of a scholar who looks with contempt upon his inferiors, or jealousy upon his superiors, or, who, assassin-like, is ever watching an opportunity to stab the reputation and destroy the good name of wiser and better men. He has neither the amenities of literature, nor the feelings of humanity. He has "the face of a dog—the heart of a stag," and the animus of a devil.

Let us have a different type of character from this—men who are willing to ignore personal aims and self-aggrandizement for the public good—men who will labor, with a brother's love within their bosom, to subtract from the mass of human misery, and to add to the sum of human happiness. Would you see examples of this spirit? Would you look for its manifestations in history? Then let such men as Howard, Wilberforce and Clarkson, the champions of modern philanthropy, rise up before you; and let such women as Lady Huntington, Mrs. Graham and Miss Dix, pass before your vision like angels of mercy. And it was such characters as these that founded our colleges, seminaries, and benevolent institutions, that stand the glory of our modern civilization. "Their names smell sweet and blossom in their dust." They shall never die, but gather beauty and grandeur with the march of years. A life of unwearied goodness is true greatness. And it is the lives of such men that—

> "Remind us
> We can make our life sublime,
> And departing, leave behind us
> Footprints on the sands of time."

Though we cannot all reach such a distinguished position in the walks of philanthropy, yet the same spirit of love may inspire our bosom. The same world lies stretched out before us, with its disconsolate sons and daughters. The voice of sorrow is still eloquent for sympathy and kindness. The wail of sin and sorrow is wafted on every breeze. In a world like this how contemptible are the trappings of wealth?—how paltry the triumphs of ambition, in comparison with the nobleness of doing good! "Charity that suffereth long and is kind, that beareth all things, believeth all things, hopeth all things, endurethall things—charity that never faileth," is the most resplendent and attractive among the graces of

character. It is a scholarly as well as a Christian accomplishment.

Indeed, the highest eulogy that was ever pronounced on the Son of God himself, is the simple statement: "That He went about doing good." In execution of this purpose, He lived and died, and—

> "Though now he reigns exalted high,
> His love is still as great."

He is the great Teacher, and every scholar should learn of Him. Hence, I would say that the crowning excellence of the scholar is Discipleship in the school of Christ—reconciliation with God, faith, holiness, heavenly affections, spiritual consecration. In one word—to the love of man add the love of God. Let Godliness pervade your character.

To say that the scholar should be a religious man is but a corrollary from all that we have advanced. It is implied in all that has been said in this discussion. Towards this, as a focal point, all the lines of argument converge. The very idea of a God, with its necessary deductions, is the grand postulate of faith, upon which we must build the imperishable materials of character. In a little book, which ought to be familiar to every pupil in a Presbyterian school, we are told: "That the chief end of man is the glory of God, and the enjoyment of him forever." The relations of man to his Maker are only rightly adjusted when his affections gravitate towards God, as the centre of moral perfection. Religion implies a binding or uniting of the soul to the "Father of Souls"—nay, more, a participation of the "Divine nature," so that we are filled with all the fullness of the God-head. But it is no Pantheism nor Humanitarianism that we would urge upon you as the true Godliness. It is deeper than the sounding-line of philosophic reason—higher than the light wing of poetic imagination. It is neither poetry nor philosophy—genius nor erudition; but it is a life, an experience, shaping the whole being, and subsidizing all else to its progress and triumph. Its ground work are the truths of revelation—its origin, the eternal Spirit—its mode of conveyance, the Man of Calvary.

I know there is a prejudice among many ingenious and promising young men, against the whole subject of Evangelical religion. They have no sympathy with the church, no tears to shed, no prayers to offer in her behalf. They will not belittle their understanding, or dwarf their powers by any fellowship with the gospel, its great Author, its transcendent schemes, encompassing all worlds and all ages, stretching

from the eternity past to the eternity to come. But, apart altogether from the adaptations of religion, to give the highest and widest development of the faculties—apart from the tremendous issues involved in the rejection or reception of heaven's last remedy to man—apart from the guilt of rebellion against the love and law of the Divine administration—is this antagonism of the soul against God a scholarlike accomplishment? Is it not the part of the true scholar to find his proper sphere in this universe, and in the bright orbit of his being revolve forever around the throne of the Infinite and Eternal? In all ages and dispensations of the world, literature, science, and religion, have ever been united in the character and constitution of representative scholars. The three torches of Genius, Reason and Faith should mingle their flames together and burn away upon the altar of consecration. Says a Christian and a scholar: "O! study God, and study yourself closely, and pursue holiness more than learning, though both of these together make a happy constellation, and are like Castor and Pollux, which, when they appear together, do ever presage good to the mariners."*

This is but another form of saying, be Christian scholars. Let your scholarship be imbued with the spirit of Jesus, "in whom are hid all the treasures of wisdom and knowledge." Consecrate your young affections to him whose cross stands "towering o'er the wrecks of time." Remember that your relations to that cross will decide your character and doom. This is the hinge of moral being—the pivot on which turn "the destinies and immensities" of the human soul.

"The Christian is the highest style of man." The noblest, the wisest and the best men that ever lived or died on this planet, have been Christians. Follow their example, aud enter upon a career commensurate with the powers and aspirations of your being. In one golden sentence from the word of life: "Give all diligence, to add to your faith virtue, and to virtue knowledge, and to knowledge temperance, and to temperance patience, and to patience Godliness, and to Godliness brotherly kindness, and to brotherly kindness charity; for, if ye do these things, ye shall never fall." Yes; this is a description of character which is permanent, and eternally progressive. With right relations to God, with religious affections within your bosom, you may go forward with cheerfulness and hope in the pathway of literature and life. You may feel that you are no longer orphans in a fatherless world. Difficulties may arise, storms may sweep around you, but,

*Joseph Alleine.

how precious to hear a voice, from your "Father's House," whispering peace and consolation?

Neither fire nor flood can destroy a character, rooted in principles that are eternal. And no disaster, between the "silent graves and the silent stars," can crush the spirit of a good man, but the "eclipse of faith" within his heart. But this principle may shine with increasing lustre, by holding a "hallowed commerce with the skies"—

> "A correspondence fixed wi' heaven,
> Is sure a noble anchor."

But communion with your Maker will not only support you amidst the trials of life, but it seems to be the necessary condition of intellectual progress.

There is sound philosophy in the maxim of Luther: "*Bene orasse est bene studuisse;* and it is verified by historical facts. In reading the biographies of distinguished scholars, it is remarkable to notice how much time was spent by them in solemn prayer to God. The prayerful spirit has ever been the accompaniment of masculine vigor of mind and vastness of erudition.

But, methinks, I need not, at this time, thus speak to you, for, I trust, that you, with thousands of others throughout the land, have felt a new impulse—a new life within your soul. How pregnant with interest and results is the fact that hundreds of our precious youth, in school and college, have recently learned to pray, who never prayed before? How sublime the voice of supplication, from city to hamlet, from ocean to ocean, ascending to the skies! And may this beautiful custom never perish from the earth, until the voice of prayer shall merge in the gratulations of an enlightened and redeemed humanity!

Then shall all be scholars in the school of Christ; and, as the ancient artist said—"I paint for eternity"—so every man and woman, in a regenerated world, will say, "I study for eternity."

> "Then shall the reign of mind begin on earth;
> And starting fresh as from a second birth,
> Man, in the sunshine of the world's new spring,
> Shall walk transparent, like some heavenly thing."

From the Presbyterian Herald.

MR. EDITOR: Allow me, through the Herald, to say a few words to those more immediately concerned, about our Presbyterial Academy at Greenville. Last week I, with several other gentlemen, attended the second anniversary of this young and promising school, and we were all more than pleased or delighted, for the evidences of thorough drilling and great proficiency were most manifest throughout the examination in every department of study. The corps of teachers connected with this Academy are men of marked ability, character and attainments. The President, the Hon. Edward Rumsey, is known throughout the country as a man of liberal education, surpassing eloquence, and gentlemanly bearing, every way a model for young men. The Messrs. Patterson are Christian gentlemen of superior abilities and fine attainments, possessing in a high degree the two important prerequisites to the successful instructor, aptness to teach with power to govern. The desire and purpose of these gentlemen is to make this Academy a school of the highest order, where boys and young men shall be educated—taught to think, investigate, and not, as is too often the case, hurried through various important branches of learning, but without any mental discipline! Hence, to all parents, both at home and abroad, we say with the utmost confidence, send your sons to Greenville, and either they will be educated or very politely informed that they must return home.

On Tuesday and Wednesday evenings the Literary Society connected with the Academy, delighted the very large audiences present with numerous exhibitions of declamations and original orations, all of which were highly creditable, and some of them really very fine specimens of composition and oratory, and which would have done honor to older heads and more experienced writers. The Rev. Mr. Bishop, late Professor in Hanover College, also on Wednesday, by special invitation, delivered an address before the students of the Academy, on the subject of Education. As this discourse is to be published, it is unnecessary for me to speak of it, as all can see and judge for themselves. But this much I must say, it has rarely been my good fortune to listen to a discourse surpassing it for logical argument, beauty of illustration, and force of diction.

The next session of this Academy will commence on the first Monday in September.

F. G. STRAHAN.

FEMALE COLLEGIATE INSTITUTE.

GREENVILLE, KY.

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MISS S. M. ANTHONY, PRINCIPAL.

This Institution has just closed its Eighth Academic Year, under most encouraging prospects.

Its situation, its principles, and its managers, recommend it to the Patrons of Female Education in the South-West.

The Seventeenth Session will open on the First Monday in September, 1858, at which time the School Hall, a large two-story brick building, containing Study Rooms, Class Rooms, and Calisthenic Hall, now in process of completion, will be ready for use; and the fine, airy, commodious building, heretofore occupied, in part, by the School, will be devoted entirely to family purposes.

A larger number of Boarders can then be accommodated, and the facilities for making the Institute a pleasing and attractive home will be increased.

TERMS:

The Academic year commences in September and ends in June, and is divided into two Sessions of twenty-one weeks each.

Pupils are classed, according to their age and advancement, in three Divisions, called the Preparatory, the Academic, and the Collegiate Department.

Less advanced pupils are required to attend first to those studies which prepare for the higher branches, before they are admitted to the Regular Course, which is embraced in the Academic and Collegiate Departments.

The terms are placed as low as the interests of the Institution will justify.

Preparatory Department, Tuition, per session of twenty-one weeks	$12 00
Academic Department, " " " "	15 00
Collegiate Department, " " " "	20 00
Use of Library, " " "	1 00
Board, including Rooms furnished, Lights, Fuel, and Washing, per session	50 00

Board, during vacation, at the same rate to those who remain as during the Session.

EXTRA COURSE:

The Languages, each, per Session	$10 00
Instrumental Music, Piano and Guitar, each, per Session	20 00
Drawing, Painting in Water Colors, each, "	10 00
Monochromatic Pastel, " "	10 00
Grecian Oil Painting, " "	5 00
French Carved Work, " "	5 00
Oil Painting on Canvas, " "	20 00
Use of Musical Instrument, " "	3 00
Special Vocal Culture, " "	3 00

General Exercise in Vocal Music and Calisthenics, without charge.

Books, Stationery, Music, Drawing Material, &c., when required, furnished at book store prices.

Payments to be made by the Session, one-half in advance, the other at close of Session. Accounts bear interest from the time they become due.

Deductions made in case of protracted sickness.

Parents are requested not to furnish their daughters with expensive articles of dress, nor allow them the control of money while at school.

The young ladies will be required to dress in uniform whenever they appear in public, which, in winter, will consist of a green dress, solid color, with wadded Talma or cloak of the same, and straw bonnet trimmed with green; in summer, a white dress, and white Delaine mantle, and straw bonnet trimmed with blue.

The reasons for this are good and obvious, and if parents will co-operate with us, it will promote harmony, and conduce to the practice of economy among the pupils.

For further particulars, as to principles, government, situation, and studies, you are referred to the Catalogue and Circular, which may be obtained, on application, from any of the Trustees or the Principal.

WHAT CONSTITUTES A SCHOLAR?

An Address,

DELIVERED TO THE

FACULTY AND STUDENTS

OF

GREENVILLE (KY.) PRESBYTERIAL ACADEMY,

AT ITS

FOURTH ANNIVERSARY.

BY PROF. JAS. K. PATTERSON,

OF STEWART COLLEGE, TENN.

(PUBLISHED BY THE STUDENTS.)

CINCINNATI:
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WHILE the night of Barbarism yet overhung the prolific home of the fierce nomadic tribes of the north; while the conquering eagles of Rome were still unfledged, and the sires of her sturdy warriors cultivated with the hoe the corn and the vine that clothed with verdure the slopes of the Apulian hills; while Gaul was yet unknown, and the "chalky cliffs" frowned in silence on the gloomy waters that dashed against their base, centuries before Tully thundered in the forum, or Horace tuned his lyre, ere yet the distant rays of the Augustan star ushered in the golden age of Latin Literature; long before all these, in unobtrusive modesty, the great moralist of Athens dispensed to rich and poor alike; to the prince and the peasant; to the learned and the unlearned, those sententious periods and philosophic utterances that confounded the sophist and tore the dialectic of the logician to shreds. Sauntering along the streets at a late hour, might be seen the ungainly figure and uncouth physiognomy of Socrates; now stopping to parry a dextrous thrust, now to disentangle an ingenious sophism, now to overwhelm with his unanswerable metaphysic, some conceited pedant, who sold his wares to the highest bidder; then passing along to the steps of the Parthenon, or some of the hundred places of resort where the learned of Athens were wont to meet, discoursed on those sublime themes—God, the Human Soul, Immortality, which held his auditors bound as by a spell, and disseminated the seeds of a philosophy whose fruits have

been gathered for twenty centuries, and are still being gathered by all who venerate morals and revere religion.

Then, as four or five centuries later, Athens was the seat of learning for the world, a more educated auditory, possessed of a purer taste, more exquisitely discriminative of the beauties and defects of oratory, or of the excellencies and graces of composition, was not to be found. It was the age of great men. Under Pericles, Attica had attained the summit of her renown. The sublime tragedies of Sophocles and Euripides, and the incomparable comedies of Aristophanes, held possession of the stage. The chisel of Phidias filled the temples with the breathing marble, and the pencil of Zeuxis clothed the canvas with the swelling forms of life. Thucydides, the father of Philosophic History, was in the zenith of his fame, and thrilled the city of Minerva with his life-like scenes in the great Pelopenessian contest that had shaken Greece from Olympus to the Ionian isles.

With such men as these and amid such scenes, lived the sage. No advantages of birth, no accumulated for ture, gave him a place at their festive board; no burning eloquence melted, no bland persuasive accents wooed the listener to his side. But the massive grandeur of his soul; the stern, uncompromising virtue; the deep, earnest deliverances; the terrible anti-sophistical recoil that characterized his whole life, and proclaimed it a reality; all these conquered attention and compelled respect. "A man wholly in earnest," an intellect symmetrically developed; the harmonious and concurrent operation of all the faculties of the mind, and all the emotions of the heart; these gave Socrates his pre-eminence in Athens, re-constituted Philosophy in Greece; raised up Plato and Euclid; mediately the Logic of Aristotle, and remotely the Organon of Ba-

con. To sum up, his was an original mind, in a lofty sense, an educated mind; and such a character and such a development, always have made and always will make, their possessor great. To consider some of the means for accomplishing these, you will perceive in the sequel is the object of this address.

Though in the animal and vegetable world, the points of contrast be strongly marked, those of resemblance approach each other so closely, that it is almost impossible to discriminate; dissimilarities coalesce; distinctions are lost; and in this case, as in many others, the "science of opposites" proves itself one. In both, the organism is at first simple, consisting only of a single cell or system of cells; each in the process of development multiplies, passing from the one to the many; from unity to plurality; from identity to difference. In each nucleated cell the original type still exists, throughout all the organism conforming to it in structure and in function. The process of nutrition, the circulation of the fluids, the supply of food, and the removal of effete matter, is accomplished by similar means. Naturalists have long suspected the existence of a general type to which all animal organisms conform; more obtrusive is the existence of a kindred one as a vegetable center, and the day is perhaps not far distant, when, both ascertained and defined, shall be carried up into a higher unity of which both are only differentiæ. Each has its period of youth, maturity, old age, and death. Each, notwithstanding the multiplicity of parts, is a unit in itself; their diversified operations tending to one common end: the development, maturity and perpetuity of the species. Lop off a limb from the animal or vegetable, the unit suffers in the mutilation; wound either in a vital part, the blood of the one will flow, and the sap of the

other exude till the exhausted trunk loses the ability to perform its functions, and death supervenes.

The tree is a unit, the forest is a unit, the whole vegetable creation is a unit; man is a unit, humanity a unit, animated existence a unit; all organized nature, animal and vegetable, in a most important sense, a unit. These, viewed simply as organisms, are grand unities, but in a larger, a nobler and a more exalted sense, are two sublime unities: one, the eternal, everlasting God; the other, the soul of man—the emanation of himself, his image, his likeness. To this latter, I, for the pesent, more particularly advert.

When we speak of the faculties of the mind, of its moral powers, of its latencies, of its emotions, and denominate this one active, and that passive, we do not infer that the mind is split up into parts, and these held loosely together by a sort of correlated aggregation. No such thing is either meant or implied. To those who consider intelligence the result of organization, such language may infer multiplicity of parts; but to all who accept its immateriality, no such inference is tolerable. These only indicate the modes of its activities, the character and direction of its energies; the whole mind operating in each particular act, whether it be Perception, Memory, or Comparison; whether it be conversant about Ethics, Æsthetics, or any of the hundred modes in which its activity may be manifested. Unlike the body, this unit is indestructible. It, too, demands food, but its proper nourishment is its own activity. There is no disintegration, no aggregation, no metamorphosis of tissue here. Nothing once obtained is ever lost. In the body, the assimilated nutritive particles, after forming part of the living tissue and discharging the functions incident to it, become unfit for further use, and are removed to give place to others. This process is incessantly

going on in every organism on the whole earth; a constant building up and tearing down; a perpetual struggle between life and death; between the constructive and destructive forces within. In this respect there is no analogy between material organisms and spiritual existences. Nothing once obtained by the mind, is ever lost. Its cry is still "*give, give.*" Like the grave, it is not full; like the ocean into whose capacious womb the rivers continually pour, its shores never overflow nor are filled. There is no defferentiation of cells; no passing from one to the many here. In the process of its own evolution, like an infinite-sided polygon, each side is presented in turn, and at each successive presentation, strenghtened and enlarged. Improper influences brought to bear upon it, continued and overwrought action, may derange its functions and render abortive its exertions, but its essence is not destroyed. In the material universe, were the equilibrium of forces destroyed, the law of gravitation would not cease. Matter would still be attracted to matter, though these huge spheres no longer described ellipses and parabolas round their centers. Activity would not cease. Order, it is true, would no longer obtain; law would not hold matter in subjection; sphere would dash against sphere, and world upon world; universal confusion and turmoil would reduce everything to chaos, but activity would still be the essence of the universe. So with the soul: It can not cease to be active. Active still, it would continue to act though the vulture of Prometheus, an unbidden banqueter, prey upon it; though a weight huge as kept Enceladus in the twin embrace of adamant and flame, endeavor to crush it: though opposing forces, struggling for the mastery, meet and strive to rend it in fragments and scatter them to the four quarters of heaven, a unit still it would remain. Unity and

activity are its essentials; without which it could not exist.

I need not tell you of the vast acquisitions possible to the human soul, of the hights it can attain, the depths it can fathom, the illimitable sweep which its pinions can embrace. I need not speculate, grand as is the theme, on its endless approximation to God in the eternal world, when loosed from its tenement of clay, material obstacles no longer clog the revolution of its wheels. These would carry us far beyond the limits of an address like the present. Let us deal with it as conditioned, "*now and here.*"

To develop to the utmost this grand integral unity, to preserve symmetry and proportion in this development, are the problems which education proposes to solve.

To give proportionate enlargement to a sphere, every part of the surface must still be equally distant from the center. If flattened at the poles or the equator, it loses its spherical character and becomes spheroidal. To duplicate the cube, requires, in like manner, an adherence to the original prismatic type. Increase the volume of matter in one direction, or diminish it in another; and a body subject still, perhaps, to geometric measure, but differing essentially in its conformation, is the result. In either case, the cube or the sphere is lost. Bend the sapling to within a few degrees of the earth and confine it there, it will grow still, but instead of the well proportioned tree, with its noble trunk and beautifully-rounded top, you have only a shapeless deformity. Compress any part of the human body so as to prevent the free exercise of its nervous or muscular tissue, or withdraw the requisite supply of aliment from any limb, and by artificial means direct it to another, and an abnormal monstrosity gives unmistakable evidence of the violence done to nature in arresting

growth here, or stimulating it there. In each case unity is preserved, but symmetry is lost. It is an undivided but a distorted unity. Burn the diamond in oxygen gas, the carbon is not destroyed, but it can never be recrystallized, and is henceforth valueless. Transform, by a similar process, the quartz crystal, you will have the silicic acid still, but the brilliancy and utility of the gem are gone forever.

If the matter considered be not of the requisite conformation, then by applying known mathematical principles it can be made so. If the plant be not too greatly distorted while its fibers are tender and its parts flexible, the stake and pruninghook of the husbandman may cause it to grow up into a well proportioned tree. Now, the mind may be subjected to kindred influences. Originally possessing within itself the capacity for symmetrical development of the whole, the proper stimulus afforded by conditions internal, and external to itself, can not fail to be promotive of the end in question, while its subjection to counter influences will as inevitably result in a mental obliquity. Should its activities, on the other hand, manifest a tendency incompatible with the evolution of the typical ideal, then the removal of the exciting causes which tend to encourage undue expansion in one direction, and a judicious application of them to the promotion of growth in another, will as certainly restore equilibrium in the mental as in the animal or vegetable unit.

Such a judicious course of instruction should be given as to develop each of the faculties of the mind according to the laws of its development. The memory, for instance, can be cultivated and supplied with the material of knowledge in youth without trenching upon the other mental faculties, while, in maturer years, an exclnsive attention to that alone, or a disproportionate amount

of culture bestowed upon it, would make its possessor a mere conservator of facts, or at best, fit him for a mechanical narrator, without taste, judgment, or felicity of description. In youth, such studies only as require an energy of mind in the acquisition and retention of knowledge, should be imposed upon the student. Except in rare instances, where extraordinary precocity is manifested; all subjects which require the exercise of the reasoning powers beyond a minimum or the natural appetency of the mind, should be withheld as tending to force a premature, unhealthy, hothouse growth, and inuring ultimately to the frustration of the cherished desires of those most interested in their advancement, and the dwarfing of the soul which might otherwise, under a more judicious management, have acquired colossal proportions.

In ignorance of this law, or possessed by a hallucination which knows no reason, parents will insist upon taxing the minds of their children with what is far beyond their comprehension; which they as little understand as a New Zealand chief does Greek; and quarrel with instructors if they do not make their hopeful scions grammarians, philosophers and logicians. Grammarians! why, it introduces the mind to a philosophy and a metaphysic the most profound known; the metaphysic of thought and the philosophy of language. The result is exactly what might have been anticipated. The mind repudiates, and refuses to hold truce with the unintelligible jargon, as a sick stomach with food, which in health it would crave, but now nauseates. And of the thousands of pompous seniors in college candidates "*titulo graduique Baccalaurei in artibus,*" and boarding school misses who propose, with the utmost complacency, to *finish their education* next session, few

can analyze a sentence of two or three clauses; are profoundly ignorant of even the rudiments of language, and persist, while they quote the authority of Presidents and Principals, in telling you that the preposition shows relation between the noun in the adjunct and the word nearest to it—no matter what. Grammarians after a fashion, and just such as might have been expected.

And not only in language is the same game played, but such prodigies are thrust into logic, mental philosophy, and ethics; drag through with a motion heavier and slower than the Alexandrine line, emerge stamped with the seal and wearing the livery of scholars; while not one in every hundred could discriminate between a conditional and a categorical proposition, or explain the psychological import of an "*analogy*," or "*an hypothesis.*" Rare scholars these! But the fault is not theirs. They did as they were directed, and on parents for urging, and instructors for permitting it, will rest the *onus* of responsibility. Duped themselves, they go forth in turn, licensed to dupe others.

Every faculty must be developed simultaneously with the whole, at such times as it begins to manifest its proper energy and give evidence of its fitness for such appliances as will facilitate maturity. It is manifest, then, that no one should be cultivated at the expense of another. All discipline which cultivates one faculty to the exclusion of the others, or bestows a greater or less degree of culture on one than on another, must, in the end, prove detrimental to the whole. God has constituted the mind such that, generally speaking, the *desideratum* proposed by its education is attainable.

We admit original differences in mental constitution, but these are in the shape of relative strength, viewed as wholes. If minds, immortal souls, are ushered into the

duties and responsibilities of manhood, "deformed, curtailed of fair proportions, cheated of feature, sent before their time unfinished," or worse, into that "busy world scarce half made up, and that so lamely and unfashionable," the fault is not God's, but that of the so-called instructors and educators to whom this most important of all trusts is confided. Let us, however, be more specific. We do not deny the utility—nay, the absolute necessity, if you choose—(and in this we would go as far as any other,) of an ample supply of facts; a storehouse of material always at hand, constituting the banking capital, the currency of the mind, upon which it can at any time draw as occasion requires. We maintain that no one can ever become great as a thinker unless he have the material on which to operate. Scaliger forgot nothing that he had ever read, and was possessed of such extraordinary powers of memory as to be able to commit the whole of Homer in twenty-one days. Leibnitz, to whom posterity has divided the honor of the Calculus with the illustrious Newton, was not less celebrated for his wonderful powers of retention. But neither of these owed his celebrity to his capacious memory alone. Nay, it is possible for a man to remember everything, to be a "*Helluo Librorum*," and yet, in point of mental vigor, be no better than an intellectual barbarian. You remember the noted instance of the celebrated Librarian of Florence. It is no uncommon thing to meet with men who pass for well informed, and yet have no originality. Cumbered with the material laid up, but useless as food upon an overloaded stomach; incapable of digesting the material which has been furnished to it from without, their functions are paralysed because the faculties of elaboration were altogether ignored in the acquisition.

Nor will the cultivation of the reasoning powers alone

suffice. With analytic and constructive faculties capable of pursuing every nerve, every fiber, every vein of thought to its ultimata, disentangling complexities, and resolving every compound into its constituent elements, classifying and arranging in their respective categories all the parts, and then reconstituting the whole. All this is well, but alone it will not do. Without the ability to *retain*, to *reproduce*, and to *represent* the material so operated upon, the possessor of such powers would be as one who beats the air, or as a giant chained. With both combined, he still could not claim a mind fully manned and equipped for accomplishing the end of his creation. His logic might be inexorable as that of Hamilton; his metaphysic more profound than that of Aristotle; his analysis deeper than that of Kant; and yet, rigid, inflexible; no warmth, no generous life stand a sculptured monument of ice, glittering and translucent indeed, but freezing everything within its sphere.

The purely imaginative mind, on the other hand, or one in which imagination largely predominates, can as little claim a symmetrical development. To dwell in the regions of fancy alone, among ideal abstractions; to soar above the clouds and people a real world with unreal and unrealizable existences; to form impossible combinations and adopt these chimerical fancies as standards of measure, may amuse, but in no case benefit, while the powers of the mind are by such ideal imaginings unfitted for the practical duties of life, emasculated, vitiated, incapacitated for continuous exertion and vigorous thought. Even admitting its legitimacy, it is dependent on the concurrent operation of the other powers of the mind. Memory must supply the material, and comparison preside in the work; otherwise a wearisome repetition on the one hand, or a fantastic,

uncouth arrangement, outraging fitness and propriety on the other, would repel rather than attract, and caricature what might otherwise have been pleasing, and an easy, natural vehicle for communicating important truth.

If the development of the intellectual faculties be neglected or ignored, while full play is given to the feelings and emotions, results as disastrous follow. Passion will not lead its possessor to distinction; impulse can never secure intellectual renown. If the head be subordinated to the heart, intellect to feeling, activity will not be arrested, but it will certainly be misdirected, and is as likely to be productive of pernicious as of beneficial effects. A ship in full sail, without ballast, rudder, or helmsman, is as likely to drift upon the hidden reef, or be dashed to pieces on the rocks, as to enter her destined haven. The possessor of these, may be a very good or a very bad man, according to the original bent of his mind and the external influences operating on him. He may, by accident, do right, and he may as surely do wrong. But when subordinated to the intellect, the passions may become the most potent auxiliaries to high and generous expansion. They may become the propelling force, but should never become the controlling one. They may move, but not rule the soul.

A mind, then, to be proportionately developed, must give its proper place of relative subordination to each faculty. All the cognitions and feelings must have a simultaneous evolution. The concurrent action and coaction of all of these, the continuous activity of all, and the constant effort to realize a higher activity in reference to their legitimate objects, to expand, to enlarge, to concentrate thought, to be able to think vigorously, and to specialize thought, these are the objects which education proposes to attain.

Activity in one direction, without the ability to energize in all, can never constitute, in the philosophic sense, a scholar.

Such a development will teach men to think for themselves, not to think at second hand. How little original thought is there? The ten think for the million. All, or nearly all, is by proxy. The many accept the dicta of the few; and here, in a most melancholy sense, "walk by faith and not by sight." By this means the error of one becomes that of many, perhaps of all, and falsehood stamped with the impress of truth, passes current for ages. If you do not think for yourselves, be at least able to examine that which you accept from others. So that in every case you may be able to "prove all things, and to hold fast that which is good." "*Mundus regitur opinionibus*," says Paschal, and in terms not less explicit, Charon bears witness to the same: "almost every opinion we have, we have an authority. We believe, judge, act, live and die on trust, as common custom teaches, and rightly, for we are too weak to decide and think for ourselves. But the wise do not act thus."

Yet there are in every age great original thinkers; men whose belief is not formed for them, but by themselves; who elaborate thought and systems of thought, for themselves, and in the end exercise a more potent sway than ever monarch who wielded a scepter. Such was the sage to whom I introduced you at the beginning of this address. Such, Aristotle, Augustine, Leibnitz, Kant, Calvin, Paschal, Cousin, and "what the fates have given our own age to see," the most illustrious thinker of any age, Sir William Hamilton.

Disenthrall yourselves from this mental slavery, which holds the millions of mankind fettered; emancipate yourselves from the tyranny of custom, whether in philosophy

or religion, in morals or manners. Enthrone conscience, and make that the supreme arbiter in all. Begin not by accepting blindly whatever is given you to believe and to think, but subject everything to a searching, relentless scrutiny. Believe nothing without evidence, and trust me, whatever God designs mankind to believe, he asks them to believe only on irrefragible testimony. "*Alte dubitat qui credat altius.*"

Lay up a large supply of materials conserved for future use; gather them wherever you can; store your minds with the facts of history, ancient and modern; with those of physical science, in its endless varieties; with those of astronomy, terrestrial physics, geology, botany, mineralogy; in short, whatever is to be learned in the "heavens above, or in the earth beneath, or in the waters under the earth." The possession of these constitutes *knowledge*, but not *eduaction*, nor *intellectual culture*, nor *instruction*. Let me illustrate: When the field marshal issues orders for a levy of troops, the raw material, undisciplined, unformed, untaught in the science of military tactics, is seen collecting from hill and valley, from palace and hamlet, all seeking the rendezvous of the camp. These are the material—the facts, if you please—gathered from various sources, out of which an army is to be made. They are not yet prepared, however, to meet the enemy. They constitute only a confused, irregular mass, valueless for field service. They must be subjected to weeks and months of assiduous, painful exercise. They must be taught the use of weapons, ease and celerity in their motions, their appropriate places in the ranks, and the hundred other things that make thorough military availability. They are then educated, drawn out, as the term implies, and when the tocsin sounds and the drum beats to arms, are ready to be "built in" to form

battalions and squares to meet the enemy, or stand like the rock, the human wave that rolls on to sweep them from their base. So the possession of facts, as mere facts, to the mind are valueless. The mind itself must work up the material, analyze, compound, educate and instruct, draw out and build in, in order to render them of any value to their possessor. It is an abuse of language to say that the mere possessor of facts is an educated man. Nothing of it. Like a sponge which holds in its cells whatever it is permitted to absorb; clear liquids or dark, pure or impure; capable of applying it of itself to no purpose, until subjected to external pressure, it delivers all, only rendered more impure by contact with its sluggish sides. On the other hand, supply nutrition to the living, active plant or animal, it is taken into the system by an active, not a passive, process, is acted upon by the organs of digestion, passes into the circulation, becomes food for the support of life, gives strength, beauty, symmetry and consistency to the parts; is educated and instructed, drawn out and built in, becoming living and active, and in time co-operates to reduce to substance homogeneous with itself, the constant supply of food, the facts of the living organism. Food unassimilated, or incapable of assimilation, clogs the wheels of life, impedes vitality, paralyzes the whole, and accelerates decay. So with the mere introduction of facts; the food of the mind, unless worked up into its own proper food, they tone down its energies, rest like an incubus upon it, and conspire to produce stagnation and death.

Education is understood in two widely different senses, differing not in degree, but in kind; one of which, is, indeed, almost diametrically the opposite of the other. These may, for the sake of convenience, be denominated its lower and higher phases. In its lower, it implies the

acquisition of a certain complement of truths subordinated to a practical end, and comprehends all the arts and sciences denominated *useful*. Here the object primarily is not to develop the mind for its own sake, but for that of the body; to minister to its comforts, to prepare, as the expression goes, for business, to enable its possessor to become wealthy, to acquire lands, houses, and bank stock, to rise in the world, no matter how, to live for this life only and seldom with any reference to another. If the goal of ambition be to acquire a knowledge of the healing art, then such a complement of facts is sought as will make a skillful practitioner. If the bar, then the outline of legal jurisprudence, a stock of decisions for reference, a sufficient knowledge of Latin to translate law terms, and of English to express himself intelligibly, will enable the foster son of Themis to pass muster and entitle him to a place on the rolls. If theology, then a ready supply of cant phrases, ability to translate a chapter in the gospels, and with the aid of a lexicon and King James, a verse or two in Hebrew, a chart of the history of the Christian Church and of his own denomination in particular, panoplies the ecclesiastical Ishmaelite to do battle for the dogmas of his faith. If he aspire to none of the *professions*, then the ability to keep accounts in federal money, dexterity in computing interest, sagacity to foresee and improve the rise and fall of the mercantile barometer, prepare him for a seat in the banking house or at the board of trade. In all these, it is true, there must, of necessity, be more or less of mental development, but it was not for its own sake.

In the higher sense, and that to which all should aspire, it is the activity of the mind which is sought, and truth is considered valuable only as a mean of attaining a still

higher energy. Just as the arm of the smith is strengthened by wielding the sledge, and the whole athlete by the exercise of all his physical powers, so is the mind by continued and indefatigable thought. Here, truth is pursued not for itself, but for the pleasure derived from the chase. The barrier is endeavored to be scaled for the pleasure of surmounting the summit. The mountain is voluntarily climbed by hand and foot, avoiding the traveled route and the coach that would carry to the summit, for the vigor it inspires and the capacity for long continued exertion which it begets. The pleasure consists in the chase more than in the actual attainment of the object. Why would Newton rather solve, himself, the problem of the universe than have an angel breathe it in his ear? Why Herschel sweep the heavens with his telescope, night after night, and month after month, than have the wanderer pointed out to him by the finger of another? Why Cuvier dissect with his own hand the spider, than have any naturalist, though learned as Linnaeus, or sagacious as Owen, explain the interdependence of structure and the correlation of parts? Why would any of you prefer to solve a problem or discover by your own unimpeded energy, one truth, than be put in possession of a thousand which cost you no labor? The answer is the same in all. Pleasure consists in *doing*, not in *being;* in *seeking*, more than in *having*. To enlarge the capacity of the mind for the retention of facts; to give elasticity and strength to it, to enable it to analyze and compound, to generalize and to reason, to proceed from cause to effect, and from effect to cause; to give it breadth, depth and intensity, to cause it to find its greatest pleasure in its own activity; to enable it, *for itself* and *by itself*, to accomplish these, is, in the highest sense, education. To some extent, you are now doing this. Many of you in its lower sense; some, I hope, in its higher·

The course of study now pursued by most youth in our colleges and academies, has for its object the attainment of the latter. But far too little time is allotted to it. Instead of three, four, or even five years, ten is far too little. Indeed, in the latter sense, an education is never finished. This life will not finish it. Eternity will not.

Mathematics will not alone accomplish it; that deals with matter only. It considers the relation of quantity—good in its place, and absolutely necessary in many of the most exalted of the sciences which give breadth and expansion of mind. History alone will not do it; that furnishes the facts relating to the development of the race, its progress from Barbarism to civilization, and the ideas growing out of this development. The study of Language alone will not do it, though it bring you face to face with one of the deepest phases of philosophy. The Physical Sciences alone will not do it, grand though it be to decipher this unwritten book of God. Metaphysics alone will not do it, though, perhaps, better than any of the others singly. But a place must be given to all, and the requisite amount of time devoted to each, will ensure a symmetrical development of the whole. As was intimated just now, there is no such powerful gymnastic for the mind as the study of mind. To turn the eye of the soul upon the soul itself, to observe its actions, to trace the hidden springs of its activity to their source, and follow them thence, to concentrate thought upon the thinking subject—this best enables us to know its wants and the means of supplying them.

Upon the mind so cultivated and growing up with it as a part of its culture; upon all this as a substratum forming the dome of the capital, the apex of the cone must be grounded the principles of natural and revealed religion. No scheme of philosophy, no system of education, is complete which ignores the spiritual in man. There are no in-

terests comparable to those relating to his existence here in its connection with the eternal future. Where shall he go to be resolved of these? It is not in nature; it is not in his own soul. Where then?

The sacred scriptures convey to us much information that is sought elsewhere in vain. On some of the sublimest themes connected with our existence here, and our destiny hereafter, the book of nature, though replete with knowledge sufficient to furnish matter of inquiry to those who interrogate her for ages, yet on these is entirely silent. She has no oracle to consult, no divinity to make response. Her worshipers woo her in vain, for she, alas, has not wherewith to gratify their curiosity or satisfy their longings. On such themes as God, the human soul, creation, eternity, she is as silent as the grave. Go, then, and demand of her, if you will; but the only sound heard in answer is the confused sepulchral echo, the faint reproduction of his voice who asks. You may, with the geologist, examine the surface, and descend to the caverns of the earth; you may explore those hidden, mysterious records that they tell us have been there for millions of years, representing great epochs of creative and destructive power; you may postulate premises and deduce conclusions by the hundred; but from all these, though a thousand times more than they are, you would find no solution to the problems proposed. Ask the rocks whence you came and whither you go; ask the exhumed fossil concerning the character of the Being who made them; ask the representatives of geologic periods what is eternity, and what creation; they make no reply.

Or, if the mysteries of organization delight you, and you love, with the microscope, to lift the vail and observe the secret, ceaseless, silent energies forever acting; the development of germ, the differentiation of cells, the. forma-

tion of fibers, the springs whence support is drawn to nourish the organism, the circulation of fluids, and the processes by which assimilation is carried on; *these* will reveal to you the existence of laws, and from them you may arrive at the notion of a Law-giver, but beyond that, you can not go. The great problem is still unsolved.

With telescope in hand, you may sweep the heavens, the sun, the center of this system, the attendant planets with their satellites, the hundred thousand and more suns and systems of suns that, with their innumerable hosts, bespangle the brow of the immensity. All these, with the laws that govern their motions, you have generalized. Nay, more: with Herschel, you may fancy that you have even found a sounding line wherewith to fathom the depths of space, and yet all this accumulation of knowledge will not solve the momentous questions that meet the inquirer at every step.

With the crucible of the chemist, you may analyze and recompose; you may watch the formation of crystals, and becoming an inmate of nature, dwell from age to age in her laboratory, the favorite child of science, and yet live and die in utter ignorance of God and of the universe. Man, unassisted by a revelation from on high; unillumed by the light which shines from the word of God; would grope his way through this nether world with only sufficient light reflected to show him the thick darkness that surrounded him, and stir up within his soul a longing for light. Nature teaches many lessons, and many whose names adorn the literature of every age, have waited patiently at her shrine, but she speaks only of a present; her functions are all material. Of spirit and spiritual existence, she says not a word. If she points to the past, it is only to show the wrecks of by-gone ages strewn thick on eternity's shores;

if to the future, it is but the dim image of a half remembered dream. Traces of fragmentary references there are, guide posts whose hieroglyphics, half defaced, point behind to an anterior existence, or before to a succeeding one. But study them as you may, they infer only, do not demonstrate; point away from themselves, but do not unvail; do not enunciate with a clear and distinct deliverance, what constitutes an unequivocal reply to the questions that forever thunder at the deaf ear of nature. By holding converse with her in her loftiest moods, you may learn much that will make you wise in the wisdom of this world, but nothing which, by elaborating, analyzing and compounding as you may, will put you in possession of those sublime truths compared with which all secular learning is valueless.

The tendency of the pursuit of natural science, as indeed of any mental activity, is to enlarge the mind. This is not denied, nor would we undervalue it as a great depository of useful knowledge, the facts of which are utilized by man for his comfort and advancement in the scale of being, and made to contribute to the development of the mind by furnishing matter of thought and exercising his reason. The scientific explorer, with knapsack and hammer, who spends his summers among the mountains, classifying and arranging and reducing to order the discordant materials which he meets at every step; now referring a fossil, and then a plant, to their proper classes; now laboring to reduce to species and genera, this apparent anomaly and that ambiguous perplexity, can not but feel his mental powers invigorated, at the same time that he is enlarging the boundaries of human knowledge, and is enabled to comprehend order and systematic arrangement to be the principle upon which nature acts in all her endlessly varied operations. All this brings him face to face with law at every step. If

he examine the mechanism of his own body with a view to ascertain the correlation of parts and the interdependenee of organic structure, he pushes his investigations till the particular part or parts made the object of special inquiry, are generalized under some previously discovered law, or are grouped by themselves if not referrable to any known one, and the relation of this group to all others satisfactorily determined. The same is true of every other department of physical science. When the inquirer reaches a law, his inquiries stop. They must stop, for this is the limit of scientific research, and the utmost barrier that can be reached. And when once these fixed laws are determined, all subsequent inquiry only results in a more intimate knowledge of their extent, and a reference of every existing substance or phenomena to its proper place of relative subordination in the category. It is a great triumph to accomplish so much, and greatly do we honor those read in the book of nature. It is no disparagement to them to say that they can not go farther and discover in creation what God has not chosen there to reveal. Every attempt to go beyond law to its origin, has only revealed the weakness of man. Great though his mental abilities be, they have their limits, which they can no more transcend than the waters of the ocean can overleap the barriers which their Creator has appointed for them. Of this, the Nebular Hypothesis, Concourse of atom theory, and Transformation of species, are instances of the miserable unscientific absurdities into which great minds may be led when they attempt to go beyond the province of a true philosophy.

All the anatomists, from Hippocrates to Owen, intimate as their knowledge of the human frame may be, and great as their acquaintance with the normal and abnormal operations of the several systems which compose it, could never

tell how man originated, whence he comes or whither he goes, or give us any insight into the nature or destination of the mysterious occupant which holds its tenement there. If Newton, Leibnitz and Laplace were able to integrate the differential of the universe; to weigh the planets and predict the periodic movements of bodies whose magnitude appals, and the swiftness of whose motion staggers belief, if they have swept the heavens and ransacked every nook of this vast illimitable creation, that has come within the range of their glasses; yet they can tell us not a word whence all this matter arose, how it was formed into globes; why there exists an atmosphere on one, and none on another; why the function of this one is to radiate light and heat, and of that to reflect both. Grant that these are formed of what he, in his ignorance, is pleased to call *star dust*, and that in distant corners of creation this process is still going on, ask him whence the star dust, and he answers not a word; or, if he do, it is but the unintelligible, unscientific jargon of a mind puffed up with conceit, too proud to confess its ignorance, and too imbecile to discover its folly.

The chemist proceeds to analyze compound substances into their elements; to weigh these with the nicest accuracy, and discover certain laws by which these combine to generate new compounds, or recompose old. But this is the extent of his knowledge. When he has discovered the several properties of his ultimate elements separately, and in combination, and constituted them into groups, he has gone to the utmost limits of his tether. It has been said that the goal of all scientific discovery is to educe the *one* from the *many;* the substance from the phenomena; the absolute from the relative and contingent. If the *one* has ever been realized, it is that to which *law* has been given as a name. The substance has never yet been

evoked from the phenomena, nor the absolute from the contingent. If unity can at all be predicated of any of the generalizations of man, *law* is certainly entitled to the distinction. Now, as laws are not *one*, but *many*, before this problem can be said to be solved, unity must be deduced from these—that is, they must be carried up into a higher unity of which they are severally modes; of which they are co-ordinated species, comprehended under this generic term. This has never been done, and we suspect never will.

In that beautiful legend of the middle ages which details the unfortunate passion of the most learned man and the most accomplished woman of the age, it is said that after Abelard had roused the sympathies of Europe by his sufferings, and had shaken the vatican with the thunder of his erudition; after being driven from one retreat to another, his bones were at last laid in the vault of an antique convent in France. Twenty years after, Eloisa died and was laid in the same vault, and in the very coffin that entombed her lover. The hands that had lain motionless for twenty years upon that breast within which beat a heart whose pulsations startled Christendom, suddenly moved and clasped the beloved of his early years in his arms. But the throbbing pulse, the beating heart, the life blood that had coursed in arteries along that stiff skeleton were gone. Vitality was extinct. It was only a cold lifeless mechanism. So with law: it is a frigid induction without heart or life, the *Deus ex machina*. You do not see the pulse of the universe beat there, or its heart swell; and if you fall into its arms, you are clasped in the embrace of a lifeless skeleton, stark and frigid as the grave. Law does not solve the problem of the universe and of man; far less of God. It is a barrier at which we are compelled to halt.. And if, in spite

of this, with no other guide than reason, we attempt still to press onward and upward, well is it if the recoil do not drive us howling back into the abysms of chaos. The sum of all these reflections is this: *Law regulates all things, but originates nothing. Beyond law, there is a law-giver; and above creation, a Creator.* Both dimly point to the one and the other, and some have even fancied that a demonstration of the being, and perfections of such an one is found in them; but with all due respect to such pious speculators, we humbly claim that creation and its relation to a Creator; law, and its relation to a law-giver; are like life and immortality, only brought to light through the Gospel. The devotee of natural science has to deal, for the most part, with material substances only, and the laws that govern matter, material forces and their relations. He is brought face to face with the material objective, that which is placed within the reach of his senses, and which he can by them subject to examination. The subjects with which he deals are tangible realities, predicable in place, ponderable agencies, which can be weighed or measured, or, if imponderable, manifesting themselves in material results and subject to the laws which govern material phenomena, he deals with that which can be seen, heard, touched, and of whose existence his senses make him immediately cognizant. The spiritual is thus either altogether overlooked or ignored, and unless guided by the inspired utterances of an oracle which nature and natural laws know not, materialism, atheism, and all the chilling, freezing, blasting influences which follow in their train, rise to crush the soul, quench its fires, blight immortality, and change the gorgeous temple of nature into a gloomy sepulchral tomb.

Its consequences upon a past generation of speculators are thus admirably summed up by the great Metaphysician

who, amid the tears of the learned of Europe and the world, was a few years ago gathered to his fathers: "It was believed," says he, "that reality and truth were limited to experience, and experience was limited to the sphere of sense, while the very highest faculties were deemed adequately explained when recalled to perceptions elaborated, purified, sublimated and transformed. From the mechanical relations of sense with its objects, it was attempted to solve the mysteries of will and intelligence. The Philosophy of mind was soon viewed as correlative to the Physiology of organization. The moral nature of man was at last abolished in its identification with the physical. Mind became a reflex of matter; thought a secretion of the brain." Let such a belief supervene, and who can foresee the disastrous results in this world or the next? They are written in torrents of blood, in a stultified petrifaction of the heart, in a ruthless endeavor to root out religion and morality, to freeze the affections and congeal the currents of the soul.

Religion and science must not be divorced, must not be viewed as reciprocally exclusive, as in antagonism one with the other. A fully developed mind, rich in the materials of knowledge, and imbued with religious truth; a great head and a good heart, presents the noblest type of the educated man. Let me give you an example of the one without the other, and then of both combined.

There died not long since a man who for more than half a century was regarded as the wisest and most deeply read in the volume of nature which this or any other age has produced. Every clime and every region had been explored by him. The Mexican Cordilleras, the South American Andes, the Alps, the Himalyas, the plains of Russia, and the steppes of Asia, the deserts of Africa, and the Plateaux of the new world, had all opened to him their por-

tals, unlocked their mysteries, and disclosed their wonders. Now high on the summit of Chimborazo he looked upon a continent beneath him and worlds above him; the deep placid waters of the Pacific on his left, and on his right the tropical, verdure of the Brazillian Llanos, now down deep in oceanic caverns, amid grottos more romantic than Calypso's, and subterranean hills that vied in verdure with the summits of his own Teutonic home, He saw all lands, all seas, rivers, upon whose bosoms the corn and cotton, the rice and sugar were carried to the sea; plains on whose herbage the buffalo roamed, and the wild horse snuffed the breeze. The libraries of the rich, the museums of philosophers, the halls of science were all opened to him. The discoveries of former ages and the researches of his own were all mastered and amassed by his capacious mind. Men who ruled empires and kingdoms sought his society; and knights who boasted an ancestral glory of a thousand years, and princes whose fathers had sat on thrones since the fall of imperial Rome. Ducal mansions received him as a guest, and royalty was honored by his presence. Yet all this accumulation of knowledge was unsanctified, was perverted, was secretly employed to stain virtue and undermine religion; to banish the Creator from his universe, and leave it a vast deserted vault, where the dead mocked the living, and the tomb laughed at the wisdom and folly of a deluded race. In the heavens above he saw no Heavenly Father, and in the earth beneath his goings were not heard. He heard no music in the rolling of those mighty spheres, and saw not the arm of Omnipotence that ushered these ponderous masses into being. It was a huge body, but the soul had been exorcised from its abode. This man, this philosopher, this sage, lived an infidel, died an infidel, and left behind him a record in many respects vast and pro-

found, but the most godless that ever was written. Such was Alexander von Humboldt, and such his Cosmos.

There was another, born not in the lap of luxury and reared in wealth, but beyond the Grampian hills, where the North sea lashes the cliffs of Scotland, and Ben Nevis rears his shaggy head. No college opened her halls to him, and led him through spacious courts; but by the shore of the German ocean, among the rugged hills of his native land, he laid the foundation of an education and a fame that shall live in the memory of the Philosopher and the Christian while Philosophy is studied and Christianity revered. He too explored the arcana of nature; to him she opened her penetralia, and received him at her shrine. He stood upon the summit of Ben Lomond, explored the gorges of the Trosachs, followed the rivers in their beds, and the retiring tides of the ocean, in his eager pursuit of knowledge. Betimes he laid aside his hammer and chisel to take up the pen—snatched the battle axe from the hands of the infidel, and with it cleft the skull of the atheist. Sublimely did he stand forth the champion of religion, the pillar of virtue, the impersonation of deep devotion, the embodiment of Christian heroism. And when he fell a martyr to an overwrought brain, the world felt a thrill of anguish. Science lost one of her noblest sons, and Christianity one of her brightest ornaments. His large heart beat with a noble pulsation, his generous eye beamed with a heavenly radiance. His was knowledge sanctified, consecrated to God, devoted to religion, and while learning shall allure and study charm the soul, a grateful recollection will cluster around the stalwart self-made philosopher of Scotland. Such was Hugh Miller, and such the Two Records.

It is no easy thing to become an educated man. It is the business of a life; nay, the business of eternity. It is

a difficult, a most arduous work. But it is nevertheless a work for which God will hold you responsible. O, young men, with minds given to you by God, with souls that shall live forever, with capacities for indefinite expansion and endless approximation to God, fix your determination to realize the largest development of intellect, and the highest cultivation of the heart. Gather to yourselves the wisdom and learning of the world, but superinduce upon it the *Science of Heaven.* Honors are transitory; riches take to themselves wings and fly away; beauty will fade, and even after a few years your bodies molder in the dust, and your names be forgotten; but there is a real good, an unalloyed pleasure which you can all attain—"to know yourself here, and to enjoy God in Heaven." Labor for this. Plant for the skies, and you will assuredly reap a glorious immortality.

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[1875]

Please return

COURT OF APPEALS.

—o—

CITY OF LEXINGTON, Appellant,

vs.

LEWIS' ADM'X, Appellee.

—o—

PETITION FOR REHEARING.

CITY OF LEXINGTON, *Appellant*,

vs. } PETITION FOR REHEARING.

GEO. H. LEWIS' ADM'X, *Appellee*.

As we were about to write a Petition for a rehearing in this case, a friend, than whom there is not a more accomplished linguist in our country, and whose reputation has secured for him an invitation to be one of the contributors of the new edition of the "Encyclopedia Brittanica," now about to be published, handed us the following. He is no lawyer, but entertains himself sometimes with the opinions of the Court printed in the *Courier-Journal;* and when he read the one in this case, amused himself with a criticism of it. It is so complete, so clear, and so conclusive, while at the same time coldly impartial, that we did not hesitate to accept it as our Petition.

We reprint the opinion that the Court may have it before them while reading the Petition:

[From the Courier-Journal.]

SUIT AGAINST LEXINGTON FOR DAMAGES.

KENTUCKY COURT OF APPEALS, FEBRUARY 27, 1875.

CITY OF LEXINGTON, APPELLANT,

vs. } APPEAL FROM FAYETTE CIRCUIT COURT.

GEO. H. LEWIS' ADM'X, APPELLEE.

LINDSAY, JUDGE.

The Court, being sufficiently advised, delivered the following opinion herein:

The city of Lexington contracted with McLaughlin & Murphy to construct a cistern on Broadway, between Main and Water streets. Whilst the work was in progress, a fragment of stone, thrown from the cistern by a blast, struck and killed G. H. Lewis, the infant son of Margaret Lewis.

She, as administratrix of the deceased, sued the city, and seeks, under the provisions of the 2d section of the act of 1854, to recover punitive damages for the killing of the intestate.

The statute provides "that if the life of any person is lost or dostroyed by the willful neglect of another person or persons, company or companies, corporation or corporations, their servant or servants, then the personal representative of the de-

ccased shall have the right to sue such person or persons, company or companies, corporation or corporations, and recover punitive damages for the loss or destruction of the life aforesaid."

It is averred in the petition that the parties engaged in the prosecution of the work acted so recklessly, carelessly, and wantonly, and with such indifference to the rights of others, and especially her son, that one of the stones so thrown up by said blasting with gunpowder was thrown with such force against said lad that he was instantly killed by it.

It is not charged in terms that the parties were guilty of "wilful neglect" in the blasting of the rock, nor that the killing was the result of "wilful negligence."

We are not prepared to say that the terms "reckless" and "wanton" may not be so used as to be equivalent to that of "wilful." This Court has defined wilful negligence, as contemplated by this statute, to be such conduct as evidences "reckless indifference to the safety of the public, or an intentional failure to perform a plain and manifest duty, in the performance of which the public has an interest." Lou. and Nash. R. R. vs. Jacobs, MS. opinion. It has held that wilful and wanton neglect are nearly synonymous, each implying either actual malice or anti-social recklessness. 2d Dunall, 577.

Appellee does not aver directly that the conduct of the city, or of those for whose conduct she claims that the city is answerable, was either reckless or wanton. She says that it was SO RECKLESS, CARELESS, WANTON, &c., that a stone was thrown against her son, and his life thereby destroyed.

The charges of wantonness and recklessness are so far qualified that it is impossible to say that the plaintiff meant to charge "wilful neglect." The substance of the charge as made is that the blasting was done with so little care that the fragment of stone was thrown against the boy with sufficient force to destroy his life.

All this may have resulted from a very slight want of care and prudence, and we are authorized to conclude that it was, in view of the fact that appellee substitutes for "wilful," the term used in the statute, the terms wanton and reckless, and then qualifies the words so substituted until it is left a matter of doubt as to the idea intended to be expressed, and until it is perfectly plain that she does not intend they shall receive their ordinary and literal interpetation.

To authorize a recovery under this act it is essential that the loss of life shall have been the result of wilful neglect, and as the statute is highly penal in its nature, a petition under it, to be good, must charge the exact character of the neglect, for which a recovery may be had, and while it is indispensable that the exact statute shall be used, it is absolutely necessary that the charges shall be made in language clearly importing as high a degree of negligence as that for which the law-making power intended the penalty to be imposed.

We regard the petition in this case as failing to come up to the standard indicated. It does not, therefore, authorize the judgment appealed from.

Judgment reversed, and cause remanded for further proceedings not inconsistent with this opinion.

From a careful analysis of the foregoing, it is apparent that the Court remands the petition of the appellee for three reasons on which its dissent is grounded, viz:—

1st. That the allegation fails in regard to its adequacy or equivalence to the language used in the statute.

2d. That the averment or allegation is not direct.

3d. That the averment or allegation is so far qualified that it is impossible to bring it within the scope of the language used in the statute.

In regard to the first, I hold that the language used in the petition, wherein the parties engaged in the prosecution of the work are alleged to have conducted their operations so "recklessly, carelessly and wantonly, and with such indifference to the rights of others, and especially her son," is a full equivalent to the language of the statute, which provides "that if the life of any person is destroyed by the *wilful neglect* of another person or persons, &c., punitive damages shall be recovered for the loss or destruction of said life." "Wilful neglect" in this connection means the culpable omission of such precautions as are necessary to secure the safety of persons adjacent to but not engaged in the work. If it be established by a fair interpretation of the terms employed by appellee, that "reckless, wanton, and careless indifference" are the full equivalent of "wilful neglect" or "culpable omission," then the first ground for reversal is set aside.

The term "reckless," whence "recklessly," is from the old English verb "recan," which, according to the best authorities, indeed according to all, for on this there is happily no difference of opinion, means "to regard," to "reckon," to "calculate," but each of these clearly implies "will," "volition," "intention."

Oftentimes the meaning of words is best ascertained by comparing them with their contraries. In the case in hand, the meaning of "reckless" and "recklessly," the highest degree of culpable temerity known to the English tongue, will be shown by comparing them with their opposites. The synonyms of "reckless" are "improvident," "rash," "headlong," "precipitate," "neglectful," "unmindful," "heedless." The opposite of these "provident," "prudent," "cautious," "careful," "vigilant," "mindful," "regardful," "on the alert." Now, it behoved the corporation, or their servants, to be "provident," "careful," "vigilant," "regardful;" they were on the contrary, as the petition alleges, "reckless," the synonyms of which are, as shown, "improvident," "rash," "neglectful," "unmindful,"

"heedless," and hence, in so far as "reckless," culpable, because negligent of the proper precautions.

In the second expression used, the idea of "wilful neglect," is still more strongly brought out. "Wanton" implies a deliberate act of "will." I cannot suppose the Court ignorant of the usage of the word in the great classics, which have done more to fix the type and determine the character of our language than all other influences put together—the English Bible and Shakspeare. In these the term "wanton" indicates invariably the presence of "will" as a determining element.—"James v. 5." Shakspeare in "King John, act iv, scene 1," not to multiply examples, plainly proves this. Moreover, this usuage may be seen in every age of English since Henry VIII. For example, in Sir Thomas Moore, in David Herrick's "Delight of Disorder," in Milton's "L'Allegro," and in Byron's "Childe Harold." In common parlance this meaning is evident. "A wanton insult," "a wanton injury," always convey the idea of *wilfulness* or *intention* on the part of the agent, as well as unmeritedness on the part of the subject. That this is the case I might appeal to the universal consent of mankind, educated and uneducated alike.

In regard to "careless" it is unnecessary to say anything. It is a synonym for "reckless" with this qualification, that the latter, already commented upon, intensifies the meaning attached to it. One word perhaps should be added in regard to "indifference." That it is a synonym and equivalent for "neglect," none will dispute.

From the foregoing analysis of the expression used by the appellee in the petition, it can only be concluded that the language employed is stronger and quite as precise and explicit as the language used by the statute. If further proof were wanting, the Court itself, while constructively denying, explictly admits its adequacy in identical terms. "This Court," says the deliverence in which dissent is taken from the judgment of the Fayette Court, "has defined *wilful negligence* as contemplated by the statute to be such conduct as evidences *reckless indifference* to the safety of the public, or an *intentional failure* to perform a plain and manifest duty," &c. Here, "reckless indiffer-

ence to the safety of the public" is, by the Court, made the definition of "*wilful neglect,*" and is also still further by way of amplification made the equivalent of an "*intentional failure* to perform a plain and manifest duty." This very definition, "reckless indifference," was incorporated in the petition of appellee, and strenghtened by the terms "wanton" and "careless," and yet, the Court rules its own definition, when strengthened by cumulative expressions, inadequate to the language of the statute. Unless, indeed, which appellee can scarcely suppose, the Court considers the allegation weakened by the form of the proposition requiring the adverbial instead of the adjective forms of the descriptives used. This would be an unmerited imputation of illiteracy upon the Court which I could not entertain.

The second ground alleges that the averment of appellee, viz.: "That the parties engaged in the prosecution of the work *acted so recklessly, carelessly* and *wantonly*, and with such indifference," &c., is not direct.

To this, I reply that the averment is *assertive, explicit, precise.* It is neither problematical nor disjunctive, nor hypothetical, and by all the rules of logic, and by all the usages of language, must be held to be direct. If not direct, what is it?

The third ground alleges that the averment or allegation is so far qualified that it is impossible to bring it within the scope and meaning of the language used by the statute.

I admit qualification, but a qualification absolutely necessary to express degree, and I hold that the qualification instead of weakening, as the Court seems to suppose, strengthens the averment by making it ample. The qualifying words are "so" and "that." "So," by all the usages of English, and all languages of which this particle is an equivalent, in such connection, indicates degree; "so" means "to such an extent," and enlarges the antecedents or cause sufficiently to contain the consequent or effect. "That" indicates *consequence*, and introduces the conclusion. The averment of appellee then involves three distinct allegations, first, "reckless, wanton and careless indifference to a culpable degree" on the part of the parties engaged in the work; second, the killing of her son; and thirdly, that the second was directly the effect and consequence of the first.

The character, quality and degree are distinctly and unambiguously set forth in the first, the killing in the second, and the killing affirmed to be the effect or consequence of the first as sole, exclusive and effieient cause or antecedent. A parallel case will illustrate. "The surgeon amputated the limb so carelessly that the patient died." What does this proposition involve? Manifestly three allegations thrown into one. First, the carelessness of the surgeon, the degree or extent of the carelessness, and its adequacy to the production of the effect; secondly the death of the patient; and thirdly, the relation of these two as cause and effect, viz.: that the second follows as consequence or effect of the first as sole, exclusive and efficient cause. Could anything be more unambiguous or precise? Would any one say that the qualifying expression "so" and "that" impaired the strength of the allegation?

To go nearer to the bottom, and to amplify this somewhat, let me say: all thought consists in limitation, in a mental process, which limits defines, determines, qualifies; and language which is but the articulate projection of thought, the attempt to realize objectively what is conceived subjectively, must necessarily consist of limitation, definition, determination, qualification. Hence, the measure of completeness or incompleteness in thought, and of completeness or incompleteness in language is the same. Hence, the mental activity which issues in a mental product is completed by a process of limitation, and the language which translates the thought is likewise complete by limitation. All nominative cases, all objectives, all adjectives, all adverbs, all moods and tenses of verbs, are so many instances of limitation. For example, "recklessly" contains elements of limitation within itself. "Reck," from "recan," signifies regard, reckon, calculate, compute; the negative suffix "less" modifies, limits, qualifies the root which forms the base of the compound word. So qualified, "reckless" signifies devoid of regard, calculation, reckoning. "Reckless" is further qualified by the modal suffix "ly," an abbreviation of "like," and thus qualified signifies in a mode or manner which evidences absence of regard, calculation, reckoning. The word thus qualified is further limited, defined, qualified by "so," which indicates pre-

cisely the measure of "recklessly." "So" and its correlative "that" are like the Latin "ita—ut;" "sic—ut;" "adeo—ut;" "usque eo—ut;" "tot—ut;" ultimate fragments of accusative cases, and indicate limitation, qualification, extent. "So recklessly" then means *a mode of operation devoid of regard, computation and reckoning to such an extent.* Then appears the consequent clause introduced by "that," and designating the measure of the whole antecedent clause, which so far as regards appellee, was the killing of her son.

These rules apply necessarily to all languages and not to the English alone. To give a single instance from the Latin where the word "so," that is "*ita*," is used by Cicero, who may be presumed to understand something of grammar and the force of language. In his denunciation of Verres for his maladministration of Sicily, he says: "Quam iste per triennium *ita* vexavit ac perdidit *ut* ea restitui in antequum statum nullo modo possit"—"which he *so* harrassed and destroyed in three years *that* it never could be restored to its former state." If we turn to the Greeks, we find the two words used in the same way by them. "The internal fever" says Thucydides, "was *so* great *that* they could not endure the weight of a light upper garment." In each of these illustrations, and they might be multiplied indefinitely, the qualifying particle translated "so" limits the antecedent clause to an enlargement, sufficient to contain the consequent or effect.

It is extremely improbable that any one professing to know the import of ordinary language would be so careless of his reputation as to hazard a denial of the principles enunciated above, or from the illustrations adduced, attempt by any process of distortion to extract another meaning from them. That they are in each case direct and unambiguous cannot be denied; that they are qualified by particles expressing the necessary limitations *only*, is equally undeniable.

The argument which should attempt to establish that "so" in any of the foregoing citations, while qualifying the words to which it is attached, weakens them or impairs their significance, would be a novel feat in dialectics, and deserve a place henceforward among the "Curiosities of Literature."

Hence, I hold that the opinion of the Court proceeds upon a misconception and distortion of the plain meaning of appellee's language. I hold it is proven to demonstration that the allegation of appellee is fully adequate and equivalent to the language of the statute, both from the analysis and usage of the words and terms, and from the definition of the Court itself. I cannot but hold that the allegation is direct, unambiguous and explicit, characterizing the act or acts in competent terms specifying the degree, affirming the consequences and establishing their relation. I cannot but hold that the averment as qualified is strenghtened and not weakened by the particles used, whose proper function is to specify the degree and establish the consequence.

We do not hope to make the criticism or illustration clearer than has been done by our friend; we desire, however, with the freedom which is becoming in every citizen of the republic of letters, but with the restraint and respect which this Court is entitled to demand and receive, officially and personally, from all who wait upon their temple, to discuss a single point of their opinion.

If the Court thought the language of the petition indirect, vague, and probably intentionally evasive, we will not, on our part, say that the language of the Court is *intentionally* obscure, but we do say it requires some ingenuity to ascertain the exact meaning the language used is intended to convey. The Court says:—

"We are not prepared to say that the terms 'reckless' and "'wanton' may not be so used as to be equivalent to 'wilful,' "but they are not so used in the petition. Appellee does "not aver directly that the conduct of the city or those for "whose conduct she claims the city is answerable, was either "reckless or wanton. She says it was *so reckless, careless, wan-*"*ton* [the *italics* are the Court's] that a stone was thrown against "her son, and his life thereby destroyed. The charges of "wantonness and recklessness are so far qualified that it is

"impossible to say that the plaintiff meant to charge 'wilful "neglect,' The substance of the charge as made is that the "blasting was done with so little care that the fragment of "stone was thrown against the boy with sufficient force to de- "stroy his life.

"All this may have resulted from a very slight want of care "and prudence, and we are authorized to conclude that it was, "in view of the fact that appellee substitutes for 'wilful," the "term used in the statute, the terms wanton and reckless, and "then qualifies the words so substituted until it is left a matter "of doubt as to the idea intended to be expressed, and until "it is perfectly plain that she does not intend they shall re- "ceive their ordinary and literal interpretation."

The only meaning of this paragraph is, that while "wilful" is synonymous with "reckless" and "wanton," yet by the use of the words "so" preceding and "that" following them, their identity is destroyed. Now, suppose we were to say of your Honors, that you had "acted so" wisely, justly and prudently "that" the confidence of all good men had been secured by it, would you consider the adverbs "wisely," "justly" and "prudently" weakened by the use of the particle "so" before them, or "that" after them?" Would you not understand them to be strengthened? And would you construe the words to be evasive? Would you say, as is said in the opinion, "that it was left a matter of doubt as to the idea intended to be expressed," "and that it was perfectly plain "that" we "did not intend they should receive their ordinary and literal interpretation."

This is an imaginary use of the language in which these words occur. An actual use of them may be seen in a sentence designed to express, in the strongest language, a fact of the most solemn import in our christian religion, where the Evangelist says, "God *so* loved the world *that* he gave His only begotten son *that* whoever believed on him might not perish, but have everlasting life." Now apply to this form of expression—the same that is used in the petition—the criticism of the Court, and what confusion would it make in religion, language and morals. Say, as the Court say, "that it was left a matter of doubt as to the

idea intended to be expressed" by the Apostle, and "that it was perfectly plain that" he "did not intend they should receive their ordinary and literal interpretation." Can any one doubt that the Evangelist thought that he was using the strongest language, and making the most direct statement that language was capable of, yet according to the interpretation of the Court it is left a matter of doubt what he meant, and it is perfectly plain that he did not intend the words should receive their ordinary and literal interpretation.

If the Court or the counsel on the other side will frame a sentence, other than the one which the Court has already condemned, wherein they can, with all their ingenuity, use the words "so" and "that," as used in the petition, and thereby weaken them, we will be under obligations to them. In the opinion itself, the Court uses the very form condemned, when it says, "The charges of wantonness and recklessness are *so* far qualified *that* it is impossible," &c.

Is not this a distinct and direct allegation? Can anybody doubt what the Court means by it? Why then should not the same canon of interpretation be applied to the language of the petition.

We solicit the Court to revise their opinion, to reconsider the language they have used, and the interpretation they have put on the petition. There may be very difficult questions lying back of this verbal criticism, which a court would very properly desire to avoid, until duty requires them to decide; and these may be decided against our client. If the Court should hold opinions on these adverse to us, we can have no right to complain. We trust the Court, on reflection, will let the case go off on them, and not by condemning the language of the petition which we believe we have shown to be correct, by what is as near a scientific demonstration as any moral problem can be.

We hope in this matter you may "*so*" act "*that*" all the profession may approve of your conduct.

KINKEAD & BUCKNER,

For Appellee.

47-M-67

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Constitutionality of the Tax for the State College.

REPLY

OF

JAMES K. PATTERSON, PH. D.,

PLESIDENT OF THE AGRICULTURAL AND MECHANICAL COLLEGE OF KENTUCKY,

TO THE

ARGUMENT OF JUDGE LINDSAY

BEFORE THE

A. & M. COLLEGE COMMITTEE,

IN THE HALL OF THE HOUSE OF REPRESENTATIVES,

MONDAY EVENING, JANUARY 30, 1882.

FRANKFORT, KY.:
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1882.

CONSTITUTIONALITY OF THE TAX

FOR

THE STATE COLLEGE.

GENTLEMEN OF THE COMMITTEE ON THE A. & M. COLLEGE, AND GENTLEMEN OF THE GENERAL ASSEMBLY:

I listened with much pleasure to the eloquent and learned advocate who presented the plea of the protesting colleges on Wednesday last to this honorable Committee. I am not sure that a better presentation could have been made. I came expecting to hear a dispassionate, lucid statement, a full and impartial exposition of the law, a critical analysis of the organic statute, out of which all subsequent legislation has grown, and I was disappointed. The presentation was skillful, ingenious, and forcible, with a good deal of the political, less of the constitutional, and more of the popular species of conventional oratory than either. Indeed, I could not help thinking that the inherent tenuity of the constitutional plea was dexterously padded and wadded with extraneous matter which none would know better than Judge Lindsay, were he on the bench, how to brush uncermoniously away as irrelevant dicta. Of course it is no part of the duty of an advocate to assume the judicial ermine, and with this no one who heard the distinguished ex-Chief Justice would charge him. But it seems to me that the attorney for the protesting colleges presumed too much on the credulity of his audience and their ignorance of the history of education in Kentucky as well as of the Constitution.

He began by saying that the intention of the authorities of the State College is to rival the great colleges of the East; that my argument and the report of the Board of Trustees both warrant this conclusion. Now I submit that nothing I have

said, and nothing said by the Board of Trustees, warrants this conclusion. I do not say that I would not gladly see such an institution in Kentucky. But whether that statement be true, or the reverse, is altogether outside of the constitutionality of the tax. This much, however, may be said, that in regard to an institution projected on an income of $26,000 a year, there is no need for any one to lose his equanimity through apprehension of its excessive growth, especially when such growth is dependent upon the liberality of the Legislature of Kentucky. Our people have not as yet any extravagant ideas about expenditure which need cause the denominational colleges serious alarm.

In order to establish the assumption that the Legislature of 1865 did not intend to include classic and other scientific studies in the curriculum of the Agricultural and Mechanical College, Judge Lindsay quoted from the act of the Legislature of that year, which specified the studies made obligatory by Congress. From this he infers that classics were intended to be excluded, and yet just the opposite is the fact. The advantage which Kentucky University offered by the proposed alliance was, that her College of Arts should provide all the classical instruction, and the State branch all the scientific instruction required by both, and thus, by the concentration of capital and the division of labor, realize the greatest possible results from the least possible expenditure. From the very beginning all the students of each College had free access to all the classes of the other, and for thirteen years this order of an interchange on equal terms existed, as every professor knows.

In the reorganization, it was not deemed expedient to offer less advantages than had been enjoyed while the alliance with the denominational college existed. This discussion was also foreign to the constitutionality of the tax. Equally unfortunate was the reference of Judge Lindsay to the early history of Transylvania University. When, in 1825, the Legislature was invited by the message of Governor Desha to consider the condition of Transylvania University, the evil plight into which it had fallen was due largely, if not exclusively, to the denominational war waged remorselessly against it by sectarian animosity and jealousy. In that warfare, the church to which I belong

played no unimportant part. Had the State sustained and cheered Transylvania as she ought, and not left it a prey to ecclesiastical rancor and denominational hate, Transylvania would be to Kentucky to-day what Harvard is to Massachusetts, and Yale to Connecticut. It was brought into politics—how? Because assailed by the churches then, as the State College is assailed by the churches now, and because of the parsimonious support given to it by the State at the instance of clergymen, who stood by with lugubrious visage and ecclesiastical scowl. The ministers of that day prevailed. The curse of Meroz rang through the land. Transylvania was handed over to the doctors, not of physic, but of divinity, with the inevitable result that always attends clerical ministrations when applied to State institutions—decline, decadence, extinction. Like the patient whose tombstone records: "I was well; the doctors thought I might be better. I took physic, and here I am."

All this, however, was quite irrelevant to the constitutionality of the present tax levied for the benefit of the State College.

Equally unfortunate is the statement, that when the Convention which framed the present Constitution sat, the question was discussed whether the views held by Dr. Robert J. Breckinridge on education should find expression in the article adopted on education. Whether the funds existing or to be created should be used exclusively for common schools, as that expression is commonly understood, or whether any other educational institutions should find recognition or support, was never before the Convention. I make bold to say, that in all the debates, extending over two days, no such question was discussed; no such question was raised; no such question suggested.

The distinguished counsel for the opposition says that, as a consequence of this discussion (which did not take place), the Constitution declared in favor of poor men's schools and against rich men's schools, and, by his emphatic reading and iteration of the phrase "*purposes of education*," in article eleven, declared and insisted that this was the fact. Now, not a word was said in the Convention of poor men's schools being fostered by the State in opposition to rich men's schools, or of lower education in opposition to higher. Common schools and common school education alone were before the Con-

vention, and not one word was said, from beginning to end of the debates, about State aid to seminaries, academies, colleges, or universities, either by way of approval or condemnation. Leaving out of account the opposition made by some of the members of the Convention to any system of common schools, the only question raised was, whether the Constitution should incorporate a guarantee for a two-cent tax, and enjoin such additional taxation as would inaugurate the common school system within five years. Many of my auditors, after the eloquent presentation of Judge Lindsay—more eloquent than accurate—will be surprised when told that these were the only matters which divided the Convention. All except a few were in favor of a system of common schools. All except a few were desirous of securing a constitutional guarantee for the existing capitalized school fund; and among these latter, the only question of difference was, whether a constitutional guarantee should also be made for the then existing two-cent tax, and as much more as would be required to put the system in operation within a given time.

Judge Lindsay alleges that the original draft of the article on education failed to satisfy the Convention. That is true. But it is not true that the original draft failed to satisfy the Convention for the reason that he assigns, viz: that the members resolved that there "should be no effort to sustain such an institution as Transylvania." By what authority is this statement made? From what data is this conclusion drawn? No such question had been raised; no such question had been thought of. I will tell you why the original draft failed to satisfy the Convention. It was because it contemplated a guarantee for the tax already levied, in order to supplement the income from the capitalized school fund. This contemplated guarantee for the two-cent tax the opponents of the original draft resisted, and this was the sole and exclusive question in dispute.

The distinguished counsel having laid down such a dictum in regard to the original draft and its failure to satisfy the Convention, then proceeds to say that no rule of constitutional construction will allow us to interpret "*purposes of education*" otherwise than he endeavored to impress upon you To this I now desire to address myself, and I ask your patient attention. I hope to

prove to your satisfaction, from an analysis of the article itself, and not by any torture, as the gentleman apprehends, that "*purposes of education*," upon which he lays so much stress, means, and can mean, "common school purposes" only. I shall then show you, from the Debates in the Constitutional Convention, and from the language of the author of article eleven, that the phrases "common school system," "educational purposes," and "purposes of education" were used synonymously throughout; and lastly, that any other interpretation is absurd.

About the close of his constitutional address on Wednesday night, Judge Lindsay observed that there are precedents for legislative action shaping, amending, modifying, and abrogating preceding legislation, on constitutional grounds. This is true. But here the distinguished advocate got his legislative cart before his judicial horse again. The word "white," he tells us, was excluded by legislation from the section which defines the qualifications of jurors. But the initiative was not taken by the Legislature. The initiative was taken by the State courts, after the deliverance of the Federal courts; and after the courts, Federal and State, had declared the exclusion of colored citizens from juries unconstitutional, the State Legislature brought the statutes into conformity with these judicial deliverances. But, in the case of the tax for the benefit of the State College, the distinguished gentleman asks you to reverse the order of pro cedure which he quotes, and insists upon the State Legislature anticipating the action of the courts, and sitting in judicial judgment upon the acts of its predecessors. In all these matters he seems to me to have been singularly unfortunate or singularly ingenious in getting things wrong end foremost. I am sure this is not the order for which Judge Lindsay has the credit of doing things upon the bench, and I can account for it only on the ground of the inherent badness of his plea, and the desperate necessity of making the "worse appear the better reason."

The reference to John Hampden, and the suggestion that the attorney of the aggrieved colleges was here to play the part of the English patriot in protecting the people of Kentucky from illegal taxation, was not quite warranted by the facts. The cases are neither analogous or parallel. Hampden's resistance was

not to a tax authorized by Parliament, the constitutionality of which he questioned, but to the payment of an impost which was levied and collected by the Crown without authority of Parliament. This resistance, too, he made not as an attorney for the clergy of his diocese, but as an individual. The man to whom 4,000 of the yeomanry of England came to give support and countenance when threatened with arrest and prosecution in Westminster Hall, the man who received his death wound on Chalgrove field when holding at bay the fiery cavaliers of Rupert—admired when living, lamented when dead—lived the champion of the rights of the people, and died a martyr to liberty, because of his own *personal* convictions of right, and not because of the retainer's *fee* which he carried in his pocket. I would not be understood to make any reflections on this. Far be it from me. The profession of an advocate is a noble and an honorable one, and no man in Kentucky has a more honorable record than the distinguished ex-Chief Justice. But an advocate, however able and honorable, does not become a Hampden or a Franklin or a Henry because he happens to be retained on one side or the other on any question involving the construction of the article on education in the Constitution of Kentucky.

I could not help thinking that the distinguished counsel for the prosecution was carried away by the presence of the Aarons and the Hurs, who, on Wednesday night, held up the hands of the champion of the Church while leading them forth from the galling bondage of the half-cent tax out of the Egypt of their discontent into the Canaan of unrestricted ecclesiastical monopoly and control. Already, in prophetic vision, the wilderness was traversed, the Amalekites destroyed, the Jordan passed, and the walls of Jericho were seen tumbling down. No wonder that facts and fancies got mixed in the legal as in the clerical brain.

The opponents of the State College assail the constitutionality of the tax levied for its support, relying upon their interpretation of an expression which occurs in the first sentence of article eleven in the Constitution. The first sentence of section one is as follows:

"The capital of the fund, called and known as the 'Common School Fund,' consisting of $1,225,768 42, for which bonds have been executed by the State to the Board of Education, and $73,500 of stock in the Bank of Kentucky; also the sum of

$51,223 29, balance of interest on the school fund of the year 1848, unexpended, together with any sum which may be hereafter raised in the State, by taxation or otherwise, for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools. The interest and dividends of said funds, together with any sum which may be produced for that purpose, by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose."

Their argument is, that all the dividends accruing from the capitalized school fund, amounting to $1,350,491 71, shall be expended exclusively for common schools, or in aid thereof. They argue further, that the proceeds of all taxes levied for common schools shall be applied exclusively for the use of common schools, or in aid thereof. They argue further, that the clause, "together with any sum which may be hereafter raised in the State, by taxation or otherwise, for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools," forbids the Legislature to raise by taxation a fund for the maintenance of any institution such as the Agricultural and Mechanical College. They hold that it does this on one of two alternative grounds—first, that the tax cannot be imposed under this act; second, that if imposed, and the money raised by taxation, it cannot be applied to the purpose designated in the act, but must go into the common school fund.

I undertake to show that their construction of the clause "together with any sum which may be hereafter raised in the State, by taxation or otherwise, for purposes of education, shall be held inviolate, for the purpose of sustaining a system of common schools," is erroneous; that the Constitution is altogether silent on the question of State aid by specific tax to such an institution as ours, and I shall endeavor to do this by showing that the expression "purposes of education" means, and can mean, only "purposes of 'common school' education." I shall show, first, that a fair analysis of the entire article warrants this construction; secondly, that the entire essence and language of the Debates in the Constitutional Convention, and especially the language of the author of the article on education in the Constitution, demonstrate beyond the possibility of a reasonable doubt, that the phrase "purposes of education" means,

and can mean, only "purposes of 'common school' education;" and lastly, I shall show that a contrary interpretation would fasten upon the framer of the article, and those who adopted it as a part of the Constitution, an absurdity and a dishonesty of purpose with which a fair interpretation cannot charge them, and commit the framer of the article, and the party of compromise which he led, to an enlargement of the common school fund which they never intended, and which they would have promptly repudiated had any man in the Convention suggested it.

I have to premise that this argument which I submit is an unprofessional one. It is not couched in the technical language of the bar, with which I am unfamiliar. It can lay no claim to any voluminous array of authorities, decisions, or reports; but if law, constitutional and municipal, be the embodiment of the ideas of justice and common sense inherent in man, the articulate projection in language of his inalienable and inherent rights, and existing in the human soul before they find expression, and if the proper interpretation of these, when so formulated, be by language under the guidance of reason, then I claim for the interpretation and construction which I present to you to-night your impartial consideration, even though it be not the work of a professional jurist or of a feed attorney.

The original of the school fund described in article 11 of the Constitution, whose inviolability this article was designed specially to guard, came from the General Government. The government of the United States had accumulated in the National Treasury a very large sum of money, $28,000,000, chiefly from the sale of public lands. This accumulated treasure was distributed by act of Congress June, 1836, among the several States on certain conditions. The State of Kentucky accepted her share on the conditions proposed, and by section 9 of the act approved February 27, 1837, consecrated $1,000,000 of the money received to the cause of education. On February 16th, 1838, the Legislature reduced the amount to be devoted to school purposes from $1,000,000 to $850,000, which sum was invested in the internal improvement bonds of the State.

After the financial crisis of 1837 had passed, and the State had recovered in some degree from pecuniary disaster, Kentucky

embarked in an extensive system of internal improvements, designed to increase the general wealth. The funds necessary to carry on her extensive operations were raised by the public credit. When the State become embarrassed by these operations she looked around for relief, and reasoning with herself that the bonds representing the principal and nucleus of the school fund constituted a debt due to herself, she determined to relieve herself to the extent of this indebtedness by cancelling the debt, not by its payment to the Board of Education, but by obliterating the evidences of the debt. Accordingly, by an act approved February 10, 1845, she ordered all the State bonds held by the Board of Education to be delivered to the Governor of the Commonwealth, and by him to be burned. The act, however, under which they were burned, directed that lists of the burned bonds be prepared, and that these lists should be held and taken in place of the bonds which had been burned. On February 29, 1848, chiefly through the exertions of Dr. R. J. Breckinridge, then Superintendent of Public Instruction, an act was passed by which the State issued a bond for $308,268 42 to the Board of Education, for arrears of interest on the burned bonds up to January, 1848, and in 1849, by act approved on the 26th of February of that year, made further reparation by designating the net proceeds of certain public works as a fund to pay interest on school bonds.

The sacredness of the original debt was also recognized, and the preserved copies of the original bonds 1, 20, 21, 22, 23, and 24 accepted and recognized as evidences of the original indebtedness to the Board of Education.

These, together with $73,000 in bank stock and the bond unnumbered, bearing interest at 5 per cent., dated December 20, 1848, executed to the Board of Education for the sum of $308,268 42, chiefly for arrears of interest from the date of the burning of the bonds above mentioned, constitute the aggregate of $1,225,768 42, mentioned in article 11 of the Constitution.

When the Constitution of 1799 was adopted, there was no public or common school system in Kentucky. Its existence was not anticipated by the framers thereof; and hence, there is not a line in the Constitution of 1799, from beginning to end,

in relation thereto or in anticipation thereof. When, therefore, through the munificence of the General Government, a beginning for a common school system had been made, the funds which were set apart for this purpose having no constitutional safeguard thrown around them, were liable, as the issue proved, to be invaded, and applied to other purposes at the caprice of the Legislature, with no remedy from the courts or elsewhere.

While the public mind was still excited in regard to the invasion of the school fund, the Constitutional Convention was called. Provision had been made for the restoration of the fund, principal and interest, and in addition thereto a tax had been voted for common school purposes of two cents upon each $100 of taxable property. The experience of the past ten years had demonstrated the necessity of protecting and safeguarding these funds, not only the restored principal and interest of the original fund, but the proceeds of the two-cent tax, and of all other taxes levied for the support and maintenance of the common schools. The integrity and inviolability of these funds could not be accomplished by the ordinary processes of legislation. Hence the necessity that the Constitution should deal with the subject, and that a security, fundamental in its character and thorough-going in its efficiency, should be devised, whereby the disasters and humiliation of past years should be impossible. To this task the framers of the Constitution addressed themselves, having in view the integrity and inviolability of the common school fund, and that alone. The circumstances in which article 11 of the Constitution had its origin, and which called it forth, have no reference to any contest, except the contest in regard to the integrity and inviolability of the common school fund—no reference to any kind of schools except common schools—no reference to any kind of education, whether inferior or superior, related to or concurrent with the common school system. Hence the article, according to every canon of interpretation, must be interpreted according to the meaning of its authors, and this can only be gathered from the circumstances of its origin, the evils it was designed to remedy, and the purpose it was intended to accomplish.

First, a fair analysis of Article 11 *shows that, by "Purposes of Education," Common School Education only is meant.*

A careful reading of article 11 warrants, I think, the belief that its authors had no other sort of education in their minds than "common school" education; that they had no anxiety to prevent aid being given to any other education; but that their sole desire was to guard and maintain the integrity of the fund known as the "common school" fund, with any increase that might accrue to this fund from any quarter whatsoever, whether by taxation or otherwise. I believe that a carefnl examination will show that wherever the word "school fund" occurs, "*common*" *school fund* is meant, that wherever the word "school" occurs, "*common*" *school* is meant, and that wherever the word "education" occurs, "*common school*" *education* is meant. Indeed, the caption of article eleven, as interpreted by the marginal summary, shows that only "*common school* education" is intended to be considered in the article. The marginal summary is as follows: "The capital of the common school fund to be held inviolate." The whole design of article eleven would seem to be to assert and maintain the integrity and inviolability of the common school fund. If this be true, then everything foreign to this idea would be *necessarily* excluded by the rule of interpretation which applies to all writings alike. Let us see what the probabilities are from induction and analogy.

The words "school fund" occur four times in article eleven, and only once is it prefixed by the qualifying expression "common," and yet it is apparent that "*common*" *school fund* is meant throughout. The word "fund" is used three times in the singular or plural, and in every instance not only "*school*" *fund* but "*common school*" *fund* is meant. Indeed, in the first instance of its use, it is defined as "*common school*" *fund*, a meaning intended to attach to it throughout. The word "school" is used five times in the singular or plural; in four of these with the prefix "common" expressed, while in the fifth "common" is manifestly understood. In the phrase "Board of Education," in line five (I refer to line *five* in the Constitution, as printed in the General Statutes), "common school" is undoubtedly understood. The phrase, if fully expressed, would certainly be "Board of 'Common School' Education," because this is the

only sort of education under discussion, and the only kind of education in the State controlled by the State through a board denominated the Board of Education. All analogy, then, would seem to require the prefix "common school" before "education," in the twelfth line. This presumption is rendered still stronger by the fact that, in the second sentence of article eleven, the phrase "that purpose" means a *single purpose* already supposed to be clearly before the reader, and as no other single purpose is under contemplation than common school education, "purposes of education" is intended to have a singular meaning, which can be only if "common school" is understood as a qualifying and limiting prefix to be supplied before "education." The second sentence, viz: "The interest and dividends of said funds, together with any sum which may be produced for *that purpose*, by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose," is but a repetition of the idea contained in the first sentence of section one, with this difference: the first sentence defines the sources of income, and for what purpose these sources of income shall be held inviolate; the second sentence defines the proceeds of these sources of income, and directs to what purposes these proceeds shall be applied. There is a remarkable parallelism in these two sentences, to which I call your attention. In sentence one the capitalized principal of the school fund is described, viz: three items, amounting to $1,350,491.71. This has its parallel in sentence two, in which the proceeds of this capitalized principal is described, viz: "interest and dividends of said funds." In sentence one the supplementary funds guaranteed by the Constitution as applicable to the end contemplated, are defined as "together with any sum which may be hereafter raised, by taxation or otherwise, for purposes of education." This has its parallel in sentence two, in the expression "together with any sum which may be produced *for that purpose*, by taxation or otherwise." Now note the words "*for that purpose.*" For what purpose? Evidently, "common schools." Do not the words "for that purpose" express the scope and limit of the taxation discussed in article eleven? Undoubtedly. "*That purpose*" is a single purpose.

The scope and limit of taxation here discussed are coextensive with and bounded by that single purpose, whatever that single purpose be. That purpose is undoubtedly "common schools," and the scope and limit of the taxation here discussed must undoubtedly be for "common schools." If this be so, then the scope and limit of the taxation discussed in the parallel clause of the sentence preceding, must be of like extension and limits, viz: for "common schools." There is certainly not a plurality of purposes considered in the first, and only a single one in the second. "That purpose," in the second, is manifestly retrospective. The word "that" is conclusive on that score. "That purpose" being single, must, of necessity, refer to a single purpose already in the minds of the framers of article 11. What else could it be? Now, no parallel idea exists, and no single purpose exists, brought before the mind of the reader by the previous sentence, than the purpose evidently referred to, viz: "common schools." If this be so, then "that purpose" must be "common schools" previously expressed, and common school education. "Common schools," and "common school education," then constitute the single purpose, the antecedent unit in thought—the single idea. All other ideas are excluded, all other purposes are excluded, and taxation is limited in its scope and bounds by this single idea, "common schools."

As a condition precedent to their construction, they must hold that the phrase "purposes of education," in the first sentence, includes common school education, and all other sorts of education. But the expression, "that purpose," in sentence second, is fatal to their construction. Now, "that purpose," being single, refers to a single antecedent, and that purpose, meaning only common schools, must refer to an antecedent which means common schools. Suppose their construction correct, and to be the meaning in the minds of the framers of the article and of the members of the Convention who adopted it, what should we have in place of "that purpose?" If the phrase, that purpose, was intended to refer to a plurality of purposes, and not to a single one, what would be its character and form. It must have been "those purposes." Then the implication, the presumption would be, that the reference was to common school purposes and other purposes of education. But, inasmuch as

the singular "that" defines and limits us to one purpose antecedently expressed, we are forced to conclude that only one purpose was intended by the antecedent, and the character and scope of that purpose is defined and limited by the retrospective reference.

The fact would seem to be that the qualifying and limiting expression "common school," constantly in the minds of the framers of the Constitution, was sometimes expressed and sometimes omitted, apparently for no other reason than to avoid its too frequent repetition. "Purposes of education," then, would mean "purposes of '*common school*' education;" nothing less and nothing more. Indeed, from this induction and analogy, no other meaning seems probable. I might almost say, no other meaning seems possible. The clause in the Constitution, upon the interpretation of which the constitutionality of the tax depends, and which reads: "Any sum which may hereafter be raised in the State, by taxation or otherwise, for *purposes of education*, shall be held inviolate for the purpose of sustaining a system of common schools," would then read: "Any sum which may hereafter be raised in the State, by taxation or otherwise, for *purposes of 'common school' education*, shall be held inviolate for the purpose of sustaining a system of common schools." This interpretation harmonizes entirely, and is altogether consistent with the idea that the whole scope and intent of article eleven is to guard and maintain and defend the integrity and inviolability of the common school fund. Indeed, in the marginal summary above quoted, this is declared to be the aim and compass of the article. It does not admit anything irrelevant. It excludes every consideration not germane to itself. This common school fund is to be preserved inviolate. No appropriations are to be made at its expense. It is to be applied sacredly and exclusively to the single purpose for which it was levied, and to no other. This exhausts the significance of the article. It deals with one subject, *one purpose*, and no other. It excludes the consideration of all other subjects, all other purposes. On everything else it is silent than on the single subject of "common school education," and the *single purpose* of maintaining the integrity and inviolability of this fund. All other sorts of education, and all other

funds, or purposes relating thereto, are ignored. Had the framers of the Constitution intended to prohibit taxation for any other kind of education than "common school" education, the prohibition would have been direct, explicit, and precise, and either in a separate paragraph or in a proviso. It would have been in some such language as the following: *Provided, however, That no tax shall at any time be levied for the support, endowment, or maintenance of any academy, high school, seminary, college, or university, or for the equipment, outfit, or ordinary expenses of any of these, on any pretext whatsoever.* Had the Constitution intended to prohibit a tax for any of these purposes, it would doubtless have used such prohibitory language as the above.

Inasmuch, then, as money raised by taxation or otherwise for "common school purposes" can be applied only to "common school purposes," and to no other, the Appellate Court decided correctly in the cases of Collins vs. Henderson, and Commonwealth vs. Collins, cited by Judge Lindsay. The court held that no part of the common school fund could be applied to pay for Collins' book. It was the duty of the court to see that the integrity of this fund was unimpaired, and that money raised for this special purpose could not be applied to another.

But it is an altogether different thing when it is alleged that money raised by taxation or otherwise for the aid of an institution, the existence of which was not anticipated by the framers of the Constitution, must either be thrown into the school fund, a purpose for which it was not raised, or forbidden to be raised at all. The imposition of the tax does not diminish the common school fund; its non-imposition does not enlarge it. The common school fund is wholly unaffected thereby.

The plain intent and meaning of article 11, then, seems to be to guard the common school fund for purposes of common school education, from whatever source derived, whether invested funds, stocks, or taxation for common school purposes, and that this fund shall be applied to its legitimate uses, and to these only; and this exhausts the significance of the article. It does not certainly mean that the Legislature of Kentucky is to be estopped from making provision by taxation or otherwise to aid and maintain an institution, to the aid and maintenance of which

Kentucky has pledged herself by accepting the trust from the Congress of 1862, with all its conditions expressed and implied. The Constitution is altogether silent on such a question as the imposition of a tax for the maintenance of such an institution. So the Constitution is altogether silent on the maintenance of the institutions for the blind, for the deaf and dumb, and for the feeble-minded—institutions sustained by taxation or otherwise. The Constitution does not prohibit the maintenance of these by taxation or otherwise any more than it prohibits the maintenance of the State College by taxation or otherwise. And if it be construed to prohibit the support of the Agricultural and Mechanical College by taxation or otherwise, it as certainly prohibits the support of these institutions, which are as surely educational as this. These institutions differ from asylums for the insane in kind, not in degree. The latter have as their primary object the treatment of mental disease and physical disease, in so far as mental disease is determined by physical conditions. This is the sole end of their existence, viz: treatment of disease mental, and disease physical, as related to mental derangement. Physical restraint is merely accessory to this idea. But in the institutions for the blind, for the deaf and dumb, and for the feeble-minded, established and maintained by the State, the primary object is education, not medical treatment. The inmates of these institutions are taught such branches of education as will enable them to make a livelihood, as will expand and invigorate their faculties, as will bring them into relation with the known and the knowable. Nor are they, in the common acceptation of the term, common schools. Neither in their organization, management, supervision, or maintenance, are they common schools, or analogous to common schools. They have each their Boards of Trustees, directors, commissioners, or managers; they each have a corps of instructors; they each report to this General Assembly; they each draw the funds for their maintenance direct from the revenues of the State. They are supported, if not by a specific tax, otherwise, that is by appropriations from the State Treasury, which owes its annual replenishing to direct taxation. They are supported then by taxation or otherwise, and the end and aim of this support and maintenance are "purposes of education." The construction which the adversaries

of the State College ask you to place upon the phrase "purposes of education," will, if admitted, apply to them as certainly as to us. And yet some of these institutions were, if I mistake not, in existence when the Constitution was framed, and when the contemporaneous construction adverted to by Judge Lindsay took place.

Secondly. The essence of the Debates, and the language used by all the gentlemen who participated in the discussion of the Report of the Committee on Education in the Constitutional Convention, demonstrate beyond the possibility of a reasonable doubt, that the phrase, "purposes of education," in article eleven of the Constitution, means and can mean only "purposes of common school education."

When the subject of education was reached in the Constitutional Convention Monday, December 10, 1849, the first section of the report of the Committee was read, as follows:

"SEC. 1. The diffusion of knowledge and learning among men being essential to the preservation of liberty and free government, and the promotion of human happiness, it shall be the duty of the General Assembly to establish, within ——— years next after the adoption of this Constitution, and *forever* thereafter keep in existence, an efficient system of common schools throughout this Commonwealth, which shall be equally open to all the white children thereof."

The debate was opened by Mr. Hardin, who opposed any system of common schools. In the course of the discussion, the following gentleman spoke:

Mr. Proctor said: "I promised my constituents, when a candidate for a seat in this Convention, that, if elected, I would use my best exertions to secure the incorporation of a clause in the Constitution which would permanently secure to the people of this Commonwealth not only *the fund set apart by the General Government for the purposes of education* in Kentucky, but that also which the people, in their magnanimity, had voted to tax themselves with at the August election, 1848, for that purpose." (Page 885, Debates Constitutional Convention.)

Again: "I believe that if there is any question that has been settled by the people, and any one subject on which they require prompt action by this Convention, it is that a *school fund shall be permanently secured* by a constitutional provision." (Ibid.)

Again: "But, sir, no sooner is the proposition submitted to this Convention to secure to the people of this Commonwealth the *school fund* of the State from the control of the Legislature, than the herculean voice of my venerable friend is raised in opposition to that proposition." (Page 886, Ibid.)

Again: "Mr. President, I believe that the adoption of a provision in the Constitution for the permanent security of the *school fund* of this Commonwealth is demanded by the people of the State."

Again: "But, sir, I believe that the people did understand this measure, and that they require and did expect of this Convention, that we will secure by a constitutional provision not only the fund set apart by the General Government to the State *for purposes of education*"—

Mr. Hardin—"The gentleman is mistaken. Congress did not declare to what purpose this fund was to be applied."

Mr. Proctor—"My friend informs me that Congress did not designate the object of this fund at the time of setting it apart to the States. Well, sir, it is known to all that it was the general understanding of Congress, at the time of setting apart to the States the surplus revenue, that it was to be applied to the *purposes of education*, and our Legislature, acting upon this understanding, at its first session after Congress set apart this fund to us, dedicated it by a solemn act for *that purpose* alone."

Again: "For my part, Mr. President, I am anxious to see this report adopted in the Constitution, and I shall by every act of mine endeavor to secure this *school fund* by a permanent provision in the Constitution."

Again: "If, sir, it is right that the money which was set apart to the State of Kentucky by the General Government, and which was originally intended for the *purposes of education*, should be applied to that purpose alone, why, I ask, should we leave the matter to the future control and management of the Legislature?"

Mr. C. A. Wickliffe—"One of the things which seems to excite a great degree of interest is this of common schools. I am the friend of education, and claim the responsibility of an agency in setting apart the $850,000 from the United States revenue for the *purposes of education* when the country is prepared to appropriate it."

Mr. Root said: "If there was any one subject on which I was thoroughly and fully instructed, it was to rescue from the vacillation of the legislation of the State the *common school fund*, solemnly dedicated to *purposes of education* by the Representatives of the people in 1837, and place it beyond the control of the Legislature of the country."

Hon. C. A. Wickliffe, after the discussion had proceeded to some length, offered the following substitute for section 1 of the Report of the Committee on Education, to which special attention is called:

"All the funds which have been or may be collected, and which have been set apart for *common school purposes*, shall be held sacred, subject to be regulated by the General Assembly, and applied and disbursed as shall seem best to effect the object of general education."

Had Mr. Wickliffe any such idea in his mind when he offered this amendment, as Judge Lindsay endeavored to make you believe the other night? In this amendment he uses "*common school purposes*," the identical phrase used in the original draft. He also uses "general education" as evidently synonymous with it, for he states expressly that the object for which the fund was set apart should be kept sacredly in view.

And as if in anticipation of such a question of constitutional construction as the present, Mr. Wickliffe said:

"There is no substantial difference between the amendment which I offer and the second clause of the report. [See Report, page 377, Const. Debates.] I go with the committee, and every friend of education on this floor, to set apart and dedicate the fund for *educational purposes* which has either been accumulated by taxation or which was originally set apart by the law of 1837." (Page 901.)

Here the phrase "educational purposes" is used retrospectively, and, being so used, can only mean "common school purposes," because no fund had been accumulated by taxation, and none had been set apart by the law of 1837 except for "common school purposes." Mr. Wickliffe, the author of article eleven, then used "educational purposes" in the debate pending the discussion of his amendment, as the exact equivalent of "common school purposes."

Again, while this discussion was still pending, Mr. Wickliffe said:

"If I understand the report of the committee, it is that, while they do the same thing which I propose [not a different thing, as Judge Lindsay asserted the other night], they make it obligatory upon the Legislature to establish and keep in existence this system through the Commonwealth. If that is complied with, taxation will be necessarily involved to the extent stated

by my friend from Logan, or neariy to that extent. I am unwilling to impose that (by constitutional guarantee*) upon the Legislature; I would leave that to the tax-paying power in the Commonwealth. * * * * * * * * *
But if you adopt the whole of the report of the committee, you impose necessarily the duty upon the Legislature, from which they cannot escape, to put into operation this system within five years after the adoption of this Constitution. I offer no hostility to education in my amendment, for I appeal to the zeal I manifested in setting apart originally the sum of $850,000; but I am unwilling to impose the taxation which must be imposed to put this in operation in five years." (Page 901.)

Here Mr. Wickliffe sets clearly forth wherein he agreed with the Committee who reported the original draft of the article on education, and wherein he differed from them. "There is no substantial difference," says he. "I go with the committee and every friend of education to dedicate the fund which has been accumulated by taxation, or which was originally set apart by the law of 1837" for educational, that is, common school purposes. Wherein, then, did he differ from the committee? It was, in his own language, that "while they do the same thing which I propose," they make it obligatory upon the Legislature to establish and keep in existence this system throughout the Commonwealth. This would involve taxation, and a good deal of it. This taxation Mr. Wickliffe did not propose to make obligatory upon the Legislature by a mandate of the Constitution. If made mandatory, they cannot escape from it. "If" said he, "you adopt the whole of the report of the committee you impose necessarily upon the Legislature a duty from which they cannot escape, to put into operation this system within five years after the adoption of the Constitution."

Now you will observe that no such discussions, suggestions, or apprehensions as Judge Lindsay dwelt upon the other night formed any part of the subject-matter before the Convention. The only question which divided the Convention was the necessity of a constitutional guarantee for the then existing tax, and such additional taxation as would be necessary to place the system in operation within a given time.

* "By constitutional guarantee" is inserted in parenthesis, and is not in the original.

After further discussion, Mr. Wickliffe said:

"What does the amendment which I propose contemplate? It is that the fund which has been collected, the $850,000, the $73,000 of bank stock, and any other and every other fund collected *for educational purposes*, shall be devoted by the Legislature to that object, and when so devoted, it shall remain sacred, and be appropriated to no other purpose or object than the diffusion of a general system of education."

Now, it must be admitted by every one that Mr. Wickliffe's explanation of his substitute was designed to unfold articulately and explicitly what the substitute contained implicitly. The thing defined and the definition must be absolutely equivalent. The thing defined is made up of a certain complement of characters; the definition unfolds these characters. The thing explained, or made plain, contains within it a certain complement of characters which, in the explanation, are made to stand out clearly, distinctly, and unambiguously. Nothing appears in the definition which did not exist in the thing defined, and conversely, nothing exists in the thing defined, which, if the definition be adequate, is wanting in the definition. The notion, "man," for example, contains a certain complement of characters, qualities attributes, which go to make up the idea "man." These are material, organized, sentient, vertebrate, mammal, rational, moral. If "man" is mentioned, these qualities or characteristics immediately suggest themselves; and conversely, if there be an enumeration of these characteristics, exhaustive, neither deficient nor superflous, attention is at once fixed on "man" as the embodiment of all. The thing defined is equal to the full complement of all its characters; and conversely, the full complement of all its characters is equal to the thing defined. So "gold" embraces such characters as metal, yellow, ductile, malleable; of such and such specific gravity; melts at such and such a temperature; forms chemical combinations in such and such atomic proportions. If gold be adequately defined, all the qualities are enumerated; and conversely, all the qualities, when enumerated, give one the equivalent idea, "gold;" and so with plant, mineral, fish, horse. The definition, if adequate, contains an exhaustive enumeration of the qualities which make up the thing defined; the thing defined is equal to all its qualities.

The absolute equivalence of the two is a principle in law as in logic.

In the explanation given by Mr. Wickliffe of his substitute, there is a remarkable parallelism throughout. Certain phrases had been used by all who participated in debate as synonymous. These phrases, wherever they occurred, were quite well understood. They had been used again and again by members on the floor. These phrases occur in the substitute, and in the explanation, and your attention is particularly directed to them. I arrange the substitute and the explanation in parallel columns, that the parallelism may be properly exhibited:

SUBSTITUTE.	EXPLANATION.
All the funds which have been	It is, that the fund which has been collected—the $850,000, the
(collected),	$73,000 of bank stock,
or which may be collected,	and any other and every other fund collected
and which have been set apart	
FOR COMMON SCHOOL PURPOSES,	FOR EDUCATIONAL PURPOSES—
shall be held *sacred*,	shall be *devoted*
subject to be regulated by	by the
the GENERAL ASSEMBLY,	LEGISLATURE to that object; and
and *applied and disbursed*	*when so devoted it shall remain*
as shall seem best to effect	*secure and be appropriated to no*
the object	other purpose or object than
OF GENERAL	the DIFFUSION OF A GENERAL SYSTEM
EDUCATION.	OF EDUCATION.

In this equivalence of expressions "the funds which have been collected or may be collected," in the substitute, is explained in the explanation to mean "the $850,000, the $73,000 of bank stock, and any other and every other fund collected."

The object for which these funds have been collected or may be collected is stated in the substitute to be "common school purposes," in the explanation "educational purposes." "Shall

be held sacred" in the one has its parallel, "shall be devoted," in the other. "General Assembly" in the one has its parallel, "Legislature," in the other. "Shall be applied and disbursed" in the one has its equivalent, "appropriated," in the other. "To effect the object of general education" in the one has its equivalent, "to no other purpose than the diffusion of a general system of education," in the other.

But a special significance attaches to this parallelism, and absolute equivalence of expressions in the substitute explained and the explanation, when it appears that Mr. Wickliffe, on withdrawing the substitute and submitting, as an amendment, a paper which was subsequently adopted as article eleven of the Constitution, uses "educational purposes" in its equivalent form, "purposes of education." This being the only difference, that what is substantive in the one is adjective in the other, *i. e.*, "purposes of education" in article eleven takes the place of "educational purposes" in the explanation, the exact equivalent of the one to the other being patent to all. Mr. Wickliffe then uses "purposes of education" as the equivalent of "educational purposes;" and he himself defines "educational purposes" to mean "common school purposes." This makes the proof complete.

All through the Debates of the Convention there is not a line to show that the committee who reported the bill, or the members of the committee and others who participated in the debate extending over two days, used "funds" in any other sense than "common school funds;" "school" in any other sense than "common school," or "educational purposes" in any other sense than "common school purposes." The chain of proof seems conclusive and irrefragible.

No other kind of "schools" than "common schools," no other "education" than "common school education," no other kind of purposes than "common school purposes," were under consideration or thought of from beginning to end of the debate.

In this debate it must be borne in mind there were three views represented:

1. Those who opposed common schools *in toto*, and who opposed any recognition of the system in the Constitution.

2. Those who advocated a constitutional guarantee for the school fund derived from the General Government, amounting

to $850,000; for the bond issued by the State for arrears of interest, amounting to $308,000; for the bank stock, amounting to $73,000; and also for a tax specific in character of a certain number of cents on each $100 of taxable property.

3. Those who advocated a compromise, and who proposed to admit the constitutional guarantee on all the bonded funds, viz: $850,000, $308,000, and $73,000 in bank stock, but who refused to incorporate a guarantee for the tax proposed.

The first was represented by Mr. Hardin, the second by Mr. Taylor and Mr. Proctor, the third by Mr. Wickliffe.

The first refused a guarantee for anything; the second asked a guarantee for everything; the third conceded a guarantee for existing funds, and while refusing to incorporate a requisition for a specific tax, was willing also to guarantee, for common school purposes, the proceeds of any tax which the Legislature, in the exercise of discretionary power, might levy for the use of common schools.

The first would be hampered by no constitutional guarantees whatever, either for the existing school fund or for any prospective addition thereto from any quarter whatsoever.

The second affirmed the necessity of a guarantee for the existing stocks and bonds, known as the common school fund, and likewise for an addition thereto, which should be created by constitutional provision, and guarded by constitutional guarantee.

The third conceded the guarantee for existing funds only, but refused to create by constitutional provision anything additional thereto. While, therefore, the third party, the party of compromise, the party whose amendment was ultimately accepted, and forms article 11 of the Constitution, conceded much more than the first, its concessions fell short of the demands of the second. It refused to make the tax compulsory under the Constitution. It allowed, however, a constitutional guarantee for the integrity and exclusive application to common school purposes of the proceeds of any tax which might be levied for common school purposes by the Legislature. This limits and defines its scope and intent. It takes no cognizance of any tax levied for any other purpose whatsoever, nor of the proceeds of any such tax. It concerns itself neither with the purpose of any other tax, nor with the application of its proceeds.

The amendment which was submitted by Mr. Wickliffe, and which was subsequently adopted as article 11 of the Constitution, introduces no new feature which was not contained in the substitute. The substitute was submitted as a substitute for section one of the original draft. The amendment incorporated the substance of the substitute proposed for section one, and, in addition thereto, the substance of the remaining sections of the original draft, with certain modifications not germane to this discussion. This is an important point. Mr. Wickliffe had declared, in language as emphatic as it could be expressed, that there was no substantial difference between the second clause of the report of the committee and his substitute—that the only point of difference was the guarantee for the tax already levied, and for additional taxation necessary to carry the system into operation within a given time; that in other respects the report of the committee proposed to do exactly what he proposed. When, then, he submitted the amendment which was adopted as article 11, he embodied the substance of his substitute for section one of the original draft, there was no change of opinion—no shifting of ground. He adhered persistently to the position he had taken at the beginning without advance and without retreat. He was rigorously and honorably consistent from beginning to end.

A proposition to throw into the common school fund the proceeds of a tax levied for an altogether different purpose, and to guarantee its application to a use for which it was never intended, would have appeared so monstrous that no party to the debate would for a moment have entertained it, and a proposition to forbid taxation for any other purpose, on the plea that, if levied and collected, it should become part and parcel of the common school fund, would have appeared equally monstrous. No party to the debate would have tolerated it, and no more effectual method could have been devised to defeat the constitutional guarantee for the common school fund.

The author and mover of the substitute, which was ultimately adopted as article eleven, was not the man to tender more than the Committee had reported and insisted upon. The party of compromise would have abandoned him at once had they suspected that his substitute, under pretense of guaranteeing less,

covertly and by indirection proposed to guarantee much more, viz: not only the capitalized school fund, and the proceeds of whatever taxation might, in the discretion of subsequent Legislatures, be imposed in aid of common schools, but beyond and above this, the proceeds of some other tax which might be levied for some other purpose outside of the common school fund and common school system.

What Mr. Wickliffe's substitute proposed was a middle course between those on the one hand who insisted upon a guarantee for the capitalized school fund, together with any fund which might arise by taxation *heretofore* and *hereafter* imposed by the General Assembly in aid of common schools; and those, on the other hand, who refused a constitutional guarantee for any and all of these. And this he did by conceding the guarantee asked for the capitalized fund, and for any fund that might arise by taxation *hereafter* imposed by the General Assembly. He refused to include a guarantee for any fund that might arise from taxation *heretofore* imposed, inasmuch as that guarantee might hamper and embarrass future Legislatures; but he was quite willing to include a guarantee for any fund which might arise from taxation hereafter imposed by any subsequcnt Legislature, of a character well defined, for common school purposes, and to maintain its inviolability for that purpose, and that alone. How absurd, then, to credit him and the party he led with an intention to foist into the common school fund, covertly or by indirection, something which did not belong to it, which was wholly foreign to the ideas entertained by every gentleman who discussed a guarantee for the common school system, and which would have surprised and shocked every member of the Convention. The gentlemen who claim this interpretation can surely never have read the circumstances or the conditions under which article 11 originated. A contrary interpretation imputes to them a dishonesty and disingenuousness of purpose of which we must acquit them.

Lastly, a contrary interpretation imputes to the framer of the article, and to those who accepted it, an absurdity, with which they could not have been justly chargeable. If the phrase "purposes of education" in article eleven mean what the opponents of the tax for the benefit of the State College allege, then it

must be said that no prohibition in any written instrument in the English language was ever expressed in terms so awkward and by a method so indirect. The work of the common school, as commonly understood, is one thing, that of the State College is another. They differ in degree, not in kind. They are related as inferior education is related to superior. We may designate the one as "A," the other as "B." It is admitted on all hands that the State may provide by taxation for the aid and maintenance of "A." The opponents of the State College hold that, by the provisions of article eleven of the Constitution, the State is forbidden to make provision by taxation for "B." If their contention be just, how does the Constitution provide for this prohibition? Not in direct terms, certainly. Not by saying that "no tax shall at any time be levied for the support of any high school, seminary, college, or university, or for the equipment, outfit, or expenses of any of these, in whole or in part." But it does it in this clumsy and indirect way, viz: No aid shall be given by taxation to "B," but if it be levied for the benefit of "B," it shall go to "A"

Or if the other alternative be taken, we have it thus:

Aid may be provided by taxation or otherwise for "B," but if it be so provided, then it shall not go to "B," the party for whom it was provided, but it shall go to "A," the party for which it was not provided. Or to take the more familiar phraseology with which some of you are familiar—John Doe and Richard Roe. It is admitted on all hands that maintenance may be provided for John Doe. It is, however, held by some, that such maintenance may not be provided for Richard Roe. How is the prohibition made out? This way: Aid and maintenance shall not be provided for Richard Roe, but, if so provided, it shall go to John Doe. Or if this construction is objected to, and the affirmative held, we have the following: Aid and maintenance may be provided for Richard Roe, but, if so provided, it shall go to John Doe. We are at a loss to know whether Richard Roe should complain most of the loss of aid and maintenance, or of the interpretations and methods by which it was compassed. Seriously, is this sort of nonsense, this sort of fast and loose verbiage—denying, promising, tantalizing; affirming, promising, and capriciously forbidding—the construction which

Judge Lindsay would have you put upon article eleven of the Constitution? Such an article, brought to a *reductio ad absurdum*, as this fortuitous combination of Law and Gospel would have you believe, would seem rather to be the work of lunatics than sane men. I do not so lightly esteem the wisdom and common sense of the framers of the Constitution.

The interpretation which I have the honor to submit, makes no such enormous draft on your credulity; it violates no canon of interpretation; strains no phraseology; accepts the historical and political circumstances of the times in which it was framed as the back-ground, and the ideas dominant at the time of the adoption of the Constitution as the mould in which it is cast. The interpretation is consistent; postulates nothing; accepts nothing; rests upon no hypothetical fictions, and especially does it give you a result which may be characterized as common sense in opposition to the sublimated nonsense which the opposition would have you believe the essence of wisdom.

Finally, this interpretation is in perfect accord with the canon of interpretation given by Blackstone. Says he:*

"The fairest and most rational method to interpret the will of the legislator is by exploring his intentions at the time when the law was made, by *signs* the most natural and probable. And these signs are either the words, the context, the subject-matter, the effects and the consequence, or the spirit and reason of the law."

Tried by this rule of interpretation, I have no hesitancy in submitting the preceding construction of the Constitution to any competent body of lawyers in Christendom. The higher the character of the tribunal for learning, experience, and probity, the better for my purpose. Common sense, and the sense of right common to all, form the foundation of all jurisprudence and of all construction of law. Hence, it does not necessarily follow that one must be a trained jurist in order to be competent to give an opinion upon an article in constitutional, or a statute in municipal law. One who is trained in the processes of thought, and familiar with the import of language, can do this fairly well. And when such interpretation corresponds exactly

*Judge Lindsay, in his reply on the Friday following, repudiated Blackstone's canon of interpretation as obsolete, "even though he had had it patented." In another part of his reply he said: "Blackstone was an authority several hundred years ago." This will be news to most readers.

with the canons given by the greatest of commentators, the presumption is that it is correct. The common sense which interprets, and the common sense to which it appeals, will alike brush away the flimsy web of technicalities woven by an ingenious advocate, and stand upon the solid substratum of fact and common sense.

If, gentlemen of the Legislature of Kentucky, you desire to apply to the purposes of a liberal and practical education the fund received from the General Government by the State, to supplement its deficiency in order to render it effective; to carry out in a liberal and magnanimous spirit the trust accepted in 1865; to realize the expectation created in 1879; to go on in the good work begun in 1880; to fill the halls which await your sons with a vigorous, hardy, self-reliant youth, and to provide them with such facilties and opportunities as the geographical position of Kentucky, her agricultural and mineral wealth, her traditions and influence and dignity demand for those to whom you will ere long hand over the administration of the affairs of this Commonwealth, and to do all this in a spirit generous, comprehensive, catholic, then stand by your College. Nurture it, cherish it, build it up, and make it your glory and your pride.

But if you care little for the present, and less for the future—if you are indifferent to your trusts, preferring stagnation to activity, ignorance to culture, denominational vassalage to progress, expansion, vitality, freedom, then withdraw the aid which now vitalizes your scant income from the Congressional fund, cut down the emoluments of your College to meet the demands of the clergy, write upon your statute books that Kentucky is too miserly or too obsequious to clerical menace to maintain an institution worthy of her, send the flower of your youth beyond your own borders to obtain the education which the Church will not allow you to give them at home. This is the alternative placed before you to day.

Let Kentucky rouse from her slumber, shake off her lethargy, and in the provision which she makes for the education of her sons dare to be free.

"Learning is an addition beyond nobility of birth. Honor of blood, without the ornament of knowledge, is but a glorious ignorance."

Restore the glory of the olden time, when the flower of the young men of Kentucky and of the Mississippi Valley flocked to Transylvania—when from her venerable halls went forth the men who ruled the destiny of your own and neighboring States. Lay broad and deep the foundations of such an institution as will reflect honor upon you, and shape the characters of your sons in culture, in self-reliance, in honor, in duty, and generations to come will venerate your names.

OBSERVATIONS ON JUDGE LINDSAY'S ANSWER, FRIDAY EVENING, FEBRUARY 3D, 1882.

Judge Lindsay, in his answer to the arguments addressed to the committee on Monday evening by Mr. Simrall and myself, began by saying that I had answered successfully every one whom I had met, including Mr. Simrall. This was an admission and compliment from the distinguished gentleman for which I was not prepared. He unwittingly admitted more than he intended. Perhaps he had forgotten that I had replied to himself as well as to Dr. Beatty.

He endeavored, with some apparent effort, to show that Mr. Simrall's argument and mine were not in unison. That they dealt with different parts of Judge Lindsay's argument is true. But the alleged disagreement has no foundation in fact. Mr. Simrall addressed himself to one phase of the question raised by Judge Lindsay, I to the other. Mr. Simrall, by a close examination of the decisions rendered by the Court of Appeals, showed that they did not touch the constitutionality of the tax for the Agricultural and Mechanical College, for the simple reason that they were neither analogous nor parallel. The Vanceburg case, the cow case, and other cases cited, touched no points, and decided no issues in any way analogous to the present. He then proceeded to show that the definition of a common school, contained in the statute, can be altered, amended, restricted, enlarged, or abrogated by any succeeding Legislature, and that such definition, falling exclusively to the competence of any Legislature, could not be placed on a parity with the mandates of the Constitution. What the Constitution did determine was this, and this alone—that the fund, known as the "common school fund," interest and principal, should be held inviolate for the purposes for which it was designed.

Judge Lindsay then addressed himself to a criticism and refutation of an anonymous article in the Yeoman, with whose paternity he assumed my acquaintance. I informed him that I had no knowledge of the authorship of the article. He replied that an identity of expression occurred, and said that the phrase, "add from top to bottom and you have six, and from bottom to top and you have half a dozen," or something of like import, occurred in the Yeoman article, and also in the reply which I made to him on Monday night. I repudiated the language ascribed, and stated that no such expression had been used by me, and challenged its production from the manuscript of my reply in the Yeoman office. Notwithstanding this, Judge Lindsay went on to argue in refutation of the anonyomous article, on the assumption of my knowledge and endorsement of its contents. Who its author is I did not then and do not now know; and the language in it, by which Judge Lindsay attempted to show my knowledge of its origin by affirming its identity with mine, was never written or uttered by me, and I now challenge the production of the proof. A reply to my argument ought, I submit, to deal with my own language and my own reasoning, and not with those of any anonymous writer, on a wholly gratuitous imputation of identity growing out of an inexplicable confusion of ideas in Judge Lindsay's own brain.

The relation of the second sentence of section 1 of article 11 in the Constitution to the first sentence in the same section, and the parallelism of these two sentences which I exhibited and discussed, Judge Lindsay entirely ignored. The relation and retrospective reference of "that purpose," in sentence two, to "purposes of education" in sentence one, he failed to notice, but confined himself to the "general traverse" suggested by the distinguished gentleman from Louisville, who sat near him on Monday night.

Equally flippant and evasive was his treatment of the parallelism exhibited in Mr. Wickliffe's substitute and explanation. The principle of interpretation which I submitted, viz: that "the thing defined and the definition, if the definition be adequate, are absolutely equivalent; that the thing defined is made up of a certain complement of characters; the definition unfolds these characters; the thing explained, or made plain, contains within

it a certain complement of characters, which, in the explanation, are made to stand out clearly, distinctly, and unambiguously," Judge Lindsay said he did not understand. It was couched in language with which he was unfamiliar, and above the comprehension of most men. This I regret exceedingly. I am not accustomed to use language above the comprehension of ordinary mortals. It never occurred to me that the ex-Chief Justice would again content himself with the "general traverse," which had already played so prominent a part in his answer.

The significance of the substitute and explanation as throwing light the one upon the other, was in consequence of Judge Lindsay's failure to understand the principle of logic, "that a thing is equal to itself," conveniently ignored. He felt, however, that a passing reference was due to a phase of the argument which had undoubtedly caused him some perplexity. He assured his hearers that it mattered little what had been said in the Debates of the Convention which framed the Constitution; that Blackstone's rule of interpretation, quoted in my reply, did not apply to American deliberative bodies; that though Blackstone had authority *several hundred years ago*, it was now obsolete, even "though he might have had his rule patented."

Nothing, of course, could be better evidence of the unconstitutionality of the tax for the Agricultural and Mechanical College than the appeal to a principle in logic and in law which the ex-Chief Justice did not comprehend, or reliance upon a rule of interpretation formulated by an obsolete authority, such as Blackstone, who, we were informed, was held in esteem several hundred years ago. The one of course indicated a transcendentalism dangerous to the Church and to the Bar; the other a blind adherence to antiquated rulings and usages which ought to be consigned to the oblivion of the past. In either case, a college whose president held views expressed in language so far above the comprehension of ordinary men, or who made an unwary reference to an authority so obsolete as Blackstone, ought to be abated as a common nuisance—"unwise, unjust, excessive, oppressive," the language in which Dr. Beatty expresses his abhorrence of the aid by which it is sustained. On this, the

distinguished counsel for exclusive monopoly of education by the clergy, rested his case. The "general traverse" formed the staple of his answer. Occasionally, there seemed a disposition to grapple seriously with some of the difficult parts of the problem, but as he neared them, alarmed and startled by his own temerity, like the boy in Macauley's Horatius, he drew back from the den on which, by accident, he had stumbled.

And so closed the constitutional argument, to which, by the etiquette of the Bar, I had no opportunity to reply.

[May 1, 1879]

MILITARY INSTRUCTION

AT

COLLEGES AND UNIVERSITIES.

MILITARY INSTRUCTION

AT

COLLEGES AND UNIVERSITIES.

Extracts from the Revised Statutes of the United States relating to military instruction at colleges and universities.

SECTION 1225. The President may, upon the application of any established college or university within the United States, having capacity to educate, at the same time, not less than one hundred and fifty male students, detail an officer of the Army to act as president, superintendent, or professor thereof; but the number of officers so detailed shall not exceed thirty at any time, and they shall be apportioned throughout the United States, as nearly as may be practicable, according to population. Officers so detailed shall be governed by general rules prescribed from time to time by the President. The Secretary of War is authorized to issue, at his discretion and under proper regulations to be prescribed by him, out of any small-arms or pieces of field artillery belonging to the government and which can be spared for that purpose, such number of the same as may appear to be required for military instruction and practice, by the students of any college or university under the provisions of this section; and the Secretary shall require a bond in each case, in double the value of the property, for the care and safe-keeping thereof, and for the return of the same when required.

SECTION 1260. Any retired officer may, on his own application, be detailed to serve as professor in any college.

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, May 1, 1879.

The following rules and regulations, having been approved by the Secretary of War, are, by his direction, published for the information of all concerned.

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

RULES AND INSTRUCTIONS

GOVERNING THE DETAILS OF OFFICERS TO COLLEGES AND UNIVERSITIES UNDER SECTIONS 1225 AND 1260, REVISED STATUTES.

I.—*From what institutions applications for detail, under section* 1225, *Revised Statutes, will be received.*

Applications will be received from any established college or university within the United States, having capacity to educate at the same time not less than 150 male students. The terms "College" and "University" herein used are held to relate to "State institutions, incorporated or public" (and not to "mere schools, private or municipal"), and which have an average of not less than 150 students in actual attendance.

II.—*Number of institutions to which details, under section* 1225, *Revised Statutes, will be made.*

The number of officers (active and retired) detailed at any time throughout the United States to institutions supplied with small-arms and field artillery under section 1225, Revised Statutes, will not exceed thirty.

III.—*Selection of institutions to which details will be made.*

The institutions to which details will be made under section 1225, Revised Statutes, will be selected from among those applying for the benefits of the law, and will be apportioned throughout the United States, as nearly as may be practicable, according to population.

IV.—*Eligibility of officers for detail.*

1. Under section 1225, Revised Statutes, all officers of the Army on the active list, both line and staff, and retired officers on their own applications, are subject to detail, upon the orders of the President, for duty at colleges and universities.

2. Under section 1260, Revised Statutes, any retired officer may, on his own application, be detailed to serve as professor in any college, but such service will not entitle him to additional compensation from the United States. There is no limit upon the number of colleges to which retired officers may be detailed, upon their own request, under section 1260, Revised Statutes. Only those colleges and universities selected under section 1225, however, are entitled to draw arms, &c., from the United States.

V.—*Selection of officers for detail.*

Preference in detailing under section 1225 will be shown to such retired officers as are known to be the most competent who may apply. Their periods of service, either at selected colleges or others, are not limited, as may be in the case of officers on the active list.

VI.—*Application for detail of officers.*

All applications for detail of officers must be addressed to the Secretary of War, and must be accompanied by a certificate of the average number of male students in attendance at the institution desiring the detail.

REGULATIONS

PRESCRIBED BY THE SECRETARY OF WAR FOR THE ISSUE OF ARMS, &C., REQUIRED FOR MILITARY INSTRUCTION AND PRACTICE AT COLLEGES AND UNIVERSITIES, UNDER SECTION 1225, REVISED STATUTES.

1. The number of pieces of field artillery, with necessary implements, and of small arms and accouterments, which may be issued for the purposes of military instruction to each selected college and university having an officer of the Army stationed thereat, is limited to the following, viz:

2 3-inch rifled guns, wrought-iron, model 1861, at $450	$900 00
2 carriages and limbers, 3-inch gun, at $325	650 00
2 gunner's haversacks at $3.35	6 70
2 handspikes, trail, at $1	2 00
4 lanyards, at 10 cents	40
2 priming-wires, at 10 cents	20
4 sponges and rammers, 3-inch, at $1	4 00
4 sponge-covers, 3-inch, at 30 cents	1 20
2 tube-pouches, at $1.50	3 00
4 thumbstalls, at 20 cents	80
2 tompions, 3-inch, at 30 cents	60
2 vent-covers, at 40 cents	80
1 pendulum hausse, 3-inch	2 50
1 pendulum hausse seat	60
1 pendulum hausse pouch	75
2 paulins, 12 by 15 feet, at $11.75	23 50
150 Springfield "cadet" rifles, cal. .45, with appdgs., &c., at $18	2,700 00
150 bayonet scabbards, steel, cadet, at 91 cents	136 50
150 waist belts and plates, at 50 cents	75 00
150 cartridge-boxes, cal. .45, at $1.25	187 50

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2. Issue of the above stores will be made by the Chief of Ordnance to any selected institution upon its filing a bond in the penal sum of double the value of the property, conditioned that it will take good care of and safely keep and account for the same, and will, when required by the Secretary of War, duly return the same, within thirty days, in good order, to the Chief of Ordnance, United States Army, or such officer or person as the Secretary of War may designate to receive it.

3. The following is the blank form of bond to be executed previous to the issue of ordnance and ordnance stores, viz:

Form of bond.

Know, all men, by these presents that we [*name of the college or university, if an incorporated institution; if not, the name of a person de-*

scribed as president or other officer of the college or university, naming it. In case nobody should be legally empowered to bind the college, &c., by a bond, the obligors may be any person or persons who may be willing to answer for the performance of the obligation by the college, and who will then execute as principals, without any further sureties], as principal , and ——— ———, of ———, and ——— ———, of ———, as sureties, are held and bound to the United States of America in the penal sum of *double the value of the articles*], for the payment of which, well and truly to be made to the Secretary of War, or to such officer or person as he may designate, we do bind ourselves and each of us, jointly and severally, firmly by these presents. Given under our hands and seals at [*place of execution*] this —— day of ———, A. D. 18—.

The condition of this obligation is such, that whereas the [*name of "college" or "university"*] is an established [*college or university*] within the United States, having capacity to educate at the same time not less than one hundred and fifty male students; and whereas the said [*college or university*] has heretofore applied to the President of the United States to detail an officer of the Army to act as [*president, superintendent, or professor*] thereof, and the President, by virtue of the authority vested in him by section 1225, Revised Statutes, has detailed such an officer to so act accordingly; and whereas the Secretary of War, by the authority vested in him by said section, is about to issue to the said [*college or university*], for the military instruction and practice of the students thereof, the following [*small-arms and (or) pieces of field artillery*], to wit [*naming and describing the articles in detail, adding value of each where practicable*], being together of the value of [*the total value*]; all of which property, when issued, the said [*college or university*] hereby agrees to account for quarterly on blank forms to be prescribed by the Chief of Ordnance, and to return all of said property to the Chief of Ordnance, or such officer or person as may be designated to receive the same, within thirty days after demand by the Secretary of War:

Now, therefore, if the said [*college or university*] shall take good care of and safely keep and account for the said [*small-arms and (or) pieces of field artillery*], and shall, when required by the Secretary of War, duly return the same within thirty days in good order to the Chief of Ordnance, United States Army, or such officer or person as the Secretary of War may designate to receive them, then this obligation shall become inoperative and void; otherwise, shall be and remain in full force and virtue.

——— ———. [SEAL.]

The corporate name of the college, &c., or the name of the individual representing it, who should sign *as president*, &c., of the college, naming it.

{Coporate seal, if any exists, and the college executes; if not, an ordinary seal.}

——— ———. [SEAL.]
Name of surety or other principal.

——— ———. [SEAL.]
Name of surety or other principal.

In presence of us—
——— ———.
——— ———.

The signatures (or any signature made separately) should have two subscribing witnesses.

Form of justification by surety, or principal answering for the college, &c., where there is no surety as such.

STATE OF ———,
County of ———, *ss:*

I [*name*], one of the [*sureties or principals*] named in the within bond, do swear that I am worth the sum of [*full amount of the penalty*] over and above all my debts and liabilities.

———.
Signature.

Before me—

———.
(Signature of notary, &c., with official seal, if any.)

4. For practice-firing, the following allowances of ammunition will be made annually to each of the various institutions, viz:

1,000 ~~carbine~~ metallic ball-cartridges, cal. ~~.45.~~ .57 Cadet musket
1,000 metallic blank cartridges, cal. ~~.45.~~ .57 " "
100 rounds blank cartridges for 3-inch gun.
300 friction primers.

This ammunition will be issued upon requisitions to be forwarded to the Chief of Ordnance by the presidents or superintendents of the institutions; and as annual allowances date in all cases from July 1 of each year, requisitions should be forwarded before or as soon after that date as practicable for the prospective year's supply. Undrawn allowances of one year cannot be drawn in the succeeding year.

5. Regular property returns will be rendered quarterly to the Chief of Ordnance by each president or superintendent of an institution supplied with arms, &c., accounting for all ordnance and ordnance stores issued to the institution under his charge. These returns will be made on the blank forms to be supplied by the Chief of Ordnance.

6. Whenever any institution shall fail to return the public property in its charge within thirty days after demand made by the Secretary of War, the delinquency will be peremptorily referred to the Attorney-General, that the bond of the institution may forthwith be put in suit.

7. All expense of repairs of stores are to be borne by the institution using the same, the Ordnance Department supplying spare parts for repairs at cost price.

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47-M-64

MONOGRAPH No. 5.

CONSTITUTIONALITY

—)OF THE(—

STATE COLLEGE TAX,

BY

PROF. JAMES K. PATTERSON.

FROM

THE KENTUCKY LAW JOURNAL

1882.

LOUISVILLE:
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[From Kentucky Law Journal, April, 1882.]

CONSTITUTIONALITY OF THE STATE COLLEGE TAX.

BY PROF. JAMES K. PATTERSON.

I avail myself of the editor's courteous offer to allow me space in the LAW JOURNAL to present an unprofessional opinion on the constitutionality of the tax for the benefit of the State College. The first and second sentences of section 1 of article 11, of the Constitution, are as follows:

"The capital of the fund, called and known as the 'Common School Fund,' consisting of $1,225,768.42, for which bonds have been executed by the State to the Board of Education, and $73,500 of stock in the Bank of Kentucky; also the sum of $51,223.29, balance of interest on the school fund of the year 1848, unexpended, together with any sum which may be hereafter raised in the State, by taxation or otherwise, for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools. The interest and dividends of said funds, together with any sum which may be produced for that purpose, by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose."

The opponents of the tax for the benefit of the College argue that the clause, "together with any sum which may be hereafter raised in the State, by taxation or otherwise, for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools," forbids the Legislature to raise by taxation a fund for the maintenance of any institution such as the Agricultural and Mechanical College. They hold that it does this on one of two alternative grounds—first, that the tax can not be imposed under this act; second, that, if imposed, and the money raised by taxation, it can not be applied to the purpose designated in the act, but must go into the common school fund.

I undertake to show that their construction of the clause "together with any sum which may be hereafter raised in the State, by taxation or otherwise, for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools," is erroneous; that the Constitution is altogether silent on the question of State aid by specific tax to such an institution as ours; and I shall endeavor to do this by showing that the expression "purposes of education" means, and can mean, only "purposes of 'common school' education." I shall show, first, that a fair analysis of the entire article warrants this construction; secondly, that the entire essence and language of the debates in the Constitutional Convention, and especially the language of the author of the article on education in the Constitution, demonstrate beyond the possibility of a reasonable doubt that the phrase "purposes of education" means, and can mean only, "purposes of 'common school' education;" and, lastly, I shall show that a contrary interpretation would fasten upon the framer of the article, and those who adopted it as a part

of the Constitution, an absurdity and a dishonesty of purpose with which a fair interpretation can not charge them, and commit the framer of the article, and the party of compromise which he led, to an enlargement of the common school fund which they never intended, and which they would have promptly repudiated had any man in the Convention suggested it.

The original of the school fund described in article 11 of the Constitution, whose inviolability this article was designed specially to guard, came from the General Government. The government of the United States had accumulated in the National Treasury a very large sum of money, $28,000,000, chiefly from the sale of public lands. This accumulated treasure was distributed by act of Congress, June, 1836, among the several States on certain conditions. The State of Kentucky accepted her share on the conditions proposed, and by section 9 of the act approved February 27, 1837, consecrated $1,000,000 of the money received to the cause of education. On February 16, 1838, the Legislature reduced the amount to be devoted to school purposes from $1,000,000 to $850,000, which sum was invested in the internal improvement bonds of the State.

After the financial crisis of 1837 had passed, and the State had recovered in some degree from pecuniary disaster, Kentucky embarked in an extensive system of internal improvements, designed to increase the general wealth. The funds necessary to carry on her extensive operations were raised by the public credit. When the State became embarrassed by these operations she looked around for relief, and reasoning with herself that the bonds representing the principal and nucleus of the school fund constituted a debt due to herself, she determined to relieve herself to the extent of this indebtedness by canceling the debt, not by its payment to the Board of Education, but by obliterating the evidence of the debt. Accordingly, by an act approved February 10, 1845, she ordered all the State bonds held by the Board of Education to be delivered to the Governor of the Commonwealth, and by him to be burned. The act, however, under which they were burned, directed that lists of the burned bonds be prepared, and that these lists should be held and taken in place of the bonds which had been burned. On February 29, 1848, chiefly through the exertions of Dr. R. J. Breckinridge, then Superintendent of Public Instruction, an act was passed by which the State issued a bond for $308,268.42 to the Board of Education, for arrears of interest on the burned bonds up to January, 1848, and, in 1849, by act approved on the 26th of February of that year, made further reparation by designating the net proceeds of certain public works as a fund to pay interest on the school bonds.

The sacredness of the original debt was also recognized, and the preserved copies of the original bonds 1, 20, 21, 22, 23, and 24 accepted and recognized as evidences of the original indebtedness to the Board of Education.

These, together with $73,000 in bank stock and the bond unnumbered, bearing interest at 5 per cent., dated December 20, 1848, executed to the Board of Education for the sum of $308,268.42, chiefly for arrears of interest from the date of the burning of the bonds above-mentioned, constitute the aggregate of $1,225,768.42, mentioned in article 11 of the Constitution.

When the Constitution of 1799 was adopted, there was no public or common school system in Kentucky. Its existence was not anticipated by the framers thereof; and, hence, there is not a line in the Constitution of 1799, from beginning to end, in relation thereto or in anticipation thereof. When, therefore, through the munificence of the General Government, a beginning for a common school system had been made, the funds which were set apart for this purpose, having no constitutional safeguard thrown around them, were liable, as the issue proved, to be invaded and applied to other purposes at the caprice of the Legislature, with no remedy from the Courts nor elsewhere. While the public mind was excited in regard to this invasion of the school fund, the Constitutional Convention was called. The circumstances in which article 11 of the Constitution had its origin, and which called it forth, had no reference to any contest except the contest in regard to the integrity and inviolability of the common school fund—no reference to any kind of schools except common schools—no reference to any kind

of education, whether inferior or superior, related to or concurrent with the common school system. Hence the article, according to every canon of interpretation, must be interpreted according to the meaning of its authors, and this can only be gathered from the circumstances of its origin, the evils it was designed to remedy, and the purpose it was intended to accomplish. *First: a fair analysis of article* 11, *shows that by "Purposes of Education" common school education, only, is meant.* A careful reading of article 11 warrants, I think, the belief that its authors had no other sort of education in their mind than "common school" education; that they had no anxiety to prevent aid from being given to any other kind of education; and that their sole desire was to guard and maintain the integrity of the fund known as the "common school" fund, with any increase that might accrue to this fund from any quarter whatsoever, whether by "taxation or otherwise." I believe that a careful examination will show that wherever the word "school fund" occurs, "*common" school fund* is meant; that wherever the word "school" occurs, "*common" school* is meant; and that wherever the word "education" occurs "*common school" education* is meant. Indeed, the caption of article 11, as interpreted by the marginal summary, shows that only "*common school*" education is intended to be considered in the article. The marginal summary is as follows: "The capital of the common school fund to be held inviolate." The whole design of article 11 would seem to be to assert and maintain the inviolability of the common school fund. If this be true, then, everything foreign to this idea would necessarily be excluded. Let us see what the probabilities are from induction and analogy:

The words "school fund" occur four times in article 11, and once only are they prefixed by the qualifying expression "common," and yet it is apparent that "common school" fund is meant throughout. The word "fund" is used three times in the singular or plural, and, in every instance, not only "school fund" but "common school fund" is meant. Indeed, in the first instance of its use, it is defined as "common school" fund—the evident meaning in which it was intended that it should be used. The word "school" is used five times in the singular or plural—in four of these with the prefix "common" expressed, while in the fifth "common" is manifestly understood. In the phrase "Board of Education," in line five of the eleventh article in the General Statutes, "common school" is undoubtedly understood. The phrase, if fully expressed, would certainly be "Board of Common School Education," because this is the only sort of education under discussion, and the only kind of education in the State, controlled by the State, through a board denominated the "Board of Education." All analogy then would seem to require the prefix "common school" before "Education" in the twelfth line. This presumption is rendered still stronger by the fact that in the second sentence of section one, in article 11, the phrase "that purpose," means a *single* purpose, already brought definitely and distinctly before the reader, and, as no other *single* purpose is or has been under contemplation than "common school education," purposes of education must have a *singular* meaning, which can be only if "common school" be understood as-a qualifying and limiting prefix to be supplied before "education."

The second sentence, viz: "The interest and dividends of said funds, together with any sums which may be produced for *that purpose*, by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose," is but a repetition of the idea contained in the first sentence of section one of article 11, with this difference: The first sentence defines the sources of income, and for what purpose these sources of income shall be held inviolate; the second sentence defines the proceeds of these sources of income, and directs to what purposes these proceeds shall be applied. There is a remarkable parallelism in these two sentences, to which I call your attention. In sentence one the capitalized principal of the school fund is described, viz: three items, amounting to $1,350,491.71. This has its parallel in sentence two, in which the proceeds of this capitalized principal is described, viz: "interest and dividends of said funds." In sentence one, the supplementary funds guaranteed by the Constitution, as applicable to the end contemplated, are defined as "together with any sum which may be hereafter raised,

by taxation or otherwise, for purposes of education." This has its parallel in sentence two, in the expression, "together with any sum which may be produced *for that purpose*, by taxation or otherwise." Now note the words "for that purpose." For what purpose? Evidently, "common schools." Do not the words "for that purpose" express the scope and limit of the taxation discussed in article eleven? Undoubtedly. "That purpose" is a single purpose.

The scope and limit of taxation here discussed are co-extensive with and bounded by that single purpose — whatever that single purpose be. That purpose is undoubtedly "common schools," and the scope and limit of the taxation here discussed must undoubtedly be for "common schools." If this be so, then the scope and limit of the taxation discussed in the parallel clause of the sentence preceding must be of like extension and limit, viz: for "common schools." There is, certainly, not a plurality of purposes considered in the first, and only a single one in the second. "That purpose," in the second, is manifestly retrospective. The word "that" is conclusive on that score. "That purpose," being single, must, of necessity, refer to a single purpose already in the mind of the framers of article eleven. What else could it be? Now, no parallel idea exists, and no single purpose exists, brought before the mind of the reader by the previous sentence, except the purpose evidently referred to, viz: "common schools." If this be so, then "that purpose" must be "common schools," previously expressed, and common school education. "Common schools" and "common school education," then, constitute the single purpose — the antecedent unit in thought—the single idea. All other ideas are excluded—all other purposes are excluded—and taxation is limited in its scope and bounds by this single idea—"common schools." As a condition precedent to their construction, they must hold that the phrase, "purposes of education," in the first sentence, includes common school education, and all other sorts of education. But the expression, "that purpose," in sentence second, is fatal to their construction. Now, "that purpose," being single, refers to a single antecedent, and "that purpose," meaning only common schools, must refer to an antecedent, which means common schools. Suppose their construction correct, and to be the meaning in the mind of the framers of the article, and of the members of the Convention who adopted it, what should we have in place of "that purpose?" If the phrase "that purpose" was intended to refer to a plurality of purposes, and not to a single one, what would be its character and form? It must have been "those purposes." Then the implication, the presumption, would be, that the reference was to common school purposes and other purposes of education. But, inasmuch as the singular "that" defines and limits us to one purpose, antecedently expressed, we are forced to conclude that only one purpose was intended by the antecedent, and the character and scope of that purpose is defined and limited by the retrospective reference.

The fact would seem to be, that the qualifying and limiting expression, "common schools," constantly in the mind of the framers of the Constitution, was sometimes expressed and sometimes omitted, apparently for no other reason than to avoid its too frequent repetition. "Purposes of education," then, would mean "purposes of 'common school' education"—nothing less and nothing more. Indeed, from this induction and analogy, no other meaning seems probable. I might almost say, no other meaning seems possible. The clause in the Constitution, upon the interpretation of which the constitutionality of the tax depends, and which reads: "Any sum which may hereafter be raised in the State, by taxation or otherwise, for *purposes of education*, shall be held inviolate for the purpose of sustaining a system of common schools," would then read: "Any sum which may hereafter be raised in the State, by taxation or otherwise, for *purposes of 'common school' education*, shall be held inviolate for the purpose of sustaining a system of common schools." This interpretation harmonizes entirely, and is altogether consistent with the idea that the whole scope and intent of article eleven is to guard, and maintain, and defend the integrity and inviolability of the common school fund. Indeed, in the marginal summary above quoted, this is declared to be the aim and compass of the article. It does not

admit anything irrelevant. It excludes every consideration not germane to itself. This common school fund is to be preserved inviolate. No appropriations are to be made at its expense. It is to be applied sacredly and exclusively to the single purpose for which it was levied, and to no other. This exhausts the significance of the article. It deals with one subject—*one purpose*—and no other. It excludes the consideration of all other subjects—all other purposes. On everything it is silent except on the single subject of "common school education," and the *single purpose* of maintaining the integrity and inviolability of this fund. All other sorts of education, and all other funds, or purposes relating thereto, are ignored. Had the framers of the Constitution intended to prohibit taxation for any other kind of education than "common school" education, the prohibition would have been direct, explicit, and precise, and either in a separate paragraph or in a proviso. It would have been in some such language as the following: PROVIDED, HOWEVER, *That no tax shall, at any time, be levied for the support, endowment, or maintenance of any academy, high school, seminary, college, or university, or for the equipment, outfit, or ordinary expenses of any of these, on any pretext whatsoever.* Had the Constitution intended to prohibit a tax for any of these purposes, it would, doubtless, have used such prohibitory language as the above.

SECONDLY, *The essence of the debates, and the language used by all the gentlemen who participated in the discussion of the report of the Committee on Education in the Constitutional Convention, demonstrate beyond the possibility of a reasonable doubt, that the phrase, "purposes of education," in article eleven of the Constitution, means and can mean only "purposes of common school education."*

When the subject of education was reached, in the Constitutional Convention, Monday, December 10, 1849, the first section of the report of the committee was read, as follows:

"SECTION 1. The diffusion of knowledge and learning among men being essential to the preservation of liberty and free government, and the promotion of human happiness, it shall be the duty of the General Assembly to establish, within — years next after the adoption of this Constitution, and *forever* thereafter keep in existence, an efficient system of common schools throughout this Commonwealth, which shall be equally open to all the white children thereof."

The debate was opened by Mr. Hardin, who opposed any system of common schools. In the course of the discussion, the following gentlemen spoke:

Mr. Proctor—"I promised my constituents, when a candidate for a seat in this Convention, that, if elected, I would use my best exertions to secure the incorporation of a clause in the Constitution which would permanently secure to the people of this Commonwealth not only *the fund set apart by the General Government for the purposes of education* in Kentucky, but that also which the people, in their magnanimity, had voted to tax themselves with at the August election, 1848, for that purpose." Page 885, Debates Constitutional Convention.

Again—"I believe that if there is any question that has been settled by the people, and any one subject on which they require prompt action by this Convention, it is that a *school fund shall be permanently secured* by a constitutional provision. *Ibid.*

Again: "But, sir, no sooner is the proposition submitted to this Convention to secure to the people of this Commonwealth the *school fund* of the State from the control of the Legislature, than the herculean voice of my venerable friend is raised in opposition to that proposition." Page 886, ibid.

Again: "Mr. President, I believe that the adoption of a provision in the Constitution for the permanent security of the *school fund* of this Commonwealth is demanded by the people of the State."

Again: "But, sir, I believe that the people did understand this measure, and that they require and did expect of this Convention that we will secure by a constitutional provision not only the fund set apart by the General Government to the State *for purposes of education*"—

Mr. Hardin—"The gentleman is mistaken. Congress did not declare to what purpose this fund was to be applied."

Mr. Proctor—"My friend informs me that Congress did not designate the object of this fund at the time of setting it apart to the States. Well, sir, it is known to all that it was the general understanding of Congress, at the time of setting apart to the States the surplus revenue, that it was to be applied to the *purposes of education*, and our Legislature, acting upon this understanding, at its first session after Congress set apart this fund to us, dedicated it by a solemn act for *that purpose* alone."

Again: "For my part, Mr. President, I am anxious to see this report adopted in the Constitution and I shall, by every act of mine, endeavor to secure this *school fund* by a permanent provision in the Constitution."

Again: "If, sir, it is right that the money which was set apart to the State of Kentucky by the General

Government, and which was originally intended for the *purposes of education*, should be applied to that purpose alone, why, I ask, should we leave the matter to the future control and management of the Legislature?"

Mr. C. A. Wickliffe—"One of the things which seem to excite a great degree of interest is this of common schools. I am the friend of education, and claim the responsibility of an agency in setting apart the $850,000 from the United States revenue for the *purposes of education* when the country is prepared to appropriate it."

Mr. Root said: "If there was any one subject on which I was thoroughly and fully instructed, it was to rescue from the vacillation of the legislation of the State the *common school fund*, solemnly dedicated to *purposes of education* by the Representatives of the people in 1837, and place it beyond the control of the Legislature of the country."

Hon. C. A. Wickliffe, after the discussion had proceeded to some length, offered the following substitute for section 1, of the report of the Committee on Education, to which special attention is called:

"All the funds which have been or may be collected, and which have been set apart for *common school purposes*, shall be held sacred, subject to be regulated by the General Assembly, and applied and disbursed as shall seem best to effect the object of general education."

In this amendment he uses "*common school purposes*," the identical phrase used in the original draft. He also uses "general education" as evidently synonymous with it, for he states expressly that the object for which the fund was set apart should be kept sacredly in view. And, as if in anticipation of such a question of constitutional construction as the present, Mr. Wickliffe said:

"There is no substantial difference between the amendment which I offer and the second clause of the report. [See Report, page 377, Const. Debates.] I go with the committee, and every friend of education on this floor, to set apart and dedicate the fund for *educational purposes* which has either been accumulated by taxation or which was originally set apart by the law of 1837." Page 901.

Here the phrase, "educational purposes," is used retrospectively, and, being so used, can only mean "common school purposes," because no fund had been accumulated by taxation, and none had been set apart by the law of 1837 except for "common school purposes." Mr. Wickliffe, the author of article 11, then used "educational purposes" in the debate pending the discussion of his amendment, as the exact equivalent of "common school purposes."

Again, while this discussion was still pending, Mr. Wickliffe said:

"If I understand the report of the committee, it is that, while they do the same thing which I propose, they make it obligatory upon the Legislature to establish and keep in existence this system throughout the Commonwealth. If that is complied with, taxation will be necessarily involved to the extent stated by my friend from Logan, or nearly to that extent. I am unwilling to impose that upon the Legislature from which they can not escape, to put into operation this system within five years after the adoption of this Constitution. I offer no hostility to education in my amendment, for I appeal to the zeal I manifested in setting apart originally the sum of $850,000; but I am unwilling to impose the taxation which must be imposed to put this in operation in five years." Page 901.

Here Mr. Wickliffe sets clearly forth wherein he agreed with the committee who reported the original draft of the article on education, and wherein he differed from them. "There is no substantial difference," says he; "I go with the committee and every friend of education, to dedicate the fund which has been accumulated by taxation, or which was originally set apart by the law of 1837" for educational, that is, common school purposes. Wherein, then, did he differ from the committee? It was in his own language, that "while they do the same thing which I propose," they make it obligatory upon the Legislature to establish and keep in existence this system throughout the Commonwealth. This would involve taxation and a good deal of it. This taxation Mr. Wickliffe did not propose to make obligatory upon the Legislature by a mandate of the Constitution. If made mandatory they can not escape from it. "If" said he, "you adopt the whole of the report of the committee, you impose necessarily upon the Legislature a duty from which they can not escape, to put into operation this system within five years after the adoption of the Constitution." After further discussion, Mr. Wickliffe said:

"What does the amendment which I propose contemplate? It is that the fund which has been collected, the $850,000, the $73,000 of bank stock, and any other and every other fund collected *for educational purposes*, shall be devoted by the Legislature to that object, and, when so devoted, it shall remain sacred, and be appropriated to no other purpose or

object than the diffusion of a general system of education."

Now it must be admitted by every one, that Mr. Wickliffe's explanation of his substitute was designed to unfold articulately and explicitly what the substitute contained implicitly. The thing defined and the definition must be absolutely equivalent. The thing defined is made up of a certain complement of characters; the definition unfolds these characters. The thing explained or made plain, contains within it a certain complement of characters which, in the explanations, are made to stand out clearly, distinctly, and unambiguously. Nothing appears in the definition which did not exist in the thing defined, and, conversely, nothing exists in the thing defined, which, if the definition be adequate, is wanting in the definition. The absolute equivalence of the two is a principle in law as in logic.

In the explanation given by Mr. Wickliffe of his substitute, there is a remarkable parallelism throughout. Certain phrases had been used by all who participated in the debate as synonymous. These phrases, wherever they occurred, were quite well understood. They had been used again and again by members on the floor. These phrases occur in the substitute, and in the explanation, and your attention is particularly directed to them. I arrange the substitute and the explanation in parallel columns, that the parallelism may be properly exhibited:

SUBSTITUTE.	EXPLANATION.
All the funds which have been	It is, that the fund which has been collected—the $850,000, the
(collected,)	$73,000 of bank stock,
or which may be collected,	and any other and every other fund
and which have been set apart	collected
FOR COMMON SCHOOL PURPOSES,	FOR EDUCATIONAL PURPOSES—
shall be held *sacred*,	shall be *devoted*
subject to be regulated by	by the
the GENERAL ASSEMBLY,	LEGISLATURE to that object; and
and *applied and disbursed*	*when so devoted it shall remain*
as shall seem best to effect	*secure and be appropriated to no*
the object	other purpose or object than
OF GENERAL	the DIFFUSION OF A GENERAL SYSTEM
EDUCATION.	OF EDUCATION.

In this equivalence of expressions "the funds which have been collected or may be collected," in the substitute, is explained in the explanation to mean "the $850,000, the $73,000 of bank stock, and any other and every other fund collected."

The object for which these funds have been collected or may be collected is stated in the substitute to be "common school purposes," in the explanation "educational purposes." "Shall be held sacred" in the one has its parallel, "shall be devoted," in the other. "General Assembly" in the one has its parallel, "Legislature" in the other. "Shall be applied and disbursed" in the one has its equivalent, "appropriated," in the other. "To effect the object of general education" in the one has its equivalent, "to no other purpose than the diffusion of a general system of education," in the other.

But a special significance attaches to this parallelism and absolute equivalence of expressions in the substitute explained and the explanation, when it appears that Mr. Wickliffe, on withdrawing the substitute and submitting, as an amendment, a paper which was subsequently adopted as article eleven of the Constitution, uses "educational purposes" in its equivalent form, "purposes of education," this being the only difference, that what is substantive in the one is adjective in the other, *i. e.*, "purposes of education" in article eleven takes the place of "educational purposes" in the explanation, the exact equivalent of the one to the other being patent to all. Mr. Wickliffe then uses "purposes of education" as the equivalent of "educational purposes;" and he himself defines "common school purposes" to mean "educational purposes." This makes the proof complete.

All through the debates of the convention there is not a line to show that the committee who reported the bill, or the members of the committee and others who participated in the debate extending over two days, used "funds" in any other sense than "common school funds," "school" in any other sense than "common school," or "educational purposes" in any other sense than "common school purposes." The chain of proof seems conclusive and irrefragible.

No other kind of "schools" than "common schools," no other "education" than "common school education," no other kind of "purposes" than "common school purposes," were under consideration or thought of from beginning to end of the debate.

In this debate it must be borne in mind there were three views represented:

1. Those who opposed common schools *in toto*, and who opposed any recognition of the system in the Constitution.

2. Those who advocated a constitutional guarantee for the school fund derived from the General Government, amounting to $850,000; for the bond issued by the State for arrears of interest, amounting to $308,000; for the bank stock, amounting to $73,000; and also, for a tax specific in character of a certain number of cents on each $100 of taxable property.

3. Those who advocated a compromise, and who proposed to admit the constitutional guarantee on all the bonded funds, viz: $850,000, $308,000, and $73,000 in bank stock, but who refused to incorporate a guarantee for the tax proposed.

The first was represented by Mr. Hardin, the second by Mr. Taylor and Mr. Proctor, the third by Mr. Wickliffe. The first refused a guarantee for anything; the second asked a guarantee for everything; the third conceded a guarantee for existing funds, and, while refusing to incorporate a requisition for a specific tax, was willing also to guarantee, for common school purposes, the proceeds of any tax which the Legislature, in the exercise of discretionary power, might levy for the use of common schools.

The first would be hampered by no constitutional guarantees whatever, either for the existing school fund or for any prospective addition thereto from any quarter whatsoever.

The second affirmed the necessity of a guarantee for the existing stocks and bonds, known as the common school fund, and likewise for an addition thereto, which should be created by constitutional provision, and guarded by constitutional guarantee.

The third conceded the guarantee for existing funds only, but refused to create, by constitutional provision, anything additional thereto. While, therefore, the third party, the party of compromise, the party whose amendment was ultimately accepted, and forms article eleven of the Constitution, conceded much more than the first, its concessions fell short of the demands of the second. It refused to make the tax compulsory under the Constitution. It allowed, however, a constitutional guarantee for the integrity and exclusive application to common school purposes, of the proceeds of any tax which might be levied for common school purposes by the Legislature. This limits and defines its scope and intent. It takes no cognizance of any tax levied for any other purpose whatsoever, nor of the proceeds of any such tax. It concerns itself neither with the purpose of any other tax, nor with the applications of its proceeds.

The amendment which was submitted by Mr. Wickliffe, and which was subsequently adopted as article eleven of the Constitution, introduces no new feature which was not contained in the substitute. The substitute was submitted as a substitute proposed for section one, and, in addition thereto, the substance of the remaining sections of the original draft, with certain modifications not germane to this discussion. This is an important point. Mr. Wickliffe had declared, in language as emphatic as it could be expressed, that there was no substantial difference between the second clause of the report of the committee and his substitute; that the only point of difference was the guarantee for the tax already levied, and for additional taxation necessary to carry the system into operation within a given time; that, in other respects, the report of the committee proposed to do exactly what he proposed.

When, then, he submitted the amendment which was adopted as article eleven, he embodied the substance of his substitute for section one of the original draft—there was no change of opinion, no shifting of ground. He adhered persistently to the position he had taken at the beginning, without advance and without retreat. He was rigorously and honorably consistent from beginning to end.

A proposition to throw into the common school fund the proceeds of a tax levied for an altogether different purpose, and to guarantee its application to a use for which it was never

intended, would have appeared so monstrous that no party to the debate would for a moment have entertained it, and a proposition to forbid taxation for any other purpose, on the plea that, if levied and collected, it should become part and parcel of the common school fund, would have appeared equally monstrous. No party to the debate would have tolerated it, and no more effectual method could have been devised to defeat the constitutional guarantee for the common school fund. The author and mover of the substitute, which was ultimately adopted as article eleven, was not the man to tender more than the committee had reported and insisted upon. The party of compromise would have abandoned him at once, had they suspected that his substitute, under pretense of guaranteeing less, covertly, and by indirection, proposed to guarantee much more, viz: not only the capitalized school fund, and the proceeds of whatever taxation might, in the discretion of subsequent Legislatures, be imposed in aid of common schools, but, beyond and above this, the proceeds of some other tax, which might be levied for some other purpose, outside of the common school fund and common school system.

Lastly, *a contrary interpretation imputes to the framers of the article, and to those who accepted it, an absurdity, with which they could not have been justly chargeable.* If the phrase "purposes of education" in article eleven means what the opponents of the tax for the benefit of the State College allege, then it must be said that no prohibition in any written instrument in the English language was ever expressed in terms so awkward and by a method so indirect. The work of the common school, as commonly understood, is one thing; that of the State College is another. They differ in degree, not in kind. They are related as inferior education is related to superior. We may designate the one as "A," the other as "B." It is admitted on all hands that the State may provide by taxation for the aid and maintenance of "A." The opponents of the State College hold that, by the provisions of article eleven of the Constitution, the State is forbidden to make provision by taxation for "B." If their contention be just, how does the Constitution provide for this prohibition? Not in direct terms, certainly. Not by saying that "no tax shall at any time be levied for the support of any high school, seminary, college, or university, or for the equipment, outfit, or expenses of any of these, in whole or in part." But it does in this clumsy and indirect way, viz: No aid shall be given by taxation to "B," but if it be levied for the benefit of "B," it shall go to "A."

Or if the other alternative be taken, we have it thus: Aid may be provided by taxation or otherwise for "B," but if it be so provided, then it shall not go to "B," the party for whom it was provided, but it shall go to "A," the party for whom it was not provided. Or to take the more familiar phraseology—John Doe and Richard Roe. It is admitted on all hands that maintenance may be provided for John Doe. It is, however, held by some, that such maintenance may not be provided for Richard Roe. How is this prohibition made out? This way: Aid and maintenance shall not be provided for Richard Roe, but, if so provided, it shall go to John Doe. Or if this construction is objected to, and the affirmative held, we have the following: Aid and maintenance may be provided for Richard Roe, but, if so provided, it shall go to John Doe. We are at a loss to know whether Richard Roe should complain most of the loss of aid and maintenance, or of the interpretations and methods by which it was compassed.

An article in the Constitution intended by the framers thereof to be susceptible of such an interpretation as the clergy, in their eagerness to break down a State institution, desire to fasten upon it, would seem rather to be the work of lunatics than of sane men. I do not so highly esteem the wisdom and common sense of the framers for the Constitution.

The interpretation which I have the honor to submit makes no such enormous drafts upon credulity, violates no canon of interpretation, strains no phraseology, accepts the historical and political circumstances of the time as the back-ground, and the ideas dominant at the time of the adoption of the Constitution as the mold in which it is cast. The interpretation is consistent; it postulates nothing, accepts nothing, rests upon no hypothetical fictions, and, most important of all, yields a result which may be characterized as common sense in op-

position to the sublimated nonsense which the *clerical* interpretation presents as the essence of wisdom.

Blackstone's rule of interpretation is as follows:

"The fairest and most rational method to interpret the will of the legislator is by exploring his intentions at the time when the law was made, by *signs* the most natural and probable. And these signs are either the words, the context, the subject-matter, the effects and the consequence, or the spirit and reason of the law."

Tried by this rule of interpretation, I have no hesitancy in submitting the preceding construction of the Constitution to any competent body of lawyers in Christendom. Common sense, and the sense of right common to all, form the foundation of all jurisprudence and of all construction of law. Hence, it does not necessarily follow that one must be a trained jurist in order to be competent to give an opinion upon an article in constitutional, or a statute in municipal law. One who is trained in the processes of thought, and familiar with the import of language, can do this fairly well. And when such interpretation corresponds exactly with the canon laid down by the greatest of commentators, the presumption is that it is correct. The common sense which interprets and the common sense to which it appeals, will alike brush away the web of technicalities woven by ingenious advocates, and stand upon the solid basis of fact and common sense.

The authorities and decisions discussed in Judge Humphrey's paper, which appeared in the January number of the LAW JOURNAL, do not, in my opinion, touch upon the case. They affirm an identical proposition: that money belonging to the common school fund can not, under the Constitution, be applied to any other purpose than for the maintenance of common schools, or in aid thereof. This, no one questions. But, neither by analogy nor otherwise, do they touch the constitutionality of the tax for the Agricultural and Mechanical College.

Should its constitutionality come before the Courts, where it properly belongs, I have no fear of the result. I do not believe that the Appellate Court of Kentucky will deliberately affirm that the framers of the Constitution were dishonest and disingenuous; that they set themselves to weave nonsense in riddles.

JAMES K. PATTERSON.

LEXINGTON, KY.

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Constitutionality of the Tax for the State College

REPLY

OF

JAMES K. PATTERSON, PH.D.

President of the Agricultural and Mechanical College of Kentucky

TO THE

ARGUMENT OF JUDGE LINDSAY

BEFORE THE

A. & M. COLLEGE COMMITTEE

IN THE HALL OF THE HOUSE OF REPRESENTATIVES

MONDAY EVENING, JANUARY 30, 1882

TRANSYLVANIA PRINTING CO.,
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1909

CONSTITUTIONALITY OF THE TAX

FOR

THE STATE COLLEGE

Gentlemen of the Committee of the A. & M. College, and Gentlemen of the General Assembly:

I listened with much pleasure to the eloquent and learned advocate who presented the plea of the protesting colleges on Wednesday last to this honorable Committee. I am not sure that a better presentation could have been made. I came expecting to hear a dispassionate, lucid statement, a full and impartial exposition of the law, a critical analysis of the organic statute, out of which all subsequent legislation has grown, and I was disappointed. The presentation was skillful, ingenious, and forcible, with a good deal of the political, less of the constitutional, and more of the popular species of conventional oratory than either. Indeed, I could not help thinking that the inherent tenuity of the constitutional plea was dexterously padded and wadded with extraneous matter which none would know better than Judge Lindsay, were he on the bench, how to brush unceremoniously away as irrelevant dicta. Of course it is no part of the duty of an advocate to assume the judicial ermine, and with this no one who heard the distinguished ex-Chief Justice would charge him. But it seems to me that the attorney for the protesting colleges presumed too much on the credulity of his audience and their ignorance of the history of education in Kentucky as well as of the Constitution.

He began by saying that the intention of the authorities of the State College is to rival the great colleges of the East; that my argument and the report of the Board of Trustees both warrant this conclusion. Now I submit that nothing I have said, and nothing said by the Board of Trustees, warrants the conclusion. I do not say that I would not gladly see such an institution in Kentucky. But whether that statement be true or the reverse, is altogether outside of the constitutionality of the tax. This much,

however, may be said, that in regard to an institution projected on an income of $26,000 a year, there is no need for any one to lose his equanimity through apprehension of its excessive growth, especially when such growth is dependent upon the liberality of the Legislature of Kentucky. Our people have not as yet any extravagant ideas about expenditure which need cause the denominational colleges serious alarm.

In order to establish the assumptioon that the Legislature of 1865 did not intend to include classic and other scientific studies in the curriculum of the Agricultural and Mechanical College, Judge Lindsay quoted from the act of the Legislature of that year, which specified the studies made obligatory by Congress. From this he infers that classics were intended to be excluded, and yet just the opposite is the fact. The advantage which Kentucky University offered by the proposed alliance was, that her College of Arts should provide all the classical instruction, and the State branch all the scientific instruction required by both, and thus, by the concentration of capital and the division of labor, realize the greatest possible results from the least possible expenditure. From the very beginning all the students of each College had free access to all the classes of the other, and for thirteen years this order of an interchange on equal terms, existed, as every professor knows.

In the reorganization, it was not deemed expedient to offer less advantages than had been enjoyed while the alliance with the denominational college existed. This discussion was also foreign to the constitutionality of the tax. Equally unfortunate was the reference of Judge Lindsay to the early history of Transylvania University. When, in 1825, the Legislature was invtied by the message of Governor Desha to consider the condition of Transylvania University, the evil plight into which it had fallen was due largely, if not exclusively, to the denominational war waged remorselessly against it by sectarian animosity and jealousy. In that warefare, the church to which I belong played no unimportant part. Had the State sustained and cheered Transylvania as she ought, and not left it a prey to ecclesiastical rancor and denominational hate, Transylvania would be to Kentucky to-day what Harvard is to Massachusetts, and Yale to Connecticut. It was brought into politics—how? Because assailed by the churches then, as State College is now, and because of the parsimonious

support given to it by the State at the instance of clergymen, who stood by with lugubrious visage and ecclesiastical scowl. The ministers of that day prevailed. The curse of Meroz rang through the land. Transylvania was handed over to the doctors, not of physic, but of divinity, with the inevitable result that always attends clerical ministrations when applied to State institutions—decline, decadence, extinction. Like the patient whose tombstone records: "I was well; the doctors thought I might be better. I took physic, and here I am."

All this, however, was quite irrelevant to the constitutionality of the present tax levied for the benefit of the State College.

Equally unfortunate is the statement, that when the Convention which framed the present Constitution sat, the question was discussed whether the views held by Dr. Robert J. Breckinridge on education should find expression in the article adopted on education. Whether the funds existing or to be created should be used exclusively for common schools, as that expression is commonly understood, or whether any other educational institutions should find recognition or support, was never before the Convention. I make bold to say, that in all the debates, extending over two days, no such question was discussed; no such question was raised; no such question suggested.

The distinguished counsel for the opposition says that, as a consequence of this discussion (which did not take place), the Constitution declared in favor of poor men's schools and against rich men's schools, and, by his emphatic reading and iteration of the phrase *"purposes of education,"* in article eleven, declared and insisted that this was the fact. Now, not a word was said in the Convention of poor men's schools being fostered by the State in opposition to rich men's schools, or of lower education in opposition to higher. Common schools and common school education alone were before the Convention, and not one word was said, from beginning to end of the debates, about State aid to seminaries, academies, colleges, or universities, either by way of approval or condemnation. Leaving out of account the opposition made by some of the members of the Convention to any system of common schools, the only question raised was, whether the Constitution should incorporate a guarantee for a two-cent tax, and enjoin such additional taxation as would inaugurate the common school system within five years. Many of my auditors, after the eloquent

presentation by Judge Lindsay—more eloquent than accurate—will be surprised when told that these were the only matters which divided the Convention. All except a few were in favor of a system of common schools. All except a few were desirous of securing a constitutional guarantee for the existing capitalized school fund; and among the latter, the only question of difference was, whether a constitutional guarantee should also be made for the then existing two-cent tax, and as much more as would be required to put the system in operation within a given time.

Judge Lindsay alleges that the original draft of the article on education failed to satisfy the Convention. That is true. But it is not true that the original draft failed to satisfy the Convention for the reason that he assigns, viz: that the members resolved that there "should be no effort to sustain such an institution as Transylvania." By what authority is this statement made? From what data is this conclusion drawn? No such question had been raised; no such question had been thought of. I will tell you why the original draft failed to satisfy the Convention. It was because it contemplated a guarantee for the tax already levied, in order to supplement the income from the capitalized school fund. This contemplated guarantee for the two-cent tax the opponents resisted, and this was the sole and exclusive question in dispute.

The distinguished counsel having laid down such a dictum in regard to the original draft and its failure to satisfy the Convention, then proceeds to say that no rule of constitutional construction will allow us to interpret *"purposes of education"* otherwise than he endeavored to impress upon you. To this I now deisre to address myself, and I ask your patient attention. I hope to prove to your satisfaction, from an analysis of the article itself, and not by any torture, as the gentleman apprehends, that *"purposes of education,"* upon which he lays so much stress, means, and can mean, "common school purposes" only. I shall then show you, from the Debates in the Constitutional Convention, and from the language of the author of article eleven, that the phrases "common school system," "educational purposes," and "purposes of education" were used synonymously throughout; and lastly, that any other interpretation is absurd.

About the close of his constitutional address on Wednesday night, Judge Lindsay observed that there are precedents for legislative action shaping, amending, modifying, and abrogating preceding

legislation, on constitutional grounds. This is true. But here the distinguished advocate got his legislative cart before his judicial horse again. The word "white," he tells us, was excluded by legislation from the section which defines the qualifications of jurors. But the initiative was not taken by the Legislature. The initiative was taken by the State courts, after the deliverance of the Federal courts; and after the courts, Federal and State, had declared the exclusion of colored citizens from juries unconstitutional, the State Legislature brought the statutes into conformity with these judicial deliverances. But, in the case of the tax for the benefit of the State College, the distinguished gentleman asks you to reverse the order of procedure which he quotes, and insists upon the State Legislature anticipating the action of the courts, and sitting in judicial judgment upon the acts of its predecessors. In all these matters he seems to me to have been singularly unfortunate or singularly ingenious in getting things wrong end foremost. I am sure this is not the order for which Judge Lindsay has the credit of doing things upon the bench, and I can account for it only on the ground of the inherent badness of his plea, and the desperate necessity of making the "worse appear the better reason."

The reference to John Hampden, and the suggestion that the attorney of the aggrieved colleges was here to play the part of the English patriot in protecting the people of Kentucky from illegal taxation, was not quite warranted by the facts. The cases are neither analogous or parallel. Hampden's resistence was not to a tax authorized by Parliament, the constitutionality of which he questioned, but to the payment of an impost which was levied and collected by the Crown without authority of Parliament. This resistance, too, he made not as an attorney for the clergy of his diocese, but as an individual. The man to whom 4,000 of the yeomanry of England came to give support and countenance when threatened with arrest and prosecution in Westminster Hall, the man who received his death wound on Chalgrove field when holding at bay the fiery cavaliers of Rupert—admired when living, lamented when dead—lived the champion of the rights of the people, and died a martyr to liberty, because of his own *personal* convictions of right, and not because of the retainer's *fee* which he carried in his pocket. I would not be understood to make any reflections on this. Far be it from me. The profession of an

advocate is a noble and an honorable one, and no man in Kentucky has a more honorable record than the distinguished ex-Chief Justice. But an advocate, however able and honorable, does not become a Hampden or a Franklin or a Henry because he happens to be retained on one side or the other on any question involving the construction of the article on education in the Constitution of Kentucky.

I could not help thinking that the distinguished counsel for the prosecution was carried away by the presence of the Aarons and the Hurs, who, on Wednesday night, held up the hands of the champion of the Church while leading them forth from the galling bondage of the half-cent tax out of the Egypt of their discontent into the Canaan of unrestricted ecclesiastical monopoly and control. Already, in prophetic vision, the wilderness was traversed, the Amalekites destroyed, the Jordan passed, and the walls of Jericho were seen tumbling down. No wonder that facts and fancies got mixed in the legal as in the clerical brain.

The opponents of the State College assail the constitutionality of the tax levied for its support, relying upon their interpretation of an expression which occurs in the first sentence of article eleven in the Constitution. The first part of section one is as follows:

"The capital of the fund, called and known as the 'Common School Fund,' consisting of $1,225,768.42, for which bonds have been executed by the State to the Board of Education, and $73,500 of stock in the Bank of Kentucky; also the sum of $51,223.29, balance of interest on the school fund of the year 1848, unexpended, together with any sum which may be hereafter raised in the State, by taxation or otherwise, for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools. The interest and dividends of said funds, together with any sum which may be produced for that purpose, by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose."

Their argument is, that all the dividends accruing from the capitalized school fund, amounting to $1,350,491.71, shall be expended exclusively for common schools, or in aid thereof. They argue further, that the proceeds of all taxes levied for common schools, shall be applied exclusively for the use of common schools, or in aid thereof. They argue further, that the clause,

"together with any sum which may be hereafter raised in the State, by taxation or otherwise, for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools," forbids the Legislature to raise by taxation a fund for the maintenance of any institution such as the Agricultural and Mechanical College. They hold that it does this on one of two alternative grounds—first, that the tax cannot be imposed under this act; second, that if imposed, it cannot be applied to the purpose designated in the act, but must go into the common school fund.

I undertake to show that their construction of the clause "together with any sum which may be hereafter raised in the State, by taxation or otherwise, for purposes of education, shall be held inviolate, for the purpose of sustaining a system of common schools," is erroneous; that the Constitution is altogether silent on the question of State aid by specific tax to such an institution as ours, and I shall endeavor to do this by showing that the expression "purposes of education" means, and can mean, only "purposes of 'common school' education.' I shall show, first, that a fair analysis of the entire article warrants this construction; secondly, that the entire essence and language of the Debates in the Constitutional Convention, and especially the language of the author of the article on education in the Constitution, demonstrate beyond the possibility of a reasonable doubt, that the phrase "purposes of education" means, and can mean, only "purposes of 'common school' education;" and lastly, I shall show that a contrary interpretation would fasten upon the framer of the article, and those who adopted it as a part of the Constitution, an absurdity and a dishonesty of purpose with which a fair interpretation cannot charge them, and commit the framer of the article, and the party of compromise which he led, to an enlargement of the common school fund which they never intended, and which they would have promptly repudiated had any man in the Convention suggested it.

I have to premise that this argument which I submit is an unprofessional one. It is not couched in the techincal language of the bar, with which I am unfamiliar. It can lay no claim to any voluminous array of authorities, decisions, or reports; but if law, constitutional and municipal, be the embodiment of the ideas of justice and common sense inherent in man, the articulate pro-

jection in language of his inalienable and inherent rights, and existing in the human soul before they find expression, and if the proper interpretation of these, when so formulated, be by language under the guidance of reason, then I claim for the interpretation and construction which I present to you to-night your impartial consideration, even though it be not the work of a professional jurist or of a feed attorney.

The original of the school fund described in article 11 of the Constitution, whose inviolability this article was designed specially to guard, came from the General Government. The government of the United States had accumulated in the National Treasury a very large sum of money, $28,000,000, chiefly from the sale of public lands. This accumulated treasure was distributed by act of Congress June, 1836, among the several States on certain conditions. The State of Kentucky accepted her share on the conditions proposed, and by section 9 of the act approved February 27, 1837, consecrated $1,000,000 of the money received to the cause of education. On February 16th, 1838, the Legislature reduced the amount to be devoted to school purposes from $1,000,000 to $850,000, which sum was invested in the internal improvement bonds of the State.

After the financial crisis of 1837 had passed, and the State had recovered in some degree from pecuniary disaster, Kentucky embarked in an extensive system of internal improvement, designed to increase the general wealth. The funds necessary to carry on her extensive operations were raised by the public credit. When the State become embarrassed by these operations she looked around for relief, and reasoning with herself that the bonds representing the principal and nucleus of the school fund constituted a debt due to herself, she determined to relieve herself to the extent of this indebtedness by cancelling the debt, not by its payment to the Board of Education, but by obliterating the evidences of the debt. Accordingly, by an act approved February 10, 1845, she ordered all the State bonds held by the Board of Education to be delivered to the Governor of the Commonwealth, and by him to be burned. The act, however, under which they were burned, directed that lists of the burned bonds be prepared, and that these lists should be held and taken in place of the bonds which had been burned. On February 29, 1848, chiefly through the exertions of Dr. R. J. Breckinridge, then Superintendent of Public Instruc-

tion, an act was passed by which the State issued a bond for $308,268.42 to the Board of Education, for arrears of interest on the burned bonds up to January, 1848, and in 1849, by act approved on the 26th of February of that year, made further reparation by designating the net proceeds of certain public works as a fund to pay interest on school bonds.

The sacredness of the original debt was also recognized, and the preserved copies of the original bonds 1, 20, 21, 22, 23, and 24 accepted and recognized as evidences of the original indebtedness to the Board of Education.

These, together with $73,500 in bank stock and the bond unnumbered, bearing interest at 5 per cent., dated December 20, 1848, executed to the Board of Education for the sum of $308,-268 42, chiefly for arrears of interest from the date of the burning of the bonds above mentioned, constitute the aggregate of $1,225,768,42, mentioned in article 11 of the Constitution.

When the Constitution of 1799 was adopted, there was no public or common school system in Kentucky. Its existence was not anticipated by the framers thereof; and hence, there is not a line in the Constitution of 1799, from beginning to end, in relation thereto or in anticipation thereof. When, therefore, through the munificence of the General Government, a beginning for a common school system had been made, the funds which were set apart for this purpose having no constitutional safeguard thrown around them, were liable, as the issue proved, to be invaded, and applied to other purposes at the caprice of the Legislature, with no remedy from the courts or elsewhere.

While the public mind was still excited in regard to the invasion of the school fund, the Constitutional Convention of 1849 was called. Provision had been made for the restoration of the fund, principal and interest, and in addition thereto a tax had been voted for common school purposes of two cents upon each $100 of taxable property. The experience of the past ten years had demonstrated the necessity of protecting and safeguarding these funds, not only the restored principal and interest of the original fund, but the proceeds of the two-cent tax, and of all other taxes levied for the support and maintenance of the common schools. The integrity and inviolability of these funds could not be accomplished by the ordinary processes of legislation. Hence the necessity that the Constitution should deal with the subject, and that a security,

fundamental in its character and thorough-going in its efficiency, should be devised, whereby the disasters and humiliation of past years should be impossible. To this task the framers of the Constitution addressed themselves, having in view the integrity and inviolability of the common school fund, and that alone. The circumstances in which article 11 of the Constitution had its origin, and which called it forth, have no reference to any contest, except the contest in regard to the integrity and inviolability of the common school fund—no reference to any kind of schools except common schools—no reference to any kind of education, whether inferior or superior, related to or concurrent with the common school system. Hence the article, according to every canon of interpretation, must be interpreted according to the meaning of its authors, and this can only be gathered from the circumstances of its origin, the evils it was designed to remedy, and the purpose it was intended to accomplish.

First, a fair analysis of Article 11 shows that, by "Purposes of Education," Common School Education only is meant.

A careful reading of article 11 warrants, I think, the belief that its authors had no other sort of education in their minds than "common school" education; that they had no anxiety to prevent aid being given to any other education; but that their sole desire was to guard and maintain the integrity of the fund known as the "common school" fund, with any increase that might accrue to this fund from any quarter whatsoever, whether by taxation or otherwise. I believe that a careful examination will show that wherever the word "school fund" occurs, *"common" school fund* is meant, that wherever the word "school" occurs, *"common school"* is meant, and that wherever the word "education" occurs, *"common school" education* is meant. Indeed, the caption of article eleven, as interpreted by the marginal summary, shows that only *"common school* education" is intended to be considered in the article. The marginal summary is as follows: "The capital of the common school fund to be held inviolate." The whole design of article eleven would seem to be to assert and maintain the integrity and inviolability of the common school fund. If this be true, then everything foreign to this idea would be *necessarily* excluded by the rule of interpretation which applies to all writings alike. Let us see what the prababilities are from induction and analogy.

The words "school fund" occur four times in article eleven,

and only once is it prefixed by the qualifying expression "common," and yet it is apparent that *"common" school fund* is meant throughout. The word "fund" is used three times in the singular and plural, and in every instance not only *"school" fund* but *"common school" fund* is meant. Indeed, in the first instance of its use, it is defined as *"common school" fund,* a meaning intended to attach to it throughout. The word "school" is used five times in the singular or plural; in four of these with the prefix "common" expressed, while in the fifth "common" is manifestly understood. In the phrase "Board of Education," in line five (I refer to line *five* in the Constitution, as printd in the General Statutes), "common school" is undoubtedly understood. The phrase, if fully expressed, would certainly be "Board of 'Common School' Education," because this is the only sort of education under discussion, and the only kind of education in the State controlled by the State through a board denominated the Board of Education. All analogy, then, would seem to require the prefix "common school" before "education," in the twelfth line. This presumption is rendered still stronger by the fact that, in the second sentence of article eleven, the phrase "that purpose" means a *single purpose* already supposed to be clearly before the reader, and as no other single purpose is under contemplation than common school education, "purposes of education" is intended to have a singular meaning, which can be only if "common school" is understood as a qualifying and limiting prefix to be supplied before "education." The second sentence, viz: "The interest and dividends of said funds, together with any sum which may be produced for *that purpose,"* by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose," is but a repetition of the idea contained in the first sentence of section one, with this difference: the first defines the sources of income, and for what purpose these sources of income shall be held inviolate; the second sentence defines the proceeds of these sources of income, and directs to what purposes these proceeds shall be applied. There is a remarkable parallelism in these two sentences, to which I call your attention. In sentence one the capitalized principal of the school fund is described, viz: three items, amounting to $1,350,491.71. This has its parallel in sentence two, in which the proceeds of this capitalized principal is described, viz: "interest and dividends of said funds." In sentence

one the supplementary funds guaranteed by the Constitution as applicable to the end contemplated, are defined as "together with any sum which may be hereafter raised, by taxation or otherwise, for purposes of education." This has its parallel in sentence two, in the expression "together with any sum which may be produced *for that purpose,* by taxation or otherwise." Now note the words *"for that purpose."* For what purpose? Evidently, "common schools." Do not the words "for that purpose" express the scope and limit of the taxation discussed in article eleven? Undoubtedly. *"That purpose"* is a single purpose.

The scope and limit of taxation here discussed are coextensive with and bounded by that single purpose, whatever that single purpose be. That purpose is undoubtedly "common schools," and the scope and limit of the taxation here discussed must undoubtedly be for "common schools." If this be so, then the scope and limit of the taxation discussed in the parallel clause of the sentence preceding, must be of like extension and limits, viz: for "common schools." There is certainly not a plurality of purposes considered in the first, and only a single one in the second. "That purpose," in the second, is manifestly retrospective. The word "that" is conclusive on that score. "That purpose" being single, must, of necessity, refer to a single purpose already in the minds of the framers of article 11. What else could it be? Now, no parallel idea exists, and no single purpose exists, brought before the mind of the reader by the previous sentence, than the purpose evidently referred to, viz: "common schools." If this be so, then "that purpose" must be "common schools" previously expressed, and common school education. "Common schools," and "common school education," then constitute the single purpose, the antecedent unit in thought—the single idea. All other ideas are excluded, all other purposes are excluded, and taxation is limited in its scope and bounds by this single idea, "common schools."

As a condition precedent to their construction, they must hold that the phrase "purposes of education," in the first sentence, includes common school education, and all other sorts of education. But the expression, "that purpose," in sentence second, is fatal to their construction. Now, "that purpose," being single, refers to a single antecedent, and that purpose, meaning only common schools, must refer to an antecedent which means common schools. Suppose their construction correct, and to be the meaning in the

minds of the framers of the article and of the members of the Convention who adopted it, what should we have in place of "that purpose?" If the phrase, "that purpose," was intended to refer to a plurality of purposes, and not to a single one, what would be its character and form. It must have been "those purposes." Then the implication, the presumption would be, that the reference was to common school purposes and other purposes of education. But, inasmuch, as the singular "that" defines and limits us to one purpose antecedently expressed, we are forced to conclude that only one purpose was intended by the antecedent, and the character and scope of that purpose is defined and limited by the retrospective reference.

The fact would seem to be that the qualifying and limiting expression "common school," constantly in the minds of the framers of the Constitution, was sometimes expressed and sometimes omitted, apparently for no other reason than to avoid its too frequent repetition. "Purposes of education," then, would mean "purposes of *'common school'* education;" nothing less and nothing more. Indeed, from this induction and anaolgy, no other meaning seems probable. I might almost say, no other meaning seems possible. The clause in the Constitution, upon the interpretation of which the constitutionality of the tax depends, and which reads: "Any sum which may hereafter be raised in the State, by taxation or otherwise, for *purposes of education,* shall be held inviolate for the purpose of sustaining a system of common schools," would then read: "Any sum which may hereafter be raised in the State, by taxation or otherwise, for *purposes of 'common school' education,* shall be held inviolate for the purpose of sustaining a system of common schools." This interpretation harmonizes entirely, and is altogether consistent with the idea that the whole scope and intent of article eleven is to guard and maintain and defend the integrity and inviolability of the common school fund. Indeed, in the marginal summary above quoted, this is declared to be the aim and compass of the article. It does not admit anything irrelevant. It excludes every consideration not germane to itself. This common school fund is to be preserved inviolate. No appropriations are to be made at its expense. It is to be applied sacredly and exclusively to the single purpose for which it was levied, and to no other. This exhausts the significance of the article. It deals with one subject, *one purpose,* and no

other. It excludes the consideration of all other subjects, all other purposes. On everything else it is silent than on the single subject of "common school education," and the *single purpose* of maintaining the integrity and inviolability of this fund. All other sorts of education, and all other funds, or purposes relating thereto, are ignored. Had the framers of the Constitution intended to prohibit taxation for any other kind of education than "common school" education, the prohibition would have been direct, explicit, and precise, and either in a separate paragraph or in a proviso. It would have been in some such language as the following: *Provided, however, That no tax shall at any time be levied for the support, endowment, or maintenance of any academy, high school, seminary, college, or university, or for the equipment, outfit, or ordinary expenses of any of these, on any pretext whatsoever.* Had the Constitution intended to prohibit a tax for any of these purposes, it would doubtless have used such prohibitory language as the above.

Inasmuch, then, as money raised by taxation or otherwise for "common school purposes" can be applied only to "common school purposes," and to no other, the Appellate Court decided correctly in the cases of Collins vs. Henderson, and Commonwealth vs. Collins, cited by Judge Lindsay. The court held that no part of the common school fund could be applied to pay for Collins' book. It was the duty of the court to see that the integrity of this fund was unimpaired, and that money raised for this special purpose could not be applied to another.

But it is an altogether different thing when it is alleged that money raised by taxation or otherwise for the aid of an institution, the existence of which was not anticipated by the framers of the Constitution, must either be thrown into the school fund, a purpose for which it was not raised, or forbidden to be raised at all. The imposition of the tax does not diminish the common school fund; its non-imposition does not enlarge it. The common school fund is wholly unaffected thereby.

The plain intent and meaning of article 11, then, seems to be to guard the common school fund for purposes of common school education, from whatever source derived, whether invested funds, stocks, or taxation for common school purposes, and that this fund shall be applied to its legitimate uses, and to these only; and this exhausts the significance of the article. It does not certainly

mean that the Legislature of Kentucky is to be estopped from making provision by taxation or otherwise to aid and maintain an institution, to the aid and maintenance of which Kentucky has pledged herself by accepting the trust from the Congress of 1862, with all its conditions expressed and implied. The Constitution is altogether silent on such a question as the imposition of a tax for the maintenance of such an institution. So the Constitution is altogether silent on the maintenance of the institutions for the blind, for the deaf and dumb, and for the feeble-minded—institutions sustained by taxation or otherwise. The Constitution does not prohibit the maintenance of these by taxation or otherwise any more than it prohibits the maintenance of the State College by taxation or otherwise. And if it be construed to prohibit the support of the Agricultural and Mechanical College by taxation or otherwise, it as certainly prohibits the support of these institutions, which are as surely educational as this. These institutions differ from asylums for the insane in kind, not in degree. The latter have as their primary object the treatment of mental disease and physical disease, in so far as mental disease is determined by physical derangement. Physical restraint is merely accessory to this idea. But in the institutions for the blind, for the deaf and dumb, and for the feeble-minded, established and maintained by the State, the primary object is education, not medical treatment. The inmates of these institutions are taught such branches of education as will enable them to make a livelihood, as will expand and invigorate their faculties, as will bring them into relation with the known and the knowable. Nor are they, in the common acceptation of the term, common schools. Neither in their organization, management, supervision, or maintenance, are they common schools, or analogous to common schools. They have each their Boards of Trustees, directors, commissioners, or managers; they each have a corps of instructors; they each report to this General Assembly; they each draw the funds for their maintenance direct from the revenues of the State. They are supported, if not by a specific tax, otherwise, that is by appropriations from the State Treasury, which owes its annual replenishing to direct taxation. They are supported then by taxation or otherwise, and the end and aim of this support and maintenance are "purposes of education." The construction which the adversaries of the State College ask

you to place upon the phrase "purposes of education," will, if admitted, apply to them as certainly as to us. And yet some of these institutions were, if I mistake not, in existence when the Constitution was framed, and when the contemporaneous construction adverted to by Judge Lindsay took place.

Secondly. The essence of the Debates, and the language used by all the gentlemen who participated in the discussion of the Report of the Committee on Education in the Constitutional Convention, demonstrate beyond the possibility of a reasonable doubt, that the phrase, "purposes of education," in article eleven of the Constitution, means and can mean only "purposes of common school education"

When the subject of education was reached in the Constitutional Convention Monday, December 10, 1849, the first section of the report of the Committee was read, as follows:

"SEC. 1 The diffusion of knowledge and learning among men being essential to the preservation of liberty and free government, and the promotion of human happiness, it shall be the duty of the General Assembly to establish, within ——— years next after the adoption of this Constitution, and *forever* thereafter keep in existence, an efficient system of common schools throughout this Commonwealth, which shall be equally open to all the white children thereof."

The debate was opened by Mr. Hardin, who opposed any system of common schools. In the course of the discussion, the following gentlemen spoke:

Mr. Proctor said: "I promised my constituents, when a candidate for a seat in this convention, that, if elected, I would use my best exertions to secure the incorporation of a clause in the Constitution which would permanently secure to the people of this Commonwealth not only *the fund set apart by the General Government for the purposes of education* in Kentucky, but that also which the people, in their magnanimity, had voted to tax themselves with at the August election, 1848, for that purpose." (Page 885, Debates Constitutional Convention.)

Again: "I believe that if there is any question that has been settled by the people, and any one subject on which they require prompt action by this Convention, it is that a *school fund shall be permanently secured* by a constitutional provision." (Ibid.)

Again: "But, sir, no sooner is the proposition submitted to

this Convention to secure to the people of this Commonwealth the *school fund* of the State from the control of the Legislature, than the herculean voice of my venerable friend is raised in opposition to that proposition." (Page 886, Ibid.)

Again: "Mr. President, I believe that the adoption of a provision in the Constitution for the permanent security of the *school fund* of this Commonwealth is demanded by the people of the State"

Again: "But, sir, I believe that the people did understand this measure, and that they require and did expect of this Convention, that we will secure by a constitutional provision not only the fund set apart by the General Government to the State *for purposes of education*"—

Mr. Hardin—"The gentleman is mistaken. Congress did not declare to what purpose this fund was to be applied."

Mr. Proctor—"My friend informs me that Congress did not designate the object of this fund at the time of setting it apart to the States. Well, sir, it is known to all that it was the general understanding of Congress, at the time of setting apart to the States the surplus revenue, that it was to be applied to the *purposes of education,* and our Legislature, acting upon this understanding, at its first session after Congress set apart this fund to us, dedicated it by a solemn act for *that purpose* alone."

Again: "For my part, Mr. President, I am anxious to see this report adopted in the Constitution, and I shall by every act of mine endeavor to secure this *school fund* by a permanent provision in the Constitution."

Again: "If, sir, it is right that the money which was set apart to the State of Kentucky by the General Government, and which was originally intended for the *purposes of education,* should be applied to that purpose alone, why, I ask, should we leave the matter to the future control and management of the Legislature?"

Mr C. A. Wickliffe—"One of the things which seems to excite a great degree of interest is this of common schools. I am the friend of education, and claim the responsibility of an agency in setting apart the $850,000 from the United States revenue for the *purposes of education* when the country is prepared to appropriate it."

Mr. Root said: "If there was any one subject on which I was

thoroughly and fully instructed, it was to rescue from the vacillation of the legislation of the State the *common school fund,* solemnly dedicated to *purposes of education* by the Representatives of the people in 1837, and place it beyond the control of the Legislature of the country."

Hon. C. A. Wickliffe, after the discussion had proceeded to some length, offered the following substitute for section 1 of the Report of the Committee on Education, to which special attention is called:

"All the funds which have been or may be collected, and which have been set apart for *common school purposes,* shall be held sacred, subject to be regulated by the General Assembly, and applied and disbursed as shall seem best to effect the object of general education."

Had Mr. Wickliffe any such idea in his mind when he offered this amendment, as Judge Lindsay endeavored to make you believe the other night? In this amendment he uses *"common school purposes,"* the identical phrase uesd in the original draft. He also uses "general education" as evidently synonymous with it, for he states expressly that the object for which the fund was set apart should be kept sacredly in view.

And as if in anticipation of such a question of constitutional construction as the present, Mr. Wickliffe said:

"There is no substantial difference between the amendment which I offer and the second clause of the report. [See Report, page 377, Const. Debates.] I go with the committee, and every friend of education on this floor, to set apart and dedicate the fund for *educational purposes* which has either been accumulated by taxation or which was originally set apart by the law of 1837." (Page 901.)

Here the phrase "educational purposes" is used retrospectively, and, being so used, can only mean "common school purposes," because no fund had been accumulated by taxation, and none had been set apart by the law of 1837 except for "common school purposes." Mr. Wickliffe, the author of article eleven, then used "educational purposes" in the debate pending the discussion of his amendment, as the exact equivalent of "common school purposes"

Again, while this discussion was still pending, Mr. Wickliffe said:

"If I understand the report of the committee, it is that, while they do the same thing which I propose [not a different thing, as Judge Lindsay asserted the other night], they make it obligatory upon the Legislature to establish and keep in existence this system through the Commonwealth. If that is complied with, taxation will be necessarily involved to the extent stated by my friend from Logan, or nearly to that extent. I am unwilling to impose that (by constitutional guarantee*) upon the Legislature; I would leave that to the tax-paying power in the Commonwealth. * * * * * * * * * * *
But if you adopt the whole of the report of the committee, you impose necessarily the duty upon the Legislature, from which they cannot escape, to put into operation this system within five years after the adoption of this Constitution. I offer no hostility to education in my amendment, for I appeal to the zeal I manifested in setting apart originally the sum of $850,000; but I am unwilling to impose the taxation which must be imposed to put this in operation in five years." (Page 901.)

Here Mr. Wickliffe sets clearly forth wherein he agreed with the Committee who reported the original draft of the article on education, and wherein he differed from them. "There is no substantial difference," says he. "I go with the committee and every friend of education to dedicate the fund which has been accumulated by taxation, or which was originally set apart by the law of 1837" for educational, that is, common school purposes. Wherein, then, did he differ from the committee? It was, in his own language, that "while they do the same thing which I propose," they make it obligatory upon the Legislature to establish and keep in existence this system throughout the Commonwealth. This would involve taxation, and a good deal of it. This taxation Mr. Wickliffe did not propose to make obligatory upon the Legislature by a mandate of the Constitution. If made mandatory, they cannot escape from it. "If" said he, "you adopt the whole of the report of the committee you impose necessarily upon the Legislature a duty from which they cannot escape, to put into operation this system within five years after the adoption of the Constitution."

Now you will observe that no such discussions, suggestions, or

*"By constitutional guarantee" is inserted in parenthesis, and is not in the original.

apprehensions as Judge Lindsay dwelt upon the other night formed any part of the subject-matter before the Convention. The only question which divided the Convention was the necessity of a constitutional guarantee for the then existing tax, and such additional taxation as would be necessary to place the system in operation within a given time.

After further discussion, Mr. Wickliffe said:

"What does the amendment which I propose contemplate? It is that the fund which has been collected, the $850,000, the $73,000 of bank stock, and any other and every other fund collected *for educational purposes,* shall be devoted by the Legislature to that object, and when so devoted, it shall remain sacred, and be appropriated to no other purpose or object than the diffusion of a general system of education."

Now, it must be admitted by every one that Mr. Wickliffe's explanation of his substitute was designed to unfold articulately and explicitly what the substitute contained implicitly. The thing defined and the definition must be absolutely equivalent. The thing defined is made up of a certain complement of characters; the definition unfolds these characters. The thing explained or made plain, contains within it a certain complement of characters which, in the explanation, are made to stand out clearly, distinctly, and unambiguously. Nothing appears in the definition which did not exist in the thing defined, and conversely, nothing exists in the thing defined, which, if the definition be adequate, is wanting in the definition. The notion, "man," for example, contains a certain complement of characters, qualities attributes, which go to make up the idea "man." These are material, organized, sentient, vertebrate, mammal, rational, moral. If "man" is mentioned, these qualities or characteristics immediately suggest themselves; and conversely, if there be an enumeration of these characteristics, exhaustive, neither deficient nor superfluous, attention is at once fixed on "man" as the embodiment of all. The thing defined is equal to the full complement of all its characters; and conversely, the full complement of all its characters is equal to the thing defined. So "gold" embraces such characters as metal, yellow, ductile, malleable; of such and such specific gravity; melts at such and such a temperature; forms chemical combinations in such and such atomic proportions. If gold be adequately defined, all the qualities are enumerated; and con-

versely, all the qualities, when enumerated, give one the equivalent idea, "gold;" and so with plant, mineral, fish, horse. The definition, if adequate, contains an exhaustive enumeration of the qualities which make up the thing defined; the thing defined is equal to all its qualities. The absolute equivalence of the two is a principle in law as in logic.

In the explanation given by Mr. Wickliffe of his substitute, there is a remarkable parallelism throughout. Certain phrases had been used by all who participated in debate as synonymous. These phrases, wherever they occurred, were quite well understood. They had been used again and again by members on the floor. These phrases occur in the substitute, and in the explanation, and your attention is particularly directed to them. I arrange the substitute and the explanation in parallelel columns, that the parallelism may be properly exihibited:

SUBSTITUTE.	EXPLANATION.
All the funds which have been (collected),	It is, that the fund which has been collected—the $850,000 the $73,000 of bank stock,
or which may be collected, and which have been set apart	and any other and every other fund collected
FOR COMMON SCHOOL PURPOSES,	FOR EDUCATIONAL PURPOSES—
shall be held *sacred* subject to be regulated by the GENERAL ASSEMBLY, and *applied and disbursed* as shall seem best to effect the object	shall be *devoted* by the LEGISLATURE to that object; and *when so devoted it shall remain secure and be appropriated to no* other purpose or object than
OF GENERAL EDUCATION.	the DIFFUSION OF A GENERAL SYSTEM OF EDUCATION.

In this equivalence of expressions "the funds which have been collected or may be collected," in the substitute, is explained in the explanation to mean "the $850,000, the $75,000 of bank stock, and any other and every other fund collected."

The object for which these funds have been collected or may be collected is stated in the substitute to be "common school purposes," in the explanation "educational purposes." "Shall be held sacred" in the one has its parallel, "shall be devoted," in the other. "General Assembly" in the one has its parallel, "Legisla-

ture," in the other. "Shall be applied and disbursed" in the one has its equivalent, "appropriated," in the other. "To effect the object of general education" in the one has its equivalent, "to no other purpose than the diffusion of a general system of education," in the other.

But a special significance attaches to this parallelism, and absolute equivalence of expressions in the substitute explained and the explanation when it appears that Mr. Wickliffe, on withdrawing the substitute and submitting, as an amendment, a paper which was subsequently adopted as article eleven of the Constitution, uses "educational purposes" in its equivalent form, "purposes of education." This being the only difference, that what is substantive in the one is adjective in the other, *i. e.*, "purposes of education" in article eleven takes the place "educational purposes" in the explanation, the exact equivalent of the one to the other being patent to all. Mr. Wickliffe then uses "purposes of education" as the equivalent of "educational purposes;" and he himself defines "educational purposes" to mean "common school purposes." This makes the proof complete.

All through the Debates of the Convention there is not a line to show that the committee who reported the bill, or the members of the committee and others who participated in the debate extending over two days, used "funds" in any other sense than "common school funds;" "school" in any other sense than "common school," or "educational purposes" in any other sense than "common school purposes." The chain of proof seems conclusive and irrefragible.

No other kind of "schools" than "common schools," no other "education" than "common school education," no other kind of purposes than "common school purposes," were under consideration or thought of from beginning to end of the debate.

In this debate it must be borne in mind there were three views represented:

1. Those who opposed common schools *in toto*, and who opposed any recognition of the system in the Constitution.

2. Those who advocated a constitutional guarantee for the school fund derived from the General Government, amounting to $850,000; for the bond issued by the State for arrears of interest, amounting to $308,000; for the bank stock, amounting

to $73,000; and also for a tax specific in character of a certain number of cents on each $100 of taxable property.

3. Those who advocated a compromise, and who proposed to provide a constitutional guarantee on all the bonded funds, viz: $850,000, $308,000, and $73,000 in bank stock, but who refused to incorporate a guarantee for the tax proposed.

The first was represented by Mr. Hardin, the second by Mr. Taylor and Mr. Proctor, the third by Mr. Wickliffe.

The first refused a guarantee for anything; the second asked a guarantee for everything; the third conceded a guarantee for existing funds, and while refusing to incorporate a requisition for a specific tax, was willing also to guarantee, for common school purposes, the *proceeds of any tax* which the Legislature, in the exercise of discretionary power, might levy for the use of common schools.

The first would be hampered by no constitutional guarantees whatever, either for the existing school fund or for any prospective addition thereto from any quarter whatsoever.

The second affirmed the necessity of a guarantee for the existing stocks and bonds, known as the common school fund, and likewise for an addition thereto, which should be created by constitutional provision, and guarded by constitutional guarantee.

The third conceded the guarantee for existing funds only, but refused to create by constitutional provision anything additional thereto. While, therefore, the third party, the party of compromise, the party whose amendment was ultimately accepted, and which is identical with article 11 of the Constitution, conceded much more than the first, its concessions fell short of the demands of the second. It refused to make the tax compulsory under the Constitution. It allowed, however, a constitutional guarantee for the integrity and exclusive application to common school purposes of the *proceeds of any tax* which might be levied for common school purposes by the Legislature. This limits and defines its scope and intent. It takes no cognizance of any tax levied for any other purpose whatsoever, nor of the proceeds of any such tax. It concerns itself neither with the purpose of any other tax, nor with the application of its proceeds.

The amendment which was submitted by Mr. Wickliffe, and which was subsequently adopted as article 11 of the Constitution, introduces no new feature which was not contained in the

substitute. The substitute was submitted as a substitute for section one of the original draft. The amendment incorporated the substance of the substitute proposed for section one, and, in addition thereto, the substance of the remaining sections of the original draft, with certain modifications not germane to this discussion. This is an important point. Mr. Wickliffe had declared, in language as emphatic as could be expressed, that there was no substantial difference between the second clause of the report of the committee and his substitute—that the only point of difference was the guarantee for the tax already levied, and for additional taxation necessary to carry the system into operation within a given time; that in other respects the report of the committee proposed to do exactly what he proposed. When, then, he submitted the amendment which was adopted as article 11, he embodied the substance of his substitute for section one of the original draft, there was no change of opinion—no shifting of ground. He adhered persistently to the position he had taken at the beginning without advance and without retreat. He was rigorously and honorably consistent from beginning to end.

A proposition to throw into the common school fund the proceeds of a tax levied for an altogether different purpose, and to guarantee its application to a use for which it was never intended, would have appeared so monstrous that no party to the debate would for a moment have entertained it, and a proposition to forbid taxation for any other purpose, on the plea that, if levied and collected, it should become part and parcel of the common school fund, would have appeared equally monstrous. No party to the debate would have tolerated it, and no more effectual method could have been devised to defeat the constitutional guarantee for the common school fund.

The author and mover of the substitute, which was ultimately adopted as article eleven, was not the man to tender more than the Committee had reported and insisted upon. The party of compromise would have abandoned him at once had they suspected that his substitute, under pretense of guaranteeing less, covertly and by indirection proposed to guarantee much more, viz: not only the capitalized school fund, and the proceeds of whatever taxation might, in the discretion of subsequent Legislatures, be imposed in aid of common schools, but beyond and above this, the proceeds of some other tax which might be levied

for some other purpose outside of the common school fund and common school system.

What Mr. Wickliffe's substitute proposed was a middle course between those on the one hand who insisted upon a guarantee for the capitalized school fund, together with any fund which might arise by taxation *heretofore* and *hereafter* imposed by the General Assembly in aid of common schools; and those, on the other hand, who refused a constitutional guarantee for any and all of these. And this he did by conceding the guarantee asked for the capitalized fund, and for any fund that might arise by taxation *hereafter* imposed by the General Assembly. He refused to include a guarantee for any fund that might arise from taxation *heretofore* imposed, inasmuch as that guarantee might hamper and embarrass future Legislatures; but he was quite willing to include a guarantee for any fund which might arise from taxation hereafter imposed by any subsequent Legislature, of a character well defined, for common school purposes, and to maintain its inviolability for that purpose, and that alone. How absurd, then, to credit him and the party he led with an intention to foist into the common school fund, covertly or by indirection, something which did not belong to it, which was wholly foreign to the ideas entertained by every gentleman who discussed a guarantee for the common school system, and which would have surprised and shocked every member of the Convention. The gentlemen who claim this interpretation can surely never have read the circumstances or the conditions under which article 11 originated. A contrary interpretation imputes to them a dishonesty and disingenuousness of purpose of which we must acquit them.

Lastly, a contrary interpretation imputes to the framer of the article, and to those who accepted it, an absurdity, with which they could not have been justly chargeable. If the phrase "purposes of education" in article eleven mean what the opponents of the tax for the benefit of the State College allege, then it must be said that no prohibition in any written instrument in the English language was ever expressed in terms so awkward and by a method so indirect. The work of the common school, as commonly understood, is one thing, that of the State College is another. They differ in degree, not in kind. They are related as inferior education is related to superior. We may designate the one as "A," the other as "B." It is admitted on all hands

that the State may provide by taxation for the aid and maintenance of "A." The opponents of the State College hold that, by the provisions of article eleven of the Constitution, the State is forbidden to make provision by taxation for "B." If their contention be just, how does the Constitution provide for this prohibition? Not in direct terms, certainly. Not by saying that "no tax shall at any time be levied for the support of any high school, seminary, college, or university, or for the equipment, outfit, or expenses of any of these, in whole or in part." But it does it in this clumsy and indirect way, viz: No aid shall be given to "B," but if it be levied for the benefit of "B," it shall go to "A."

Of if the other alternative be taken, we have it thus:

Aid may be provided by taxation or otherwise for "B," but if it be so provided, then it shall not go to "B," the party for whom it was provided, but it shall go to "A," the party for which it was not provided. Or to take the more familiar phraseology with which some of your are familiar—John Doe and Richard Roe. It is admitted on all hands that maintenance may be provided for John Doe. It is, however, held by some, that such maintenance may not be provided for Richard Roe. How is the prohibition made out? This way: Aid and maintenance shall not be provided for Richard Roe, but, if so provided, it shall go to John Doe. Or if this construction is objected to, and the affirmative held, we have the following: Aid and maintenance may be provided for Richard Roe, but, if so provided, it shall go to John Doe. We are at a loss to know whether Richard Roe should complain most of the loss of aid and maintenance, or of the interpretations and methods by which it was compassed. Seriously, is this sort of nonsense, this sort of fast and loose verbiage—denying, promising, tantalizing; affirming, promising, and capriciously forbidding—the construction which Judge Lindsay would have you put upon article eleven of the Constitution? Such an article, brought to a *reductio ad absurdum*, as this fortuitous combination of Law and Gospel would have you believe, would seem rather to be the work of lunatics than sane men. I do not so lightly esteem the wisdom and common sense of the framers of the Constitution.

The interpretation which I have the honor to submit, makes no such enormous draft on your credulity; it violates no canon

of interpretation; strains no phraseology; accepts the historical and political circumstances of the times in which it was framed as the back-ground, and the ideas dominant at the time of the adoption of the Constitution as the mould in which it is cast. The interpretation is consistent; postulates nothing; accepts nothing; rests upon no hypothetical fictions, and especially does it give you a result which may be characterized as common sense in opposition to the sublimated nonsense which the opposition would have you believe the essense of wisdom.

Finally, this interpretation is in perfect accord with the canon of interpretation given by Blackstone. Says he:*

"The fairest and most rational method to interpret the will of the legislator is by exploring his intentions at the time when the law was made, by *signs* the most natural and probable. And these signs are either the words, the context, the subject-matter, the effects and the consequence, or the spirit and reason of the law."

Tried by this rule of interpretation, I have no hesitancy in submitting the preceding construction of the Constitution to any competent body of lawyers in Christendom. The higher the character of the tribunal for learning, experience, and probity, the better for my purpose. Common sense, and the sense of right common to all, form the foundation of all jurisprudence and of all construction of law. Hence, it does not necessarily follow that one must be a trained jurist in order to be competent to give an opinion upon an article in constitutional, or a statute in municipal law. One who is trained in the processes of thought, and familiar with the import of language, can do this fairly well. And when such interpretation corresponds exactly with the canons given by the greatest of commentators, the presumption is that it is correct. The common sense which interprets, and the comman sense to which it appeals, will alike brush away the flimsy web of technicalities woven by an ingenious advocate, and stand upon the solid substratum of fact and common sense.

If, gentlemen of the Legislature of Kentucky, you desire to apply to the purposes of a liberal and practical education the

*Judge Lindsay, in his reply on the Friday following, repudiated Blackstone's canon of interpretation as obsolete, "even though he had had it patented." In another part of his reply he said: "Blackstone was an authority several hundred years ago." This will be news to most readers.

fund received from the General Government by the State, to supplement its deficiency in order to render it effective; to carry out in a liberal and magnanimous spirit the trust accepted in 1865; to realize the expectation created in 1879; to go on in the good work begun in 1880; to fill the halls which await your sons with a vigorous, hardy, self-reliant youth, and to provide them with such facilities and opportunities as the geographical position of Kentucky, her agricultural and mineral wealth, her traditions and influence and dignity demand for those to whom you will ere long hand over the administration of the affairs of this Commonwealth, and to do all this in a spirit generous, comprehensive, catholic, then stand by your College. Nurture it, cherish it, build it up, and make it your glory and pride.

But if you care little for the present, and less for the future—if you are indifferent to your trusts, preferring stagnation to activity, ignorance to culture, denominational vassalage to progress, expansion, vitality, freedom, then withdraw the aid which now vitalizes your scant income from the Congressional fund, cut down the emoluments of your College to meet the demands of the clergy, write upon your statute books that Kentucky is too miserly or too obsequious to clerical menace to maintain an institution worthy of her, send the flower of your youth beyond your own borders to obtain the education which the Church will not allow you to give them at home. This is the alternative placed before you to-day.

Let Kentucky rouse from her slumber, shake off her lethargy, and in the provision which she makes for the education of her sons dare to be free.

"Learning is an addition beyond nobility of birth. Honor of blood, without the ornament of knowledge, is but a glorious ignorance."

Restore the glory of the olden time, when the flower of the young men of Kentucky and of the Mississippi Valley flocked to Transylvania—when from her venerable halls went forth the men who ruled the destiny of your own and neighboring States. Lay broad and deep the foundations of such an institution as will reflect honor upon you, and shape the characters of your sons in culture, in self-reliance, in honor, in duty, and generations to come will venerate your names.

Box 12 D

ARGUMENT

ON THE

CONSTITUTIONALITY OF THE TAX

FOR THE BENEFIT OF THE

AGRICULTURAL AND MECHANICAL COLLEGE

OF KENTUCKY.

By B. F. BUCKNER.

FRANKFORT, KY.:
PRINTED AT THE KENTUCKY YEOMAN OFFICE.
MAJOR, JOHNSTON & BARRETT.
1882.

AGRICULTURAL AND MECHANICAL COLLEGE.

To the Committee of the General Assembly on the Agricultural and Mechanical College of Kentucky:

On Wednesday evening the counsel employed by the combination which is now attempting the destruction of one of the noblest of the charities of the State was heard by your honorable body. The argument which the distinguished gentleman addressed to you and to a large miscellaneous audience, although professedly a discussion of the constitutional question, which was recently raised by an anonymous writer in one of the Lexington papers, and which has been urged before the Legislature ever since with well-simulated zeal, if not with the real ardor of conviction, was in effect much less a candid and exhaustive examination of the constitutional point involved than an adroit (I will not say artful) attempt to arouse and excite every popular prejudice against this scheme of higher public education as designed and actually operating to the detriment of our system of common schools. It was an effort, as are all the intellectual performances of the distinguished gentleman, characterized by the display of great acumen, immense mental (and I hope he will pardon me if I add physical) vigor, and was couched in a clear, concise, semi-judicial, and semi-popular style, which produced very considerable effect upon his large audience, as doubtless it also did upon your honorable body. So remarkable an effort cannot, in view of the duties which I have assumed as one of the Trustees of the Agricultural and Mechanical College, be permitted to go unanswered. I therefore beg you to permit me to offer for your careful consideration a *resumé*, as brief as the circumstances of the case will permit, of the facts which preceded and attended the formation of article eleven of the Constitution.

I have characterized Judge Lindsay's speech as remarkable, and I have used that word designedly and advisedly. It *was* a remarkable effort—remarkable for learning, ability, mental vigor, power of expression, for ingenuity, for compactness, and for a

style not too concise to be popular, nor copious enough to offend the taste of the severest critic. But it was also as striking on account of its faults and defects as for its admirable qualities. And those faults and defects, as I will endeavor to show, were those both of omission and of commission. As to the faults of omission, while professing to give the true history of the formation of the constitutional provision in question, the learned speaker utterly failed to notice the most striking and prominent facts which were the real foundation of the action of the convention, and which, if brought in view, shed a flood of light upon the whole subject, and render the task of interpretation absolutely easy; and in regard to the faults of commission, he, unintentionally no doubt, assumed important facts which I shall show had no existence whatever, save in the too glowing imagination of the impassioned speaker.

I shall proceed to state as fairly and candidly as I can, the position assumed by the learned gentleman, and then endeavor to demonstrate its absolutely untenable character.

The argument, as I understood it, was, that Kentucky at an early day had entered upon the field of higher education, and by large and liberal endowment had endeavored to build up Transylvania University as a great seat of learning under State protection and State patronage; that from defects in the system, mismanagement, or other causes, this system had been abandoned at as early a day as 1824, and that there had been substituted in its place a system of common schools throughout the State, and that there had arisen an antagonism or conflict in the State upon the question whether her revenues devoted to the cause of education should be expended in building up a great university or seat of liberal education, or whether they should be solely devoted, through the instrumentality of the common schools, to a system of more general education of a lower grade; that although urged by the late Dr. Breckinridge to adopt a system of higher education, that the contest between the University and the common schools, transferred from the Legislature to convention of 1849, culminated in the adoption of a substitute offered by Charles A. Wickliffe for the report of the Committee upon Education, that substitute expressly prohibiting any aid whatever to higher education, while the report which

was set aside permitted and was intended to permit State aid to universities and colleges—that this action of the convention, in thus expressly prohibiting any educational State aid except to the common schools, received a contemporaneous legislative construction in 1851, in the adoption of the common school law, and that this same construction was adopted by the judicial department of the State in the decision of the case of Henderson vs. Collins, 11th Bush, p. 83, by an express declaration that all State aid to education must, under article 11 of the Constitution, be confined to appropriations for the benefit of the common schools; and then (with, as it seems to me, the most striking and glaring inconsistency), the gentleman wound up his speech with a fervid appeal to this Legislature to settle finally, completely, and forever, and by the only appropriate and conclusive means, the same question which he had just shown had been already settled by the Legislature in 1851, and by the Court of Appeals in 1874. He admitted, indeed, that the question might be brought before the courts, but that a legislative decision of the question was more satisfactory and conclusive, and would at once and forever put it at rest.

This meagre outline is believed to represent truthfully and fairly the general line of argumentation so forcibly and powerfully presented by the learned gentleman.

To fully understand the provisions of the clause of the Constitution in question, it will be necessary to recur, briefly, to the history of the subject-matter of the article; for it is a cardinal rule of construction, applicable to every change in the law, whether organic or merely statutory, that the pre-existing state of the law, the defects in that system which were to be amended, the policy sought to be inaugurated by the change, should all be considered, and the questionable words, when tested by these requirements, will generally be freed from doubt and difficulty. These rules are strikingly applicable to this case; and it is believed, when the clear light of history is thrown upon the clause in dispute, when the defects in the system which existed at the time the Convention assembled are understood, and the wrongs and patent injustice which the Legislature had committed are brought to view, there will no longer be ground for dispute.

The Congress of the United States, by an act approved the 23d day of June, 1836, distributed among, or, as is said in the

act, "*deposited*" with the States a very large sum of money arising from the surplus revenues derived from sales of the public lands. It was, although not so provided in the act, generally understood that these sums were to be devoted by the States to the cause of education. Indeed, the act was passed on the application of the older States, who memorialized Congress to distribute among them sufficient quantities of the public domain to equalize them with the younger States. About 1822, resolutions were passed by the Legislature of Kentucky requesting our Senators and Representatives in Congress to advocate a bill granting 1,000,000 acres to Kentucky "for the purposes of education." These resolutions set forth that 15,000,000 acres had been given to the new States, and that at least 10,000,000 of acres would be needed to equalize the older States with them, and that 1,000,000 of acres should be set apart to Kentucky to be used for the purposes of education. Asked for by the States for this specific purpose, the prayer was granted by a gift of money instead of land, with the understanding that the fund would be so applied. The sum received by the State from this source was $1,433,757. Notwithstanding the State was in honor bound to use the whole sum thus received for "the purposes of education," the Legislature used $433,757 for purposes alien to those for which it was granted. It did, however, by an act passed on the 23d day of February, 1837, provide "that the profits arising from $1,000,000 of the surplus revenue of the United States, deposited and to be deposited with this State by virtue of the act of Congress of the 11th June, 1836, be, and is hereby, set apart and forever dedicated to founding and sustaining a general system of public instruction in this State, to the benefits of which the several counties shall be entitled in proportion to the number of children therein, whose instruction shall be provided for by law, and until said number shall be ascertained, in proportion to the number of free white inhabitants therein as ascertained by the enumeration of 1835."

This sum, until a system of education should be devised, was placed under the control of the Commissioners of the Sinking Fund, who were to keep it separate from the other items composing the fund, in order that its ultimate "*abstraction*" therefrom should not be difficult.

The course of the Legislature in repudiating the solemn trusts which, in honor and conscience, if not in law, attached to the whole sum received from the Federal Government, by dedicating only about two thirds thereof to the purposes of education, was soon followed by another, which, in a still more direct and unequivocal manner, showed that, without some restraint more substantial than an act of the General Assembly, the public faith in regard to education could not be maintained.

In the very act which established for the first time in Kentucky a system of common schools, and which was approved February 16, 1838 (see Session Acts 1838, page 274), the sum of one million dollars, already solemnly dedicated by the act of the previous year to "a general system of public instruction," was reduced to $850,000.

For this sum of $850,000 bonds of the State were issued to the Board of Education, bearing interest payable semi-annually, and by the act of 1839 (Session Acts, 355) all unexpended amounts of interest were directed to be funded by investments in State bonds or in bank stocks.

Under the imperfect system then existing, very considerable sums soon were owing by the State on account of arrearages of interest, and whenever it happened that the State revenue did not afford a sum sufficient to pay *all* the current demands of the State, the Commissioners of the Sinking Fund, regarding the school fund as *a debt due by the State to the State*, appropriated the revenues to the payment of other creditors, to the exclusion of the Board of Education. From these facts, and the great commercial and financial revulsion which swept over the country about that time, prostrating business, crippling the energies and resources of capitalists, and subjecting even the purely agricultural districts to great and alarming distresses, nothing could be more precarious than the revenues and annual resources of the school fund. This repudiation by the Commissioners of the Sinking Fund of the legal and moral obligations of the State, was submitted to the Legislature of 1840-'41, and by them virtually ratified by the passage of an act (Sess. Acts, 59) increasing the taxes of the State, and appropriating the increase to the use of the Sinking Fund, to be "applied to the payment of the principal and interest of the debts now

owing by the State of Kentucky for works of internal improvement."

It will be borne in mind that during all this time, the State had never levied any *tax* to pay the interest on the principal of the school fund, and that payments for that purpose depended entirely upon the fact whether there was, after the payment of current expense of government, a surplus in the Treasury not due to other creditors.

But it was not until the 10th February, 1845, that the climax was reached in this long course of legislative treachery. By the act approved on that day (Sess. Acts, page 69), the Board of Education and the Commissioners of the Sinking Fund were directed "to surrender to the Governor the State bonds held by them respectively;" and it was also provided that "the Governor, on the receipt of said bonds, shall cause the same to be cancelled and destroyed by burning in the presence of the Second Auditor and the Treasurer." Thus, by a single stroke, the evidences of the existence of the entire school fund, in the main the result of the munificence and liberality of the General Government, were destroyed. The same act, as if to add insult to injury, or in the veriest derision, declared that the destruction of the bonds should have no effect to impair the obligation of the State to pay the yearly interest on the school fund, and directed a list of the destroyed bonds to be preserved by the Auditor, of which list a duplicate was directed to be delivered to the Board of Education to "stand in the place of the bonds" which were thus directed to be destroyed; but (as if to render the list absolutely worthless except as a memorandum of the number and amount of the bonds) it was directed that there should be inserted upon the face of it the provision of the law which forbade "that it should be passed by delivery, be transferred, or assigned by said Board to any person or corporation."

Notwithstanding the implied promise made in this act to pay the interest on the school fund, the Legislature took care to make no provision to make that promise effectual. Indeed, while on the same day that it decreed the burning of the bonds, it enacted a new common school law, and with effusive expressions of good faith, declared that the interest on the $850,000 received from the United States was sacredly dedicated to the

maintenance of the common school system, it expressly forbade the drawing from the Treasury for the use of common schools, for the year 1845, any sum in excess of $15,000 (an amount less than one fourth of the interest on principal of the school fund), accompanying the prohibition with the characteristic declaration that the act should not be construed to lessen the obligations of the State to preserve the fund set apart and dedicated for maintaining common schools.

At the session of 1847–'8, mainly through the patriotic and untiring exertions of the late Dr. Robert J. Breckinridge, then Superintendent of Public Instruction, an act was passed directing the Governor to issue and deliver to the Board of Education a bond of the State for $294,000, bearing 5 per cent. interest, on account of arrears of interest on the school fund, and dividends on the bank stock belonging to the school fund misappropriated by the Sinking Fund Commissioners. With characteristic prudence, however, this act directed that the bond should be made payable *at the pleasure of the Legislature, and that it should not be assignable.* This act also provided for taking the sense of the voters of the State on the propriety of levying a tax of two cents on the hundred dollars of taxable property "for the purpose of establishing more permanently a common school system in the State." The vote taken resulted in a majority for the tax of more than 35,000 votes; and this tax was the first provision ever made by the Legislature for the purpose of the regular maintenance of the common school system. Even this provision was imperfect, for the Legislature had taken care not to provide any law for the regular payment of the interest on the school fund. In the report of the Superintendent for 1849 we find the following:

"I have heretofore called the attention of the Legislature to the extraordinary and dangerous fact that no provision is made by law for the regular payment of the interest due by the State on her bonds now held by the Board of Education. This interest, before the passage of the two-cent tax law, constituted all the pecuniary resources of the school system except the interest [dividends] on the comparatively small amount of bank stock held by the Board; and since the passage of the two-cent tax law it still constitutes more than half of the income of that Board. If there happens to be a surplus in the State Treasury out of the ordinary revenues sufficient to meet the drafts of the

Superintendent of Public Instruction, they will be met. If they happen to exceed the surplus, which they will in all probability do this year, they cannot be met, even though the State is at that moment indebted by tens of thousands of dollars to the school fund—a fund which she declares to be sacred and inviolate. * * The effect is, that, at the end of every year heretofore, the State has kept the great mass of the interest due to the schools, and from year to year this sum increases, leaving the State no alternative but to issue new bonds from time to time, or to repudiate not only an honest but a sacred debt. When these new bonds are issued, no provision is made for the payment of interest on them, and the old process goes on with an accumulated ratio—holding out to the State the prospect of a debt constantly accumulating, and to the school system hopes less and less capable of being realized, as the debt due from the State becomes larger and larger, and, therefore, its annual interest less and less likely to be paid."

Such, then, is the history, given perhaps with unnecessary detail, of the common school fund of Kentucky up to the meeting of the Constitutional Convention on the first of October, 1849. It is not a history of which we may be proud. It does not present an inviting page from our legislative annals, but all its faults have been nobly redeemed by the subsequent action, first of the Constitutional Convention, and then by the splendid liberality of the Legislature, sustained and ratified by the people at the polls.

To return now to the thread of the argument: what were the objective features which appealed to the Convention for action? what were the remedies demanded for existing evils? what was the policy of the State in regard to the common school fund which was to be engrafted in the organic law? These may thus be epitomized:

1. The fund which was called the Common School Fund existed only by legislative sufferance; had been held to be a debt owing by the State to the State, which might be utterly destroyed by legislative action.

This evil demanded a remedy at the hands of the Convention, and that remedy was naturally the insertion of an appropriate clause in the Constitution, which placed the principal of the fund beyond legislative control.

2. This Common School Fund, consisting mainly of the indebtedness of the State to the Board of Education, was, as to

the principal, payable only at the pleasure of the Legislature; and although the interest, by the terms of the bonds, was payable semi-annually, and although this interest had been again and again solemnly dedicated to the purpose of maintaining a system of common schools, yet there was no existing law providing for the payment of the interest at stated periods suitable to the necessities of the Board of Education.

These defects in the law demanded for remedy some action on the part of the Convention which would compel the regular payment, at stated intervals, of the interest on the debt due by the State to the common school fund, and its honest application to the purposes to which it was originally dedicated; and this could be accomplished either by the insertion of a clause in the Constitution requiring the regular payment of interest on the fund to the Board of Education, and the levy of a specific tax therefor, or a mandate making it obligatory on the Legislature to provide for its payment, leaving the mode and manner of its execution to the discretion of the Legislature.

3. After having made provision for the safety of the principal of the common school fund, and for the regular and periodical payment of the interest, it only remained to provide for the sanctity and inviolability of any accretions to the fund, whether in money or other thing, which might be granted by the Legislature. For the accomplishment of these purposes, and for that alone, as will hereafter appear, the Committee on Education reported to the Convention an elaborate plan in regard to the Common School System, which consists of seven sections. (Debates, 377.)

Section one provided, after declaring that the diffusion of knowledge and learning was essential to the preservation of liberty and free government, that it should be the duty of the General Assembly, within a definite period, fixed by a vote of the Convention at five years, to establish, and forever thereafter keep in existence, an efficient system of common schools.

Section two provided for the sanctity of the common school fund as it then existed, and declared it to be, and that it should for ever remain, *a perpetual fund*, the principal of which was never to be diminished by legislative enactment. It also provided that the interest on that fund, and any other fund that

might arise by taxation theretofore or thereafter imposed in aid of common schools, should be inviolably applied to such purposes, and forbidding the making of any law authorizing the diversion of any part of the fund to any other use or purpose whatever.

Section three provided that the income of the common school fund should be distributed among the several counties in proportion to the number of children therein.

Section four made it the duty of the General Assembly to see to the proper investment of the $51,223 29, balance of interest owing by the State for the year 1848, and the application of the interest arising threfrom as provided in the second section.

Section five provided for the funding of unexpended balances of the interest amounting in any one year to $10,000, and for its thereafter composing a part of the principal of the fund.

Section six required the General Assembly to provide ways and means for the prompt payment and safe custody of the interest on the State bonds, executed to the Board of Education, and section seven provided for the election of a Superintendent of Public Instruction by the people.

To the general idea of permanence and security of the common school fund, and the prompt payment of the interest, as contemplated in this report, there was but a single dissentient voice—the Hon. Ben. Hardin, of Nelson. But as to the details of the execution of this general scheme, as to the exact method of securing the permanence of the fund, the prompt payment of the interest, and the safety and inviolability of accretions or additions to the fund, there was some diversity of opinion. As to any question as to whether State aid to education should be extended beyond the common school system, as to whether a general and diffusive system of education of a necessarily low grade should be preferred to a higher one, or to a system combining State aid in both directions, it was never mentioned in the Convention—never dreamed of by the members. The points to be practically considered were safety and security to the fund, safety, security, and prompt payment of the interest, and equal inviolability for any additions that might be made to the principal fund. This was all that was sought to be accomplished by any of the friends of the common school system,

and there was no other system the subject of consideration by the Convention.

Let the members of the Convention, through their speeches preserved in the Debates, attest the truth of this statement.

Mr. Proctor—"I promised my constituents, when a candidate for a seat in this Convention, that if elected, I would use my best exertions to secure the incorporation of a clause in the Constitution which would permanently secure to the people of this Commonwealth not only the fund set apart by the General Government for the purposes of education to the State of Kentucky, but that also which the people, in their magnanimity, had voted to tax themselves with at the August election, 1848, for that purpose. * * * In the report which the committee has presented to the consideration of the Convention, they have entered as little into detail as possible, and for my own part I am willing to leave to the Legislature the power of carrying into practical operation this system. But, sir, I shall ever be opposed to leaving to the Legislature the control and management of the fund itself, without throwing around them those restrictions, which will prevent them from appropriating one dollar of this fund for any other purpose than for that of education. And let me ask the gentleman from Nelson (Mr. Hardin) what objection can he have to incorporating the article reported by the committee in the Constitution. By that report we don't propose to tax the people of Kentucky one dime. We merely propose to set apart and dedicate forever what has been already raised by a tax for that purpose, together with the fund which has heretofore been set apart by legislative enactment for educational purposes." (Debates, 888).

Mr. Charles A. Wickliffe, of Nelson, took the floor immediately after Mr. Proctor, and he clearly and pointedly laid before the Convention his views on the subject. After giving the history of the $850,000, part of the gift of the General Government, the struggle which took place in the Legislature between the friends of education and the advocates of a system of internal improvement, who desired the State to appropriate for that purpose the whole sum received, and the compromise by which that part of the fund was saved for the purposes of education; and, after declaring himself a friend of education, he proceeded:

"As I know the chairman of the committee desires to be heard on this subject, I will only offer an amendment, which I shall propose for the whole of the report. If we have a school fund secured and set apart by the Legislature of the country, I

want to leave that fund to the disposition of the Legislature for educational purposes. *If they shall hereafter create a fund by the continuance of this two-cent tax, or by additional taxation, or in any other manner, I want the Constitution to lay hold of it and devote it to education.* But the mode and manner and time when, and the possibility of carrying it out in every county in the Commonwealth at the same time, seems to me to be questions which it is utterly impossible for us to decide. I see by one of the sections of the report that if a county shall fail, within ten years, to place herself in a position which has been or may be provided in the school law, and fails to draw the fund and appropriate it to educational purposes, it is to be withdrawn from her and her population forever, and thrown back into the original fund. * * I wish to secure the fund from legislative distraction or abstraction, and for that purpose I offer the following substitute: 'All the funds which have been or which may be collected, and which have been set apart for common school purposes, shall be held sacred, subject to be regulated by the General Assembly, and applied and disbursed as shall seem best to effect the object of general education.'"

Mr. Taylor, the Chairman of the Committee, then addressed the Convention:

"The gentleman from Nelson (Mr. Hardin) propounds to us a singular question, one which I dare answer, and which I will make the record before me answer. Said he: Are you afraid to trust the Legislature? I am He asked it with great emphasis and confidence. I answer it in the same spirit. I *am* afraid to trust the Legislature, and the reasons for that distrust I will give, drawn from legislative records on this subject. * * Has the interest on this $850,000 been paid, and kept ready (to use the language of the act of 1837), for 'abstraction?' No, sir. On the 20th day of December, 1848, a bond for $308,768 42, being arrears of interest due on the said $850,000, was executed by the State. There is also $51,223 29 of interest due for the year 1848. So it will be seen that the interest has not been paid, and this large interest bond of $308,768 42 is payable at the pleasure of the Legislature. * * Sir, am I again to be asked if I am unwilling to trust the Legislature? I do distrust them when they order their bonds to be burned, when they give one for the interest, and say it shall not be assignable, and make it payable when they please; when they play the game of *tie and loose.* * * The Legislature (or rather the State, in reference to this fund) occupies the singular position of debtor and creditor. They have made their bonds payable to the Board of Education. They have ordered them once to be burned. They

have not paid the interest, nor provided the means for its payment. They may destroy, for aught I know, the creditor—the Board of Education, the corporate body who hold their bonds in trust for the children of the State—and I have cause to be jealous of legislative integrity and honor. * * * What does this report propose? First, it enjoins on the Legislature to establish and keep in existence a system of common schools throughout the State, open to all the free white children thereof. Second, to secure the fund heretofore mentioned by me. Third, to prevent the Legislature from diverting the interest which may become due on said fund to any other purpose than common schools."

Mr. Bowling—"But the gentleman from Caldwell (Mr. Machen) would not force the State to pay the interest on this national gift made sacred by solemn act of the Legislature forever to educational purposes. He thinks it might be inconvenient. That is her concern, not mine. It will not be denied that she justly owes the money, for she has through her Legislature ordered the evidences of the debt to be *listed*. A *listed* debt, I understand from the lawyers, is not assignable, and does not, therefore, require *the baptism of fire* to stave off its payment until a more convenient season."

Mr. Wickliffe—"I barely desire to explain the amendment which I have offered, and I return to the gentlemen who have so ably advocated the cause of education my thanks. I subscribe in the main to all that has been said or can be said in favor of the necessity and the importance of such a duty. * * There is no substantial difference between the amendment I offer and the second clause of the report. I go with the committee and every friend of education on this floor to set apart and dedicate the fund for educational purposes which has either been accumulated by taxation or which was originally set apart by the law of 1837. A part of this fund is composed of the interest on the bank stock when interest was paid on the bonds. As the fund accumulated the system went into operation, the Commissioners of the Sinking Fund having charge of it at first, and the Commissioners of the School Fund vested the interest accruing from the $850,000 in the purchase of bank stock in our own State. Hence there is the item of $73,000 bank stock.

"There has been levied, by the approbation of the people, two cents upon a hundred dollars, which constitutes a part of the school fund.

"What does the amendment which I propose contemplate? It is that the fund which has been collected—the $850,000, the $73,000 of bank stock, and every other fund which may be collected for educational purposes—shall be devoted by the Legislature to that object; and when so devoted, it shall remain

secure, and be appropriated to no other purpose or object than the diffusion of a general system of education. When we have thus secured the fund, * * I propose then, by my amendment, to leave that fund to the Legislature, to be directed, regulated, and disbursed, as may seem best to that body, for the purposes for which it was set apart. If I understand the report of the committee, it is, that while they do the same thing which I propose, they make it obligatory upon the Legislature to establish and keep in existence this system throughout the Commonwealth. If that is complied with, taxation will be involved in it to the extent stated by my friend from Logan (Mr. Bowling). I am unwilling to impose that on the Legislature. I would leave that to the tax-paying power in the Commonwealth. * * *

"If you will secure the fund, * * you will do all that our means allow at present, and all that our constituents have a right to expect of this Convention. But if you adopt the whole report of the committee, you impose, necessarily, the duty upon the Legislature, from which they cannot escape, to put into operation this system within five years after the adoption of this Constitution."

On a subsequent day, Mr. Hood said:

"I maintain that there is a school fund—one, too, sacred by the highest of all pledges—the faith of a generous and chivalrous State. It is about this fund, now amounting to upwards of $1,300,000, that the committee propose by their report throwing a constitutional mantle, which will perpetuate and protect it against the caprice, extravagance, and incendiarisms of the Legislature; and this report, if adopted, will accomplish that purpose much more effectually than any of the substitutes that have been offered."

Mr. Williams, of Bourbon, having objected to the substitute of Mr. Wickliffe, because it was not sufficiently specific, said:

"I desire that this Convention shall, by the Constitution, adopt such a provision as will clearly recognize the school fund which is in existence as a fund for common school purposes, and I wish it to do that in a way that shall definitely point out what it is. The proposition of the gentleman from Nelson does not embrace all the funds that belong to the Board of Education, and, therefore, I offer a substitute which I apprehend will meet the views of the gentleman from Nelson. The proposition will be a substitute for the whole bill of the committee; and if it should be adopted, and the three sums set forth in the first section of this article shall be clearly and definitely recognized by this Convention as a fund set apart for the purposes of

education in Kentucky, I shall be willing to leave further action to the Legislature."

It is plain that the substitute of Mr. Wickliffe was liable to the criticism directed against it by Mr. Williams, and furthermore, that it did not expressly require the Legislature to provide for the payment of the interest on the State debt to the school fund; it was, therefore, fatally defective in two points. 1. It did not clearly specify the amount and nature of the fund; and 2. It did not compel payment of the interest on that part of it which consisted of the indebtedness of the State. It is equally evident, from reading the Debates, that an overwhelming majority of the Convention were in favor of the original report on these points; but that a number of the friends of education feared that a compulsory enforcement of a general system of common schools within five years would entail upon the State a burdensome taxation which could not be then supported without serious detriment to the best interests of the people. A compromise was then entered into. Mr. Wickliffe withdrew his substitute, and offered another, prepared by Mr. Lisle, of Green (see Debates, 979), which omitted the objectionable clause requiring the Legislature to put the system to work within five years, and which rendered heavy and onerous taxation probable, but which embraced in a more concise form all the other features of the original report. This substitute was at once adopted without debate, and, so far as the record shows, without a dissenting voice. It is the first section of acticle 11 of the Constitution, and is in these words:

"The capital of the school fund, called and known as the 'Common School Fund,' consisting of one million two hundred and twenty-five thousand seven hundred and sixty-eight dollars and forty-two cents, for which bonds have been executed by the State to the Board of Education, and seventy-three thousand five hundred dollars of stock in the Bank of Kentucky; also the sum of fifty-one thousand two hundred and twenty-three dollars and twenty-nine cents, balance of interest on the school fund for the year 1848, unexpended, together with any sum which may be hereafter raised in the State, by taxation or otherwise, for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools. The interest and dividends of said funds, together with any sum which may be produced for that purpose by tax-

ation or otherwise, may be appropriated in aid of common schools, but for no other purpose. The General Assembly shall invest said fifty-one thousand two hundred and twenty-three dollars and twenty-nine cents in some safe and profitable manner; and any portion of the interest and dividends of said school fund, or other money or property raised for school purposes which may not be needed in sustaining common schools, shall be invested in like manner. The General Assembly shall make provision by law for the payment of the interest of said school fund: *Provided*, That each county shall be entitled to its proportion of the income of said fund, and if not called for, for common school purposes, it shall be reinvested, from time to time, for the benefit of such county."

It is to be observed that, so far as the Debates of the Convention show, the only educational question ever before that body was the question of *common school* education, and that the purpose was to secure the common school fund, principal and interest, for the objects of its original dedication, by provisions against both active measures of spoliation and the equally fatal effects of absolute non-action by the Legislature. These measures, and these only, were cognate to the general scheme before the Convention. The general power of the Legislature to aid other educational projects than the common school system was never before that body. There was no necessity that there should be any constitutional restriction upon such legislative action, for, as shown by the learned gentleman, since 1824 there had never been an instance of the exercise of such power. Why, therefore, should we, in the face of the plain history of this measure, give to the words of the Constitution a meaning which would forbid the exercise of a power which exists in every State, and which had never been abused in this? The remedy to be applied was not to prevent the appropriation of money by the Legislature to educational purposes in any of the branches of that comprehensive scheme, but was to *coerce* that body to appropriate what should be needed to execute the contracts of the State, as to the common school fund, in good faith. The article was, in the main, coercive, not restrictive. It was restrictive only so far as it prevented any interference with or misappropriation of the fund and its interest and accretions, already sacredly dedicated to the maintenance of a system of common schools. It was coercive in so far as it compelled the

Legislature to make provision by law for the payment of the interest, and the division of the proceeds thereof among the counties, in proportion to the number of children therein.

Let us analyze the language a little more in detail. The first part of the section contains a particular description of the items composing the common school fund, and declares that this capital or principal fund, together with any sum which may hereafter be raised in the State, by taxation or otherwise, "for purposes of education," shall be held inviolate; and the argument is, that the words "*purposes of education*" must be construed in their broadest sense, so as to include every appropriation or gift by the State for the purpose of aiding any educational scheme whatever, and to gather it, notwithstanding a contrary legislative intent, into the principal of the common school fund.

I think I have shown conclusively that the object of this branch of the clause was to effectuate and make perpetually sacred the legislative faith when once plighted; that when the Legislature once made a gift to the common school fund, it should never in the future, as it had in the past, draw back, and apply the gift to different purposes. I believe when the general view and object of the Convention is looked at, no unprejudiced mind can for a moment doubt the intent which was endeavored to be formulated in these words.

But let us see a little further. These are not words of prohibition. It is not declared that the General Assembly shall never make any gift or appropriation of money in aid of high schools or colleges, or that it shall restrict its expenditures in the cause of education to fostering a system of common schools. By no means; but that when once it does make an appropriation for the purposes of education, "it shall be held inviolate," and forever constitute a part of the perpetual fund set apart for the maintenance of common schools. Now the strained and unnatural construction contended for, so far from being adapted to the purpose of the execution of the intent of the Convention, *i. e.*, the preservation of the legislative faith intact, would, in all instances of every gift in aid of education, other than common school education, render the gift not only nuga-

tory, so far as the object of the bounty of the State is concerned, but would compulsorily swell the common school fund in direct opposition to the legislative will. Can any unprejudiced man doubt that the intention of the Convention was to prevent the Legislature from diminishing the common school fund when they used the words in question?

Let us see how this construction operates. Let us take the case of "the Asylum for the Tuition of the Deaf and Dumb," located at Danville, and established by the act of the 7th December, 1822, an institution in which educational facilities are afforded to an unfortunate and otherwise helpless class. The last Legislature appropriated a large sum in aid of that institution. It will not be contended that the words "*purposes of education,*" in their broadest sense, and in the sense in which it is urged that they should be construed, do not embrace this case, and by operation of the Constitution, the sum granted to this laudable purpose, becomes a part of the common school fund, and forever dedicated by legal intendment to a purpose different from that to which it was designed by the donors. Let us take the case of the Institution for the Education and Training of Feeble-minded Children, located at Frankfort, and to which the State has made from time to time large appropriations, and to which, under existing law, it appropriates annually $150 for each "*pupil,*" to be used in their "support, including board, instruction, clothing, and medical attendance," besides a gross sum of $5,000 yearly to be expended for "salaries, purchases of books, furniture, maps, apparatus," &c. This large, praiseworthy, and munificent appropriation is surely in fact and in great part for the purposes of education, for in section 17 of the act to be found in Bullitt & Feland's General Statutes, "it is distinctly avowed in this act that said institution is not an asylum for the custodial care of unimprovable idiots, but a SCHOOL for the EDUCATION of feeble-minded children;" and by legal operation, notwithstanding the contrary intent of the Legislature, becomes part of the common school fund, if this construction be maintained.

But this is not all. By acts for the benefit of various localities in the State, high schools are allowed to be maintained by local taxation (such as the Louisville High School), and in very many more the common school fund belonging to that locality is

allowed to be largely increased by taxation. In many of these localities the school tax is 40 or 50 cents on the hundred dollars, instead of 20 cents, as under the general law. Now all these impositions of taxes are under the authority of acts of the General Assembly, and all these acts are acts to raise money by taxation for the purposes of education; and if the construction contended for be maintained, they are directly within the prohibition. I wish to state it broadly, that if it be that the words "*purposes of education*" include every known species of education, and be not limited to sums raised for the purpose of increasing the principal of the common school fund, that then every dollar raised by purely local taxation in the State to build school-houses, maintain high schools, to supplement the share of the State fund which the locality receives, belongs, according to law, to the principal of the common school fund, and cannot be lawfully appropriated to any other purpose. It is no answer to say that the tax is levied by the city, town, or district, and is not the act of the State; for all such taxes are levied only under authority of an act of the General Assembly, and such acts are acts to raise money for the purposes of education by taxation, and consequently within the direct letter of the prohibition.

The maxim, *noscitur a sociis*, which is a fundamental rule of construction of all written instruments, and is of universal application, restrains the sense of general and comprehensive words to the subject-matter of the adjacent clauses. This rule is preeminently a rule of common sense, founded upon the inexact nature of all languages, and the difficulty of accurate definition. It confines provisions of a statute or other writing, general and comprehensive in their terms, alone to the subject-matter of the neighboring clauses. By it the words *purposes of education*, in an article in regard to the common school fund, designed to direct and limit the uses of that fund to the purposes alone of *common school* education, prohibiting encroachments on that fund, and absolutely requiring annual appropriations to maintain it, naturally and easily become *the purposes of common school education;* and especially must this be so when the manifest and openly-declared purpose of that article was to preserve the common school fund as it then existed, and all future additions thereto, inviolate for the purposes to which the fund was originally dedicated.

But how could it be presumed that in an article of the Constitution upon the subject of the common school fund, designed for *its* preservation and regulating legislative power in regard thereto, an independent provision, restrictive in its character of the general powers of legislation in so important a particular could have passed through the Convention not only without a word against it, but even without a statement in its behalf, of the purposes for which it was intended, or of the reasons why so extraordinary a measure should be adopted.

The succeeding clauses of this section of the Constitution, however, show with absolute clearness the sense in which the words "*purposes of education*" were used; for, after guaranteeing the absolute and perpetual sanctity of the fund which, under its operation, both as to existing and future grants thereto, was to constitute *the common school fund of Kentucky*, the Convention proceeded to provide for the investment of the uninvested part thereof then existing, and that part which, under new laws, might thereafter come into existence. "The General Assembly shall invest said $51,223.29 in some safe and profitable manner, and any portion of the interest and dividends of said school fund, *or other money or property raised for school purposes*, which may not be needed in sustaining common schools, shall be invested in like manner." Now it is beyond all cavil that "*any sum which may hereafter be raised by taxation, or otherwise, for purposes of education*," and "*other money or property raised for school purposes*," refer to one and the same class of legislative appropriations. Otherwise, under the article, the unexpended surplus raised for *school purposes* alone, would be required to be invested, while unexpended balances of all sums raised by taxation, or otherwise, *for the purposes of education*, would not be comprised and included in the clause requiring an investment of surplus balances. The plain construction is, that whenever, from the interest on the State bonds, or from new grants to the school fund, there should remain any unexpended balances, they were required to be invested and become part of the principal of the fund; and the words "*other money or property raised for school purposes*," and "*any sum hereafter raised in the State, by taxation or otherwise, for purposes of education*," manifestly refer, and can

only refer, to any and every new grant or addition to the principal of the common school fund.

Again, the clause which provides that "the interest and dividends of said fund [*i. e.*, the common school fund, as therein set out by items], together with any sum which may be produced *for that purpose, by taxation or otherwise*, may be appropriated in aid of common schools, but for no other purpose," shows clearly that the Convention, when speaking of sums raised for purposes of education, referred to precisely such sums as were referred to in this latter clause, *i. e.*, to sums raised for *that* purpose, to-wit, common school purposes.

Mr. Wickliffe's original substitute used the words "set apart for common school purposes," and when he came to explain its meaning to the Convention, he said that "the $850,000, the $73,000 of bank stock, and any and every other fund which may be collected for *educational purposes*, shall be devoted by the Legislature," &c. Many instances of the correlative use of the two phrases could be shown; but when we consider that the article has for subject-matter *the common school fund;* that its principal object was to prevent the maladministration and misappropriation of that fund; that one of the leading remedial measures contained in the article was a restrictive clause which forbade the Legislature to take away what it had at any time theretofore, or might thereafter, grant, the whole argument is exhausted, and nothing can be added save by way of illustration or elaboration.

When Judge Lindsay came to apply his argument to the case of the tax for the benefit of the Agricultural and Mechanical College, he claimed that the clause which dedicates "any other sum which may hereafter be raised in the State, by taxation or otherwise, for purposes of education" to the uses of the common school fund, did not so operate in that case, because another clause of the Constitution, which requires the subject of every act to be properly described in the title, rendered the act entirely nugatory. If the Judge had reflected a moment, he would scarcely have used this argument; for if it be an argument of any value or worth whatever, no sum of money raised by an act for the purposes of education can ever become a part of the common school fund, unless in its title it be directly or impliedly

described as an act to increase or aid the common school fund, and unless the body of the act agree with the title; and it is evident that, under these two assumptions, the Constitution is in this particular self-destructive. If a construction be given the words in question—"*purposes of education*"—so as to include within their purport legislative grants for purposes of education other than those for common schools, and if the requirement of the Constitution that the title of the bill shall agree with its body is applicable, as was argued by Judge Lindsay, it clearly follows that the clause in question wholly fails to accomplish any purpose, and becomes entirely nugatory, so far as educational grants other than those to the common school fund are concerned; and as the argument is that the questionable words were inserted to prevent aid to higher education, by carrying all such gifts into the common school fund, we have the case of a construction of the fundamental law which renders it utterly worthless and inoperative for the purpose for which it was designed —an entirely convincing argument against the correctness of the construction urged.

The fact is, the Judge found himself in an intellectual dilemma; for if the clause in question embraces grants in aid of higher education, the roundabout, awkward, and unusual means of prevention of such legislative gifts adopted by the Convention, was to legalize and validate (not to prohibit) them, and immediately, by legal alchemy, divert the gifts from the named and intended destination, and carry them into the common school fund. Such an hypothesis was so difficult to maintain that the learned gentleman had to search for some mode of rendering the gifts nugatory instead of valid—hence the impressment into the service of the section in regard to title of bills.

But it is rather a curious argument, urged as he urged it, that the fund, by one clause of the Constitution, was forever dedicated to the uses of the common school fund, because it was money raised "for purposes of education," but that the act immediately, by the operation of another clause of the Constitution, became invalid and nugatory because not described in the title as an act for the benefit of the common school fund. I had supposed that all the clauses of the Constitution were *in pari materia*.

It is contended that the Court of Appeals has substantially decided this question, and four cases are referred to as establishing the unconstitutionality of the appropriation to the Agricultural and Mechanical College. They are Halbert vs. Sparks, 9 Bush, 260; Marshall vs. Donovan, 10 Bush, 686; Collins vs. Henderson, 11 Bush, 74; Auditor vs. Holland, 14 Bush, 148.

Halbert vs. Sparks was the case of an act of the Legislature authorizing the President of the Vanceburge Male and Female Academy to take charge of the common school in that district, and draw the money to which the district was entitled, and the Court of Appeals decided the act to be unconstitutional. The facts and principles involved are so different that the case can have no application whatever to the question now at issue.

Marshall vs. Donovan may be as summarily disposed of. The question there was, whether the common school laws of Kentucky, applicable by their terms alone to the white population, were in violation of the 14th article of the amendments to the Federal Constitution of the United States. How that case can possibly have anything to do with the question I am now discussing cannot be readily perceived.

In Auditor vs. Holland, the question was as to the constitutionality of an act authorizing the commissioners of common schools to withdraw from the Treasury the unexpended surplus to the credit of the counties of Livingston, Marshall, and McCracken, and pay out and dispose of it under the orders of the county courts of those counties. The court decided that the General Assembly had no power to abdicate its control over the common school fund, or any part thereof, and impose the responsibility thereof on the county court.

Nor have the facts of, or principles decided in, Collins vs. Henderson, any more relevancy to the question at issue. An act was passed by the General Assembly providing for the payment to Collins of four dollars out of the share of the school fund belonging to each common school district in the State, which did not, on a given day, vote *not* to take such book. The book was, by the terms of the act, to be paid for, one-half out of the school tax for 1871, and the balance out of the school tax for 1872. The Court said:

"The sole question presented for decision then is, whether the appropriation of a part of the money produced by that tax,

and dedicated by the Constitution to the school fund to buy a copy of the appellant's book for each school district which failed to vote against said purchase, is in aid of common schools within the meaning of the Constitution."

And without entering into a critical examination of the reasoning of the case, it will suffice to say it decided that the purchase of the history was not within the terms of the 11th article of the Constitution, limiting appropriations of the school fund to purposes "in aid of common schools," and was therefore void.

One more point of the learned gentleman must be noticed before I close. Much to my astonishment, it was argued seriously, that although relief against the provisions of an unconstitutional law might be had through the instrumentality of the courts, that this mode of relief was unsatisfactory and inconclusive, and that a decision of the question by the Legislature was in every respect more satisfactory, and would be final and conclusive of the question.

I have yet to learn that each Legislature is invested by law, or that any rule of public policy requires that it should exercise the function of examining into and deciding upon the constitutionality of the laws passed by its predecessors. I had believed that this power was lodged in the courts, and that until the constitutionality of a law had been passed upon by the judicial tribunals, any question of that kind necessarily must be regarded as unsettled. A declaration by this Legislature on that question is no more binding on the Legislature of 1884, than is the declaration of the Legislature of 1880 on this one. Nor is a declaration of the legislative department of any more effect on such a question, in such a case, than that of the executive department, and neither nor both have any effect whatever on the question. A repeal of the law does not settle the question of its constitutionality, or prevent another Legislature from re-enacting it. If the belief of the opponents of this law in its unconstitutionality was sincere, they would take steps to bring the question before the courts, and have it settled in a legitimate way, and would not resort to this attempt, which, if successful, will be inconclusive. No stronger evidence of the absolute hollowness of all the pretenses in regard to the alleged conflict

between this law and the Constitution, could possibly exist than to see an able lawyer driven to argue that a legislative repeal is a proper and legitimate mode of settling the question of the constitutionality of a statute.

Of all the pious and learned sons of Kentucky who have devoted their lives to the service of God and the amelioration of the condition of their fellow-men, there is one striking figure which stands boldly and prominently forward upon the historic canvass of the past. In natural vigor of intellect, he was second to none of Kentucky's sons. His splendid natural parts were embellished and adorned by a most diversified and comprehensive knowledge, acquired by a life-time of assiduous toil. As an orator, both popular and forensic, he was in the first class at a time when Kentucky was celebrated throughout the Union for her eloquent lawyers, statesmen, and orators. As a preacher, eloquent, powerful, learned, he stood confessedly at the head of a great church which had furnished scores of great orators and preachers, and among them all he was *facile princeps*. To Robert J. Breckinridge, and to his assiduous and unwearying exertions for more than a quarter of a century in behalf of popular education, Kentucky owes all that is good in her common school system. Against his energetic but unheeded protest, those features which in so large a degree neutralize the benefits of our magnificent common school endowment, were inserted in our statute law. To this life-long friend of education, to this father of the common school system, I appeal against the hostility which many of the clergy of Kentucky are now so causelessly exhibiting to the Agricultural and Mechanical College of Kentucky. His arguments cannot be refuted, though his words of wisdom may be unheeded. After the adoption of the present Constitution, he addressed these words to the Legislature of his native State:

"Reorganization of the State University and Organization therein of a School for Teachers.

"I do not state my views upon this important subject with any special expectation that the present Legislature will do anything definitively to advance the immense interests involved in it. The peculiarly important nature of many of the topics which have required the attention of the present Legislature,

and the very exciting character of others, the unusual violence of party spirit, and, by consequence, the unusual difficulty of fixing the attention of public men and public bodies on objects which do not appeal to party; and withal, my own protracted illness, which has separated me almost entirely from the members of the present General Assembly; all these things admonish me that, for the moment, these grand questions must probably stand aside, or wait, with so many other great and good proposals, the smiles of those in power. But I have supposed that a simple statement, keeping alive claims and holding up to the light ideas, which ought not to perish, might at least tend to prevent the doing of many things hostile to them, and keep the minds of thoughtful men bent in a direction favorable to future good, and the hearts of the people open to the whole breadth of a subject full of so many blessings for them, and of so much glory to the State.

"Are not the blind taught by law in this State, and that at the public expense? Are not the deaf and dumb gathered together, watched over, and instructed by the State? Have not immense donations been given to seminaries and academies, and scores of laws been passed recognizing them as objects in which the State felt the deepest interest, and towards which she had the greatest duties to perform? Has not the State possessed a university from the very dawn of its own existence, which it possesses still, and on which it has bestowed vast donations? Surely there can be no question as to all the facts involved in all these inquiries. Last of all, the State set about the *primary* education of her children. But let us not forget that it is only yesterday, if I may so speak, that this part of her efforts to make education general ceased to languish, at least as deplorably as any other portion of her work of love. And let us not allow ourselves to believe that because this portion is now, by God's mercy, the most prosperous of all, the others have all ceased to be portions at all. They who have done the most to make this part prosperous, know the best that it is but a part, and that one of the surest modes to bring back upon it the blight which covered it so long, is to attempt to make it live alone, and live upon the life-blood of its kindred parts. This is my whole conception, my whole theory, my whole view of the spirit which ought to govern the State in her entire career upon this subject. Let us repudiate nothing; let us underrate nothing, but rather let us cover with our desires and our plans—some of them more immediate, some of them farther off—the whole field of knowledge, at least up to that part which may be strictly called professional, the whole interests of the people, so far as they are involved in their public intellectual culture. The people of Kentucky will have superior education, and if

the State prefers that its youth should be trained only in other States, or in sectarian institutions in this State, it has only to repudiate its university to secure that result.

"The people of the State will prefer good teachers to indifferent ones; and if the State prefers that these good teachers should be strangers and foreigners rather than her own sons, she has only to refuse all provision for training them at home, and this result is secured. And so of the rest. These problems may be solved, as to their *form*, in various modes—some most honorable and advantageous to the State; some most dangerous and humiliating. But as to their *substance*, all the clamors of deluded, selfish, and designing persons, parties, and sects, cannot prevent that from being determined, as a mere question of education, essentially in the same way.

"I should regret exceedingly, if any educational interest or institution, existing in this State, were to receive the impression that the friends of State education, in its wide sense, either desired or expected to do them the least harm, or in the smallest degree obstruct their proper career. What we believe is, that the State has a work to do, which no one else can do as properly or as well, and which no existing institution, sect, or party, would be willing that any other one, or any combination amongst them, should presume to attempt for the State. In its proper sphere, every school, every academy, every seminary, every college, must be benefited by every successful attempt on the part of the State to do its own great and appropriate work, and would be correspondingly damaged by every failure on the part of the State to do its duty. It is a blessed characteristic of every truly great design, and every truly noble action, that they accord with everything else that is grand in design and noble in action. And above all other interests, that grandest of them all, the progress of the human race, is governed by this profound and sacred law."

And now having submitted such considerations upon this important subject as I feel incumbent upon me, on account of the relations in which I stand to the great charity which is being so ruthlessly assailed, I leave the matter in your hands, with the earnest hope that your action may not retard, or prove hurtful to, the sacred cause of the education of our youth.

B. F. BUCKNER.

LEXINGTON, January 29th, 1882.

Box 128

Education and Empire

An Address Delivered by the President of the Association of American Agricultural and Mechanical Colleges and Experiment Stations,

JAMES K. PATTERSON, Ph. D., LL. D.,

President of the State College of Kentucky.

Washington, D. C.,

Nov. 17, 1903.

PRESIDENT PATTERSON'S ADDRESS.

Gentlemen of the Association of Agricultural Colleges and Experiment Stations:

I thank you for the honor which you have conferred upon me in selecting me to preside over your deliberations during the present session.

The highest distinction within the power of this body to bestow is not to be lightly esteemed and I can only wish that I had been more worthy of it.

I propose to occupy your attention tonight for a brief space by some thoughts on the work of the Colleges and Universities which this Association represents, and the influence thereof upon the present and future of the American people.

Many men distinguished by learning and experience have in years gone by addressed you from this chair. Some having sown the seed which others in due time will reap, have already passed over to the majority; others happily are still with us to animate by their zeal, encourage by their example and stimulate by their attainments.

Like the pioneers of freedom in the western world; like the founders of the great republic; like the statesmen who laid the foundation of the system of education which this association represents today—these men have builded wiser than they knew and results which they could not have anticipated have followed.

Not visionary doctrinnaires, but practical men, they addressed themselves to use to the best advantage the material ready to their hands and as new material accumulated incorporated it with the structure as it grew—maintaining the original idea of utility and preserving the architectural symmetry of the fundamental conception.

The organization of this association was a happy thought. These annual meetings have brought together a body of workers and of thinkers, whose thoughts and achievements contributed to a common stock, have become the common heritage of all. Happy intuitions, intelligent, scientific forecasts have been patiently experimented upon, translated from the hypothetical into the actual—accepted as accredited results and added permanently to the stock of human knowledge.

Of some the relationship became immediately apparent. They gravitated at once into position; discovered their proper place in the order of things—filled a space hitherto unoccupied, bridged over a hiatus, supplied a missing link.

Others did not immediately yield to classification and possible affinities required further investigation. But assailed from this side and from that in the crucible and by the spectroscope a stubborn isolation could not long be maintained and in the end the most refractory yielded to the analytic of the human intellect and the potency of the human will.

But how greatly have these activities been stimulated by mutual conference and mutual cooperation—a hint in discussion has struck a spark

which ignited the fuel into a flame; a bow drawn at a venture has found a joint in the harness and penetrated the vitals of an unsubdued fact; a stray seeed dropped into a generous soil has under the influence of sunshine and rain sprung up and in due time brought forth fruit—first the blade, then the ear and at length the full corn in the ear.

Alittle over forty years ago a new departure took place in education in America; until then classics, literature and philosophy had been the dominant features of college work The natural sciences were still in their infancy; scientific men had, however, for more than half a century been working along scentific lines; a priori deduction had given place to induction founded upon observation and experiment. The atomic theory of Dalton; the correlation of physical forces worked out laboriously and brilliantly by Helmholtz, Joule and Tyndal; the uniformitarian hypothesis of Sir Charles Lyell; the spectroscopic analysis of Kirschoft and above all the far-reaching generalizations of Darwin and Wallace had made a new epoch in scientific discovery. It recalled the spirit of adventure which roused into feverish activity the boundless energy and heroic endurance of Henry the Navigator, Vascoda Grama, Christofer Colombo and Alphonse Albuquerque four centuries before. A new world of ideas seemed to dawn upon mankind with the introduction of the telegraph, of railway construction, of steam navigation and the application of scence to the industrial arts. The age of the Utopia of Sir Thomas More and of the new Atlantis of Bacon divested of fantasy and clothed in the habiliments of decorous sobriety, seemed to have dawned upon mankind.

The stimulus given to immigration brought hundreds of thousands annually to our shores and the impulse given to transcontinental migration, through the development of the railway system east of the Mississippi transferred hundreds of thousands annually from the Atlantic and middle states to the fertile lands stretched out in forest and prairie, ready to receive and reward the hardy and industrious pioneer with comfort and plenty. The rich gold fields of the West, acquired by conquest and purchase; the annexation of the great empire of the Lone Star State; the boundless domain between the Mississippi and the Rockies—inviting capital and enterprise for pasturage and cultivation; all contributed to develop a feeling of unrest and a longing for better things. The long pent-up energies of a young, vigorous, self-reliant people broke beyond the geographical limits which had hitherto bounded their labors and rewards and swept a living tide of humanity over hill and valley, over mountain and plain, beyond lake and river into the illimitable lands of the near and middle and far West—from the Alleghanies to the Mississippi and Missouri; from the Mississippi and Missouri to the great Amercan desert, the Rocky Mountains and the shores of the Pacific ocean. And thus the wave of settlement, adjusting itself to peaceful industry laid the foundations of

new states, planted new industries, brought vast stretches of hitherto unproductive lands under cultivation; opened up the treasures of the mine; multiplied the lines of communication and poured the agricultural and mineral wealth of the great west into the commerce of the world. Concurrently with these recent economic changes resulting from the operation of natural causes economic changes of equal magnitude were brought about through fiscal legislation at home and abroad. The establishment of free trade in Great Britain opened the markets of that country to American agricultural products, stimulating to an unwonted degree production at home and correspondingly depressing agriculture in the British Isles. American wheat and corn monopolized the supply of breadstuffs to the British artisan, building up and controlling a market into which no other competitors could enter on equal terms. Concurrently therewith the protetctionist policy adopted by the United States not only rendered this country independent of foreign supplies, but enabled her in the end to become in many of the chief products of the mine, the forge, and the loom a formidable competitor for the chief part of the commerce of the world. Under these conditions, vaguely apprehended by the majority, but apprehended with more or less clearness of vision by a few of the farsighted statesmen of the country, the Morrill law of 1862 was passed by the Congress of the United States.

The demand for a system of education adapted to the needs of the time, which should go beyond the requirements for classics, law, medicine, divinity and letters; an education which without proscribing or neglecting classical and philosophical studies, should utilize for the public good the known and discoverable laws and processes of nature, for the increase of production and the multiplication of the comforts and necessities of life. This demand the Morrill law was intended to satisfy, and upon this foundation more than fifty state colleges and universities are established.

Mr. Morrill saw that in the rapid alienation of the public lands through settlement and gratuitous allotment to railway corporations the public domain was rapidly being exhausted. He accordingly determined to dedicate a part of this rapidly diminishing public domain to the education of the American people, along new lines and according to the necessities imposed by geographical and economic conditions peculiar to the western hemisphere. He provided that land script should be given to the several states in proportion to population for the endowment of institutions of learning, wherein should be taught those branches of learning related to agriculture and the mechanic arts, without excluding classical and other scientific studies, and including military tactics, for the education of the industrial classes in the several pursuits and professions of life. This was a radical departure from the old idea of education. It was a conception of University work such as had never yet been thought out by any thinker and whose realization had never yet been attempted. The existing body of human knowledge, wheth-

er of mind or of matter, hypothetically assumed or actually realized, was to be available for appropriation by the learner; and the far greater domain of nature, unknown or partially known, invited the investigator through observation and experiment to new fields of discovery. The old institutions looked doubtfully and not quite sympathetically on the new education. They gravely shook their heads at the credulity of those who thought that investigation in those branches of science relating to agriculture and the mechanic arts could be carried beyond the merest rudiments or would be productive of results at all commensurate with the expenditure of time and money proposed. But when within a few years they saw an interpretation given to the legislation of Mr. Morrill which did not confine Mechanic Arts to blacksmithing, carpentry and kindred handicrafts—which went beyond the still more advanced conception of manual training and discovered its ultimate application in Engineering—Mechanical, Electrical, Civil, Sanitary and Mining; when they saw as preliminary and preparatory to these extended courses in Mathematics, Chemistry and Physics, reaching far above and beyond those in the older Colleges and Universities they began to show more consideration for the new and to ask "Can any good thing come out of Nazareth?" When, moreover, they saw that the foundations of a Science of Agriculture were being laid in extended courses of Botany, Comparative Anatomy and Physiology, Biology, Chemistry, Entomology — that through these, barren fields were made fertile the products of animal and vegetable industry improved in quality, multiplied in quantity and increased manifold in commercial value, the exclusiveness of the old tacitly acquiesced in a modified recognition of the new. Silently, steadily, resistlessly the new has moved on regardless of the contempt, the pity and tolerance of the old. Ere long the new institutions, retaining for the most part the classics and the philosophies of the old, established Chemical, Physical, Biological and Engineering laboratories on a scale of expenditure and completeness far beyond the resources of the old; they set the pace for scientific study and investigation in America. By their bold experiments and stupendous results they startled the old institutions out of their complacent lethargy and roused them to an activity hitherto unknown. They made it manifest that classical and philosophical attainments and dicipline could exist side by side with thorough training and far reaching acquirements in Natural Science and that these latter found an application in the development of Agriculture and Manufacturing industry out of all proportion to the original conception on which the legslation of 1862 was based.

A few of the older Universities—originally denominational but long since secularized — Yale, Harvard, Princeton, Columbia, with prestige large endowments and wealthy alumni, who have contributed freely to enlarge the sphere of their capability and activity; and a few recently founded and endowed by individual munificence on a scale of unprecedented

liberality—Johns Hopkins, Leland Stanford and Chicago University stand well to the front and maintain each a staff of workers in the field of investigation who are the peers of any in the land. Most of the others, especially those which are dependent upon denominational support have fallen hopelessly to the rear. The Colleges and Universities established under the Congressional act of 1862, whose areas of activity were enlarged by the supplementary legislation of 1887 and 1890 have grown so rapidly that they are now recognized in most of the states as the chief exponents of the higher education coupled with the practical education which finds expression in ever multiplying bushels of wheat and bales of cotton and tons of steel—an education which conditions and renders possible the supremacy of America in productive activity and commercial enterprises. But our scientific achievements and their translation into material wealth must not be content with these triumphs. The last forty years—a period coincident with the life of these institutions—have witnessed an increase in population and in wealth such as the dreams of the most sanguine could not have ventured to anticipate. No parallel for it exists either in ancient or modern history, either in the old world or the new; and the actually realized power and wealth of the nation are but the beginning of greater and mightier things yet to be. Within another half century our population will have quadrupled; our wealth increased in more than corresponding proportion, and our strength on land and sea such that no power or combination of powers will be able to gainsay or resist. In this mighty onward march the State Colleges and Universities will lead the van. But they must do more than point the way which leads to material wealth and dominion. Problems relating to mind and matter of surpassing interest to mankind are pressing for solution and to their solution the scientists and laboratories of these Colleges and Universiites must contribute an adequate if not a preponderant share.

I have seen it stated that the theory set forth in Prof. Osborne Reynolds' "Sub Mechanics of the Universe" "that not a flawless continuous ether, but a granular structure of the spaces of the universe that not only explains all observed phenomena and the cause of gravitation but reveals the prime cause of the physical properties of matter" finds for the present one of its chief facts of interest in the fact that few if any of living mathematicians are capable of following his demonstrations and none are strong enough to attack it. Sir William Crookes, in an address to the International Congress for Applied Chemistry at Berlin, June 4th of this year, said that chemists now admitted "the possibility of resolving the chemical elements into simpler forms of matter or even of refining them away altogether into etheral vibrations of electrical energy." He further declared that "a number of isolated hypotheses as to the existence of matter in an ultra-gaseous state, the existence of material particles smaller than atoms, the existence of electrical ions or electrons, the constitution of Rontgen rays and their

passage through opaque bodies, the emanations from Uranium and the dissociation of the elements were now welded into one harmonious theory by the discovery of Radium." He added that if the hypothesis of the electronic constitution of matter were pushed to its logical limit it is possible that we are now witnessing the spontaneous dissociation of Radium and if so must begin to doubt the permanent stability of matter." If this be so the "formless mist" must once more reign supreme and the visible universe dissolve.

Sir Oliver Lodge in the Romanes Lecture delivered at Oxford on the 14th of June, suggested that atoms of matter are actually composed of concentrated portions of electricity which could exist separately or in association. Seven hundred such electrons inviolent orbital motion among themselves would constitute an atom of hydrogen; 11200 electrons would form an atom of oxygen and 150,000 an atom of Radium. We have on this theory arrived at the ultimate chemical particle, various combinations of which form all the infinitely diverse aspects of matter. Sir Oliver observes that "the attraction of this hypothesis is that it represents a unification of matter and a reduction of all material substance to a purely electrical phenomenon." This electrical theory of matter involves two consequences, a continual increase in the velocity of the constituents of an atom and the ultimate instability of those constituents. There is thus a state of flux and decay "in the foundation stones of the universe, the elemental atoms themselves." Sir Oliver thinks, however, that there is at the same time a system of reaggregation at work which constitutes a sort of regenerative process which will preserve the universe by the creation of new forms of matter in the place of forms that have been dissolved. If these things be so it can no longer be said "that the ultimate details of atomic constitution are beyond our scrutiny." But granted that these details are known the mysteries of the universe are still unsolved. What is the nature of electric phenomena? What are those things which can evolve out of structureless simplicity the infinite complexities of the earth and heaven? Does a directive force—intelligent and eternal become the necessary postulate for a rational conception of the universe? Are we warranted in concluding with Tennyson that

"Only that which made us meant us
to be mightier by and by
Set the sphere of all the boundless
heavens within the human eye;
Sent the shadow of Himself, the
boundless, through the human soul
Boundless, inward in the atom, boundless outward in the whole."

We are manifestly on the threshhold of mighty discoveries. What part will the American intellect play in the investigation and solution of these problems? What part will the Colleges and Universities of this association play in the unfolding of this stupendous drama? In the laboratory of the chemist and the physicist the work must be done. To this end we need skilful workers, clear thinkers, prophetic men with trained intellects

and scientific imaginations. To this end we need special endowments; but special endowment for research means large expenditure for the best material facilities which ingenuity can devise and skilled workmanship can construct. It means also highly disciplined and trained investigators whose time is not occupied with the drudgery of instruction but which is devoted entirely to original work. These conditions necessarily imply large expenditures and the means for this must be obtained from the liberality of the nation and from the generosity of individuals. We must encourage the study of higher mathematics in order to develop men who shall be able to follow and interpret the mathematics on which the theory of the "Sub-Mechanics of the Universe" rests. We must create in our laboratories the Curies and the Kelvins and the Crookes and the Clark-Maxwells, the Rutherfords and Bancrofts and Oswalds who shall grapple with and if possible solve the mysteries of the physical universe. This, I trust, will fall largely to the lot of the Colleges and Universities which we represent today. Let us hope that from their halls shall issue the honored few; from their ranks shall arise the heroes of science who in the achievements of these last and greatest results shall be welcomed to join the ranks of the immortals.

With the accession of the Tudors in 1485 the influence of England in continental affairs had materially diminished. The days of Crecy and Poitiers and Agincourt with the passing of England's heroes—the Black Prince and Henry V. had also passed away. The Treaty of Pecquini had left England none of her continental possessions except Calais and this too, was to pass to the House of Valois before Tudors ceased to reign. The ascendency of Spain was unquestioned. Even after the abdication of Charles V. the Spanish monarchy was the most powerful in the world. The vast over-sea possessions which that monarch had inherited from Ferdinand and Isabella he transmitted, enlarged and consolidated to his son Philip. But the growing sea-power of England after the accession of Elizabeth was destined ere the close of the century to give the Spanish power a fatal blow. The defeat of the Armada sealed the fate of the Spanish supremacy and proved that something more than prestige and gold was needful on which to build national power and national prosperity. From 1588 the star of Spanish dominion gradually declined and the scepter was by degrees transferred to mightier hands. England followed close upon the track of discovery, but more than a century passed before any permanent settlement was made by her in the new world. Though she entered later on the race of transatlantic adventure than either Spain or France, yet she was destined to outstrip all her competitors in colonial dominion. The colonies founded during the reign of the successor of hte Great Tudor Queen were established by men not impelled by the lust of gold but by men who sought political freedom and liberty to worship God according to their conscience. They carried with them love of home, reverence for law, a deep sense of the inalienable rights

of man and the conviction that in their veins flowed the blood of Alfred and of the Barons who extorted the Magna Charta from King John on the field of Runnymede; and here, with these convictions and these traditions they laid the foundations of what in the immediate future will be the mightiest nation which the world has ever seen. The Revolution of 1776 broke the political bonds which united the original colonies to the mother country; but it did not break the bonds of blood, of inherited traditions, and of the glory which attached to the common inheritance. All the glorious ideals of the race have quickened, enlarged and intensified; and have found realization to a degree which could never have been attained within the narrow limits of the original home in the old world. The immemorial heritageof freedom, brought by Angle and Jute and Saxon from the banks of the Saale to those of the Thames and the Humber and the Dee, and after ages of growth within the British isles transplanted to ampler fields in America has found its ultimate development in the great nation of whose origin and history we are all proud today. And it may surely be a source of legitimate pride to the mohter country "that the great empire which neither the ambition of Louis XIV nor the conquering power of Napoleon could dismember, received its first rude shock from the courage which she had communicated to her emancipated offspring and that amid transatlantic wilds grew up a race of men who have established real liberty" on the principles which they inherited from ancestors who were the countrymen and compatriots of Bacon and Sidney, of Hampden and Oliver Cromwell.

The last trace of Spanish dominion on the American continent was obliterated four years ago by the decendants of men who harried and plundered the Spanish main in the days of Drake and Effingham, of Frobisher and Sir John Hawkins. The one then as now represented the Latin race with its spasmodic activity and ephemeral ideals; the other the sturdy Anglo-Saxon stock with its sturdy perseverance, its unflagging energy, its uncompromising love of freedom and its corresponding hatred of oppression. And this Anglo-Saxon stock by its inherent vigor and its intelligent foresight and its undaunted spirit of enterprise is the coming race in whose hands lie the destinies of civilization. In its veins the sap swells high today and it will swell high tomorrow.

The future of mankind lies not with the Mercurial Latin-Celtic race, nor with the crafty Mongol, nor with the perfidous Slav, but with the self reliant, freedom loving, God fearing men who preferred exile and poverty to affluent, inglorious, conformity; and who emancipating themselves from the idols of the cave and the idols of the market buckled on their freed spirits the harness of mind.

In the United States of today even the busiest and most actively employed in the intervals of leisure stop to enquire whence they came, what they are and whither they tend. The apprehension has been felt and express-

ed that we are too much given up to the acquisition of wealth, too material, that we care nothing for the past, are absorbed in the cares of the present and clothe the future in the draping of the accumulated gain built upon the foundations which we have laid. The hundreds have grown into the thousands, the thousands into millions; we look to a future when the latter shall have expanded into billions and then the golden age in another sense than that of the ancients will have superceded and supplanted all others and wealth, not brains, will rule mankind. But wealth in the second generation if not in the first looks anxiously for a background of respectability. This is a wholesome feeling and a healthy indication. The wealthy long for something more than mere wealth to differentiate them from the masses. Energy and capacity and ability to accumulate wealth were indispensable but these must have had an antecedent existence in the family. Heredity and atavism are assumed as the necessary conditions and these are sought for in family history. Family traditions, family records, title deeds, names and surnames, on this side of the Atlantic and on the other are eagerly examined, studied, collated, and translated into genealogies embodied in family trees with all the accessories of crests, mottoes, armorial bearings and coats of arms. These ideas are not incompatible with Republicanism. The Washingtons and Jeffersons and Adamses and Winthrops of colonial times were proud of their title deeds and genealogies and descent from the gentry and gentlemen and nobility of the mother country. Not only the leaders in the American revolt of 1776 were gentlemen and the sons of gentlemen, but most of the non commissioned officers and men were of reputable English and Scotch and Irish descent. Gentlemen fought and won in the Revolutionary contest. In no subsequent war in which the United States has been engaged did the armies of the republic contain so large a proportion of gentlemen. What then is called the modern craze for genealogy is a healthy conservative mental condition an effort to discover and if not to discover to make a place in the annals of recorded or unrecorded gentility. Fortunately the original contributory elements which make up the history of the Great Republic are not so difficult to discover. The early history of Puritan Pilgrim and Cavalier is well known. The politico-religious ferment which led to the emigration of the one and the spirit of adventure which led to the voluntary expatiation of the other are matters of history.

Other contributory elements from Germany and Scandanavia and central and eastern Europe have swelled the population of this newer and mightier England which occupies the best half of the North American continent, but the basis, the back-bone, the brain of the country remains and will remain Anglo-Saxon. Our history thus finds its roots in the history of the people of the old world and preeminently in that of middle England, which stands mid-way between the Saxon of the Saale and the Saxon of America. Through our relations with them Robert Bruce and Bannockburn

are ours; Hastings and Runnymede, Evesham and Crecy, Bosworthfield and Marston Moor,Blenheim and Culloden. Through them we inherit the glory of an inalienable birthright in the common law, in the growth of parliamentary government, in the reformation of Knox and the martydom of Latimer and Ridley. Through them we claim an equal inheritance in Wickliffe and Bacon and Shakespeare in Newton and Boyle and Harvey; in Burleigh and Halifax and Chatham—while we allow them to share the greatness of those who are peculiarly our own, Franklin and Washington and Longfellow, Andrew Jackson and Abraham Lincoln.

Now inasmuch as the students in our Colleges and Universities are or should be educated not as scholars and scientists only, but as citizens who will be concerned in shaping the destinies of the greatest people whom the world has ever seen, it is not less incumbent that adequate provision be made for the attainment of the one end equally with the other. The State University must be what Ezra Cornwell in founding the University which bears his name wanted it to become, viz: a place where everything could be taught which it is possible to teach, and where everything could be learned which it is possible for one to know.

I would urge then, with all the insistence which I may, the necessity that history and political philosophy with all their correlated subjects should become a special feature of the University and Collegiate instruction which we represent. In many they are already distinctive features. They should be made distinctive and obligatory in all.

Within the last 200 years history has been made rapidly in America. For a time almost isolated from contact with European nationalities and in touch with the old world mainly through official relationship, political life developed without interference from abroad. The theory of the New England Commonwealth gradually became more political and less theological; the limits imposed upon religious freedom gradually relaxed and political freedom became more unrestrained. They were law-abiding but the laws to which they subjected themselves were of their own making. So strong, however, was the traditional respect for law and order and so conservative were they when least restrained by external authoritythat their legislation never tended to sap the fountains of the Commonwealth nor impair the obligations of contract. Legislation was generally along the lines of precedent, following the recognized principles of the Common Law and adhering closely to the rights and duties laid down in the great charter of English freedom. When under new conditions new legislation was needed for which no precedent existed, known to the law-makers, the ample shield of the spirit of the Common Law and of Magna Charta was invoked to cover them. So in the interpretation of the law by the judge on the bench, if statute law did not exist to meet the cause in action, the Common Law was so interpreted as to apply and

the spirit of jurisprudence came to the relief of the dispenser of justice. And this was exactly what happened hundreds of years before in Wessex and Kent and East Anglia and Mercia and Northumbria. The principles of law and equity had grown up silently in the community enlarging in their applications as new conditions arose and became imbedded in the hearts of Englishmen ages before they found articulate expression in the laws of Ina and Offa, Alfred and Ethelred; ages before the charters of John and Henry and Edward placed the seal forever on the recognized and inalienable rights of Englishmen. This spirit and these traditions they brought with them to the new world. England alone of all the world could supply such colonists and England alone of all the world could continue without exhaustion the work of colonization on such a scale as to assure ultimate success. The puritans of the North and the Cavaliers of the South, reinforced in later times by the sturdy Scot from the Lowlands and the Highlands and later on by the equally hardy Scots of Ulster formed the basis of American nationality and a nobler ancestry the world has never seen. The characteristics of the first settlers remain the predominant characteristics of the typical American of today, and however affected by subsequent infusions from continental sources remains in large measure unmodified. This propotency of race and of blood is manifest in every phase of the history of the American people. Only people of Anglo-Saxon blood, Anglo-Saxon endurance, and Anglo-Saxon devotion to freedom could have maintained and carried the struggle for independence to a successful issue against the power of the mother country. Only people of Anglo-Saxon blood could have mained and successfully concluded the second trial of strength with the might of the British Empire in the war of 1812. Only the descendants of this heroic stock could have routed the armies of Mexico and planted the stars and stripes upon the ramparts of Chapultepec and Churubusco and in that terrific contest fought out forty years ago for the maintenance of the integrity of the Republic, when armies larger than those engaged at Marengo, Wagram, Austerlitz, Jena or Waterloo met each other on the field of battle, the men on both sides who led them to victory or defeat, and the men who followed them were in the main the descendents of the pioneers whose ancestors had lived for thirty generations within the four seas of Britain. Lee and Jackson and Stuart and Hampton and Gordon, McClellan and Grant and Sheridan and Sherman and Thomas are as thoroughly British names as Cromwell and Marlborough and Wolf and Wellington. With this people, its noble ancestry, its inspiring traditions, its stupendous achievements and its glorious history, I would have the most ample provisions made in every institution in this Association for its students to become acquainted. The educated American should know the history of his own people in itself and in its relations. We go back beyond 1776, beyond 1620 and 1607. The roots of our being are identical with those of the patriots who worked out

patiently and laboriously for 600 years the problems of parliamentary government, of the relation of the subject to the state, of taxation to representation, of the coordination of liberty and authority. English history before 1776 belongs as much to Americans as to Englishmen, and American institutions are unintelligible if dissevered from their rational relationship. The American constitution without the prior existence of Magna Charta, Habeas Corpus and the Bill of Rights would have been impossible.

When Lord Beaconsfield returned from the Congress of Berlin he gave utterance to a felicitous expression which roused to an intense self consciousness the hearts of the British people. "Libertas et Imperium" struck a note which vibrated through the British Isles. They felt that they had achieved Empire through freedom. I would strike a kindred note here today. I would have this Association adopt the motto: "Education and Empire." Freedom we have. Freedom forms the basis of our national existence, the air which it breaths, the inspiration of the life which it lives. But the inspiration and the vitality of freedom and of Empire must henceforth be intelligence, developed, strengthened, exalted, purified.

Not long since a conference of allied colonial universities was held in London. There were present men like Lord Kelvin and the leader of the House of Commons, eminent representatives of learning and science, men high in authority in the old universities of the mother country and men of distinction in the more recently established universities of the King's over sea dominions. Mr. Balfour announced the object of the meeting to be "An alliance of all the universities that in an increasing measure are feeling their responsibilities not merely for training the youth which is destined to carry on the traditions of the British Empire but also to further those great interests of knowledge, scientific research and culture without which no Empire, however materially magnificent, can really say that it is doing its share in the progress of the world." What the statesman of the kindred people beyond the Atlantic seek to do we have already been doing for years. This Federation of Colleges and Universities has been addressing itself to realize the objects set forth in the language just quoted, viz: "the further ance of the great interests of knowledge, scientific research and liberal culture without which no Empire, however materially magnificent can really say that it is doing its share in the progress of the world." No such federation of educational agencies and activities as this association of ours has ever been seen. It is the first, the greatest, the most far reaching in its aims and the most successful in its results. It has long since passed beyond the embryonic stage. Embracing within its scope all that is valuable in the old and incorporating it with new ideals it presents to the nation and the world a system complete because all embracing and inspired by the vigor of youth goes on conquering and to conquer.

"To the solid ground of nature trusts the mind which builds for aye."

American institutions have materially influenced the principles of government in the old world; American education is accomplishing a similar work in influencing the educational system of Europe. Germany has felt its power—great though Germany be in intellect, in pure science, in discovery; England frankly acknowledges her obligations to American methods in university training and in the application of science to industrial production; Russia in her commercial exclusiveness pays a reluctant tribute to American enterprise through her policy of obstruction. All these are legitimate sources of an honorable pride, and all the more gratifying because the Federation of American Colleges and Experiment Stations is the exponent of the idea. The precedence which we have won we must maintain. Hoc Signo Vinces. State and Nation are alike interested in the existence and development of the units which form this organization; and State and Nation will respond with equal liberality in order to maintain the most comprehensive, most economic, most fruitful educational activity which human wisdom ever devised.

From a glorious past, through a marvellous present, to an illustrious future—the transition is natural and easy. If the growth and prosperity witnessed within the memory of living persons have been unexampled, it is because conditions, intellectual, moral, religious, social, material and political existed such as never existed before. Some of these will continue, others will undergo material modification. The intellect, through scientific discovery and liberal culture will probably become more keen and more intense in its activity. Social conditions and relations will change as they are changing now. The rich will become relatively richer and the poor perhaps poorer. A greater mastery will be obtained over the powers of nature, subordinating them to human control and to human utility. The visible embodiments of the collective will in civil government , executive, legislative and judicial will be determined by the moral and religious ideas and convictions which prevail. If there be wholesome, vital, intense and strong social and political convictions, the relation of the individual to the community, of the citizen to the State will be determined by honest and rational means for the attainment of high and honorable ends. Upon the moral and religious life of the future will depend the future greatness of the great republic. The vigorous beliefs in which the fathers and the mothers of the olden times were brought up have without doubt changed. Is it for the better or for the worse? Let us hope that human elements only have been eliminated and all that is divine is retained; that the dross and the tin have been purged and that the gold remains. But somehow the shadow of a doubt sometimes crosses the mind that not the form but the essence has changed, that:

"Now there are new religions, many
the codes and the creeds

Many the quibbling changes to fit
with our fanciful needs
All of tnem waxing milder; waning
in strength and tone
None of them stern and sturdy; none
of them stand alone
None like the old religions—those
that the fathers made
Built on tne fearless basis—the God
of the unafraid."

The moral and religious tone of the country upon which the greatness of the nation will depend will be influenced largely by the moral and religious tone which pervades the Colleges and universities which compose this Association. Let us see to it that the God of our fathers—reliance upon whom carried them through the throes and perils of the birth of the Nation is not forgotten; let us see that "the Divinity that shapes our ends rough hew them how we may" is still recognized and reverenced—conscious that amid human affairs there is a power that works for progpess and for righteousness and that the great lesson of all history, specially emphasized and exemplified in our own is the realizing of the divine in the human; of the infinite in the finite; of the eternal in the temporal; that,

"Not in vain the Nation strivings
Nor by chance the currents flow
Error mazed yet truth directed
To their destined goal they go."

We can picture to ourselves ere the close of this century a nation of seven hundred millions of people, Christian, peaceful, rich and happy—with realized industrial, agricultural and commercial wealth, tenfold that of the present, with a predominent influence in the councils of the world, with a fiscal system light in its burdens, with income balancing expenditure, with laws just and equitably administered, with ignorance banished, crime restrained and pauperism non-existant; with the relations of wealth and labor rightfully adjusted, and above all with a deep and pervading sense of the fatherhood of God and the brotherhood of man. We can fancy these Colleges and Universities with endowments counted by millions and students by thousands—recognized as the prime factors in individual and national wealth and greatness. Venerable abodes of learning diffusing through their sons and daughters an enlightenment and culture pervaded by a deep religious sense, enlightened by science and a science leavened and glorified by religion. We can think of them as the depositories of discovered truth whence the pilgrims of every kindred and clime recruit their stores for the enlightenment of mankind; as beacons whose illuminating beams irradiate every continent and transcend every sea. Then shall we realize the vision of the Hebrew Prophet, "Who are these that fly as a cloud and as doves to their windows; their sons shall come from afar and their daughters be nursed at thy side and I will make the place of my feet glorious."

Happy land, happy people, yea happy is that people whose God is the Lord.

Patterson papers
Box 32

Excellent.

ARGUMENT

MADE BY

President Jas. K. Patterson

BEFORE

THE SENATE COMMITTE, FEB. 15 [1908?]

ON THE

PROPOSED CHANGE OF NAME FROM A. & M.

COLLEGE TO STATE UNIVERSITY.

ARGUMENT.

In the life of institutions as in that of individuals varying conditions require constant readjustment of relations. The village grows into the town, the town into the city. The youth develops into the lad and the lad into the man. The Academy expands into the College and the College into the University. The government of the village differs necessarily from that of the city. The responsibilities and duties of the youth differ from those of the man. The functions and relations of the Academy differ in equal degree from those of the University.

The State institution which I have the honor to represent before your committee has undergone a similar transformation. It now possesses lands, grounds, buildings, laboratories, stock and equipments equal to $500,000, all the accumulation of the last twenty years. When detached from Kentucky University, with which it had an unfortunate connection for thirteen years, it had absolutely nothing. It was then quite contented with the modest designation of a College. But the Legislature of 1878 in the Act providing for its future location and for its additional endowment from lands appropriated by Congress looked forward to the time when it should grow into a University and so provided.

We desire respectfully to represent to your honorable body that we believe that the time has come when the name of this institution, hitherto known as the A. & M. College of Kentucky should be changed to that of the State University. Allow me to state briefly the reasons why such change should be made, and then to consider the objections thereto :

1. It has since 1880 grown far beyond its proportions at that date and has attained a development unparallelled in the history of education in this Commonwealth.

2. It has now eight distinct courses of study leading to a degree. If one course of study leading to a degree entitles an institution to be called a College, surely eight distinct courses should entitle it to be called a University.

3. This is the only institution in Kentucky owned, managed and administered by the State.

4. These two ideas should find appropriate expression in its name. If then it is doing University work its claim to be recognized as a University is beyond cavil. If it belons to the State, the State should have recognition. On these grounds the name asked for is just and right, viz.: "State University."

The objections come from Kentucky University, a denominational institution in which the State has no pecuniary interest and over which it has no control. They allege as a ground of protest :

That that the names "State University" and "Kentucky University" would lead to confusion.

To this it may be replied that almost all the patronage of Kentucky University outside of Fayette County comes from members of the Christain Church, and not one in one hundred is likely to lose his way and land in the State University. If he did the State University authorities would be glad to assist the unfortunate youth to find his proper habitat. Per contra not one in a hundred of the county appointees sent to the State University would be likely to drift to the Kentucky University. If so, the question of the payment of fees would speedily reveal his mistake, and the Kentucky University would be most happy to hand him over to his proper enviroment. As a matter of fact in relation to the past a few—and considering the matriculation lists of both institutions—a very few mistakes have been made, but they led to no confusion. An occasional application has been made to me for entrance by an applicant whose evident intention was to enter Kentucky University. I promptly informed him that this was not his intended destination, and directed him how to find his way thither. Occasional cases have occurred where a student mistook Kentucky University for the State College, but President Loos, to whose loyalty and unfailing courtesy I bear cheerful testimony, uniformily sent the lost sheep to our fold. I have no doubt that his suceessor would do the same if occasion required. I may without impropriety say in this connection, as an evidence of our neighborly disposition, that the State College has invited the Kentucky University to inform its under-graduates that they may upon graduation enter any one of our advanced post-graduate courses free of tuition fees and upon

identical conditions with our own, and that not a few have availed themselves of the privilege. Students from the Bible College who were preparing for the missionary field have been received without fees to instruction in the Mechanic Arts while yet pursuing their Biblical studies in order that they might be able to impart to their converts in heathen lands the rudimentary principles of material well being. Surely this manifests a disposition to assist instead of to hamper the growth and development of our sister institution. With such spirit how could we be suspected of a likelihood to take any advantage of the ignorance or want of experience of a student who had lost his way? It is not by petty practices of this sort that great institutions are built up. What is true of persons is also true of occasional letters which find their way here through mistake. But the postmaster would know too well the distinction between State University and Kentucky University to make many mistakes of that sort. And if the mistake be made by writer or sender of mail matter occasional errors of address would be speedily rectified as heretofore. Their apprehensions and fears in this respect are groundless. Shades and thadows are sometimes conjured up and float before our vision, but in the futile attempt to combat them they vanish into thin air.

The change of name would aid in building up every course of study in the institution. We believe that its good effect would be especially notable in building up the Agricultural, the Mechanical and the Normal Training courses of study. Greater prestige and dignity of designation would be additional inducement to students and all courses would feel the benefit of the additional impulse.

Increased numbers would advertise its liberal provisions and its thorough training more and more widely. Tnis increase and expansion would serve as a wholesome stimulus to other institutions within the sphere of its activity and would determine them in the future as it has done in the past to a higher energy and a broader activity. The apprehensions of the friends of Kentucky University are wholly groundless. Years ago they expressed the belief that our success would be detrimental to them. All the

colleges in the Commonwealth made common cause with them and shared in their alarm. What has been the result?

Not as they apprehended, but just as I predicted, that the success of the State College, so for from being injurious to them or to the other denominational colleges would stimulate them to greater activity, would determine them to provide better courses of study and more of them, to man them with their best men and provide themselves with the best equipment. Every college in Kentucky has by this stimulus been lifted to a higher plane in its ideals and in its work. They have been reaching out for larger endowments. They have brought themselves more into line with the necessities of the age. They have sloughed off the old habiliments and arrayed themselves in more modern dress. The late President of Center College told me only a few months before his death that his college had more than doubled its endowments and income within the last fifteen years. The prosperity of one institution does not imply the decline of its neighbors. The State College has brought the blessing of education to hundreds of men and women of small means in the mountains and valleys from the Big Sandy to the Mississippi who never would have found admission to any other college in the Commonwealth, who are now among the best agriculturists, the best civil engineers, the best mechanical engineers, the best scientists, the best lawyers, the best physicians and the best teachers in Kentucky.

What is the reflex influence from this? Why to stimulate men and women to educate themselves n order to enter upon the struggle for existence with all the power, moral, mental and physical which God has given them cultivated to the end that they may overcome difficulties and become potent factors in shaping their own destiny, the distiny of their nation and the destiny of mankind. These will be called to enlarge the area of mental and moral vision, to swell the ranks of intelligent creators of wealth, to become the captains of industry and leaders of men in the Cabinet and in the field, to push forward the boundaries of knowledge, to make the world better and to leave it better than they found it.

In all this you look to your own cherished institution to play

no unimportant part. When the right of her Alumni to leadership is challenged at home or abroad, when they are asked to show their passports and to justify their claim on the basis of scholarship and discipline let the parchment which certifies their honors and vindicates their title be the highest which the Commonwealth can bestow—at once worthy of her dignity and of their desert. They will come into competition with men from the East and from the West—from Maine to California and from the Lakes to the Gulf. Let their shields bear a cognizance and carry a prestige equal to those borne by the sons of New York or Wisconsin, of Ohio or of Louisiana.

For a longer period than the Hebrew Patriarch served for his beloved Rachel we have patiently and assiduously worked and waited. Now that we have won our spurs we ask the modest privilege of wearing them.

In the infancy of the Commonwealths which make up the American Union schools of learning, when founded, made little or no distinction between academies, colleges and universities. They forgot that a certain number of well manned departments was essential to the constitution of a college and a certain number of well defined and distinctive courses of study was essential to the college and a certain number of well defined and distinctive courses of study was essential to constitute a university, that the scope and compass of the one were wider and more comprehensive than those of the other. Hence the name of college or university was adopted as suited the fancy and the caprice of the founders. But as education advanced distinctions commensurate with the facts were made. The advanced institutions of learning which comprised one or two well defined courses of study leading to a degree came to be recognized as a college, the advanced institutions containing from two to six courses of study leading to a degree and which moreover provided advanced courses of study beyond graduation, leading as a recognition of post-graduate work to an advanced degree were recogized as a university. We hold that the General Assembly is bound in justice to recognize these facts. It owes to itself, to its sons, to the public to confer on its educational institution which by virtue of Section 14 of its Charter is constructively the head of the common school system

of Kentucky, a style, title and designation commensurate with the scope and character of its work. If it be nothing more than a college let it remain a college in name. If it be in fact an institution doing university work give it the style and designation to which it is entitled.

On the authority of Professor Neville I make the statement that there is no other denominational university in America that bears a State designation.

On the authority of Professor Shackleford I make the further statement that the most intelligent men in the Christian Church concede that the name Kentucky University is a misnomer.

I make the further statement on the authority of the recognized organ of the Alumni, the Cloverleaf, that the Alumni Association have for some time past been agitating for a change of name from Kentucky University to Transylvania University on the ground that their present name is a misnomer.

But we do not ask or suggest that Kentucky University change its name, if they chose so to do we certainly shall oppose no obstacle.

The essence of our contention is this: Are we doing University work? If so, we merit the title "University." Are we a State Institution? If so, we are entitled to State recognition. Neither of these propositions can be seriously contested. We are doing University work. We are a State Institution. Therefore we are a "State University" and as such are entitled to the style and title of the State University.

The idea that this designation will either breed confusion or injure Kentucky University is utterly groundless.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF EXPERIMENT STATIONS,
A. C. TRUE, DIRECTOR.

ADDRESS OF THE PRESIDENT OF THE ASSOCIATION OF AMERICAN AGRICULTURAL COLLEGES AND EXPERIMENT STATIONS.

BY

J. K. PATTERSON,
President of the Agricultural and Mechanical College of Kentucky.

[Reprint from the Proceedings of the Seventeenth Annual Convention of the Association of American Agricultural Colleges and Experiment Stations. U. S. Department of Agriculture, Office of Experiment Stations Bulletin 142.]

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ADDRESS OF THE PRESIDENT OF THE ASSOCIATION OF AMERICAN AGRICULTURAL COLLEGES AND EXPERIMENT STATIONS.

By J. K. Patterson.

Gentlemen of the Association of American Agricultural Colleges and Experiment Stations: I thank you for the honor which you have conferred upon me in

selecting me to preside over your deliberations during the present session. The highest distinction within the power of this body to bestow is not to be lightly esteemed, and I can only wish that I had been more worthy of it. I propose to occupy your attention to-night for a brief space by some thoughts on the origin and work of the colleges and universities which this association represents, and the influence thereof upon the present and future of the American people.

Many men distinguished by learning and experience have in years gone by addressed you from this chair. Some having sown the seed which others in due time will reap have already passed over to the majority; others happily are still with us to animate by their zeal, encourage by their example, and stimulate by their attainments. Like the pioneers of freedom in the western world; like the founders of the great republic; like the statesmen who laid the foundation of the system of education which this association represents to-day—these men have builded wiser than they knew and results which they could not have anticipated have followed. Not visionary doctrinaires, but practical men, they addressed themselves to use to the best advantage the material ready to their hands, and as new material accumulated incorporated it with the structure as it grew—maintaining the original idea of utility and preserving the architectural symmetry of the fundamental conception.

The organization of this association was a happy thought. These annual meetings have brought together a body of workers and of thinkers whose thoughts and achievements, contributed to a common stock, have become the common heritage of all. Happy intuitions, intelligent scientific forecasts have been patiently experimented upon, translated from the hypothetical into the actual, accepted as accredited results, and added permanently to the stock of human knowledge. Of some the relationship became immediately apparent. They gravitated at once into position; discovered their proper place in the order of things; filled a space hitherto unoccupied; bridged over a hiatus; supplied a missing link. Others did not immediately yield to classification, and possible affinities required further investigation. But, assailed from this side and from that in the crucible and by the spectroscope, a stubborn isolation could not long be maintained, and in the end the most refractory yielded to the analytic of the human intellect and the potency of the human will.

But how greatly have these activities been stimulated by mutual conference and mutual cooperation—a hint in discussion has struck a spark which ignited the fuel into a flame; a bow drawn at a venture has found a joint in the harness and penetrated the vitals of an unsubdued fact; a stray seed dropped into a generous soil has, under the influence of sunshine and rain, sprung up and in due time brought forth fruit—first the blade, then the ear, and at length the full corn in the ear.

A little over forty years ago a new departure took place in education in America. Until then classics, literature, and philosophy had been the dominant features of college work. The natural sciences were still in their infancy; scientific men had, however, for more than half a century been working along scientific lines; a priori deduction had given place to induction founded upon observation and experiment. The atomic theory of Dalton; the correlation of physical forces worked out laboriously and brilliantly by Helmholtz, Joule, and Tyndall; the uniformitarian hypothesis of Sir Charles Lyell; the spectroscopic analysis of Kirschhoff, and, above all, the far-reaching generalizations of Darwin and Wallace had made a new epoch in scientific discovery. It recalled the spirit of adventure which roused into feverish activity the boundless energy and heroic endurance of Henry the Navigator, Vasco de Gama, Christopher Columbus, and Alphonso Albuquerque four centuries before.

A new world of ideas seemed to dawn upon mankind with the introduction of the telegraph, of railway construction, of steam navigation, and the application of science to the industrial arts. The age of the Utopia of Sir Thomas More and of the New Atlantis of Bacon, divested of fantasy and clothed in the habiliments of decorous sobriety, seemed to have dawned upon mankind. The stimulus given to immigration brought hundreds of thousands annually to our shores, and the impulse given to transcontinental migration through the development of the railway system east of the Mississippi transferred hundreds of thousands annually from the Atlantic and Middle States to the fertile lands stretching out in forest and prairie, ready to receive and reward the hardy and industrious pioneer with comfort and plenty.

The rich gold fields of the West acquired by conquest and purchase, the annexation of the great empire of the Lone Star State, the boundless domain between the Mississippi and the Rockies, inviting capital and enterprise for pasturage and cultivation, all contributed to develop a feeling of unrest and a longing for better things. The long pent-up energies of a young, vigorous, self-reliant people broke beyond the geographical limits which had hitherto bounded their labors and rewards and swept a living tide of humanity over hill and valley, over mountain and plain, beyond lake

and river into the illimitable lands of the near and middle and far West—from the Alleghenies to the Mississippi and Missouri; from the Mississippi and Missouri to the great American desert, the Rocky Mountains, and the shores of the Pacific Ocean. And thus the wave of settlement, adjusting itself to peaceful industry, laid the foundations of new States, planted new industries, brought vast stretches of hitherto unproductive lands under cultivation, opened up the treasures of the mine, multiplied the lines of communication, and poured the agricultural and mineral wealth of the great West into the commerce of the world.

Concurrently with these recent economic changes, resulting from the operation of natural causes, economic changes of equal magnitude were brought about through fiscal legislation at home and abroad. The establishment of free trade in Great Britain opened the markets of that country to American agricultural products, stimulating to an unwonted degree production at home and correspondingly depressing agriculture in the British isles. American wheat and corn monopolized the supply of breadstuffs to the British artisan, building up and controlling a market into which no other competitors could enter on equal terms. Concurrently therewith the protectionist policy adopted by the United States not only rendered this country independent of foreign supplies, but enabled her in the end to become in many of the chief products of the mine, the forge, and the loom a formidable competitor for the chief part of the commerce of the world.

Under these conditions, vaguely apprehended by the majority, but apprehended with more or less clearness of vision by a few of the far-sighted statesmen of the country, the Morrill law of 1862 was passed by the Congress of the United States. There arose a demand for a system of education adapted to the needs of the time, which should go beyond the requirements for classics, law, medicine, divinity, and letters; an education which, without proscribing or neglecting classical and philosophical studies, should utilize for the public good the known and discoverable laws and processes of nature for the increase of production and the multiplication of the comforts and necessities of life. This demand the Morrill law was intended to satisfy, and upon this foundation more than fifty State colleges and universities are established.

Mr. Morrill saw that in the rapid alienation of the public lands through settlement and gratuitous allotment to railway corporations the public domain was rapidly being exhausted. He accordingly determined to dedicate a part of this rapidly diminishing public domain to the education of the American people along new lines and according to the necessities imposed by geographical and economic conditions peculiar to the Western Hemisphere. He provided that land script should be given to the several States in proportion to population for the endowment of institutions of learning, wherein should be taught those branches of learning related to agriculture and the mechanic arts, without excluding classical and other scientific studies, and including military tactics, for the education of the industrial classes in the several pursuits and professions of life. This was a radical departure from the old idea of education. It was a conception of university work such as had never yet been thought out by any thinker and whose realization had never yet been attempted. The existing body of human knowledge, whether of mind or of matter, hypothetically assumed or actually realized, was to be made available for appropriation by the learner; and the far greater domain of nature, unknown or partially known, invited the investigator through observation and experiment to new fields of discovery.

The old institutions looked doubtfully and not quite sympathetically on the new education. They gravely shook their heads at the credulity of those who thought that investigation in those branches of science relating to agriculture and the mechanic arts could be carried beyond the merest rudiments or would be productive of results at all commensurate with the expenditure of the time and money proposed. But when within a few years they saw an interpretation given to the legislation of Mr. Morrill which did not confine mechanic arts to blacksmithing, carpentry, and kindred handicrafts; which went beyond the still more advanced conception of manual training and discovered its ultimate application in engineering—mechanical, electrical, civil, sanitary, and mining; when they saw, as preliminary and preparatory to these, extended courses in mathematics, chemistry, and physics, reaching far above and beyond those in the older colleges and universities, they began to show more consideration for the new and to ask, "Can any good thing come out of Nazareth?" When, moreover, they saw that the foundations of a science of agriculture were being laid in extended courses of botany, comparative anatomy, and physiology, biology, chemistry, entomology—that, through these, barren fields were made fertile, the products of animal and vegetable industry improved in quality, multiplied in quantity, and increased manifold in commercial value—the exclusiveness of the old tacitly acquiesced in a modified recognition of the new.

Silently, steadily, resistlessly the new has moved on regardless of the contempt, the pity, the tolerance of the old. Ere long the new institutions, retaining for the most part the classics and the philosophies of the old, established chemical, physical, biological, and engineering laboratories on a scale of expenditure and completeness far beyond the resources of the old; they set the pace for scientific study and investigation in America. By their bold experiments and stupendous results they startled the old institutions out of their complacent lethargy and roused them to an activity hitherto unknown. They made it manifest that classical and philosophical attainments and discipline could exist side by side with thorough training and far-reaching acquirements in natural science, and that these latter found an application in the development of agriculture and manufacturing industry out of all proportion to the original conception on which the legislation of 1862 was based.

A few of the older universities, originally denominational but long since secularized—Yale, Harvard, Princeton, Columbia—with prestige, large endowments, and wealthy alumni, who have contributed freely to enlarge the sphere of their capability and activity; and a few recently founded and endowed by individual munificence on a scale of unprecedented liberality—Johns Hopkins, Leland Stanford, and Chicago University—stand well to the front and maintain each a staff of workers in the field of investigation who are the peers of any in the land. Most of the others, especially those which are dependent upon denominational support, have fallen hopelessly to the rear. The colleges and universities established under the Congressional act of 1862, whose areas of activity were enlarged by the supplementary legislation of 1887 and 1890, have grown so rapidly that they are now recognized in most of the States as the chief exponents of the higher education coupled with the practical education which finds expression in ever multiplying bushels of wheat and bales of cotton and tons of steel—an education which conditions and renders possible the supremacy of America in productive activity and commercial enterprise.

But our scientific achievements and their translation into material wealth must not be content with these triumphs. The last forty years—a period coincident with the life of these institutions—have witnessed an increase in population and in wealth such as the dreams of the most sanguine could not have ventured to anticipate. No parallel for it exists either in ancient or in modern history, either in the Old World or in the New; and the actually realized power and wealth of the nation are but the beginning of greater and mightier things yet to be. Within another half century our population will have quadrupled, our wealth increased in more than corresponding proportion, and our strength on land and sea such that no power or combination of powers will be able to gainsay or resist. In this mighty onward march the State colleges and universities will lead the van. But they must do more than point the way which leads to material wealth and dominion. Problems relating to mind and matter of surpassing interest to mankind are pressing for solution, and to their solution the scientists and laboratories of these colleges and universities must contribute an adequate if not a preponderant share.

For example, I have seen it stated that the theory set forth in Prof. Osborne Reynolds's Sub-Mechanics of the Universe "that not a flawless, continuous ether, but a granular structure of the spaces of the universe that not only explains all observed phenomena and the cause of gravitation, but reveals the prime cause of the physical properties of matter finds for the present one of its chief facts of interest in the fact that few if any of living mathematicians are capable of following his demonstrations and none are strong enough to attack it."

Sir William Crookes, in an address to the International Congress for Applied Chemistry at Berlin, June 4 of this year, said that chemists now admit "the possibility of resolving the chemical elements into simpler forms of matter or even of refining them away altogether into ethereal vibrations of electrical energy." He further declared that "a number of isolated hypotheses as to the existence of matter in an ultragaseous state, the existence of material particles smaller than atoms, the existence of electrical ions or electrons, the constitution of Röntgen rays and their passage through opaque bodies, the emanations from uranium and the dissociation of the elements are now welded into one harmonious theory by the discovery of radium." He added that if the hypothesis of the electronic constitution of matter were pushed to its logical limit "it is possible that we are now witnessing the spontaneous dissociation of radium, and if so must begin to doubt the permanent stability of matter. If this be so the 'formless mist' must once more reign supreme and the visible universe dissolve."

Sir Oliver Lodge in the Romanes lecture delivered at Oxford on the 14th of June suggested that "atoms of matter are actually composed of concentrated portions of electricity which could exist separately or in association. Seven hundred such electrons in violent orbital motion among themselves would constitute an atom of

hydrogen; 11,200 electrons would form an atom of oxygen, and 150,000, an atom of radium. We have on this theory arrived at the ultimate chemical particle, various combinations of which form all the infinitely diverse aspects of matter."

Sir Oliver observes that "the attraction of this hypothesis is that it represents a unification of matter and a reduction of all material substance to a purely electrical phenomenon." This electrical theory of matter involves two consequences—a continual increase in the velocity of the constituents of an atom and the ultimate instability of those constituents. There is thus a state of flux and decay "in the foundation stones of the universe, the elemental atoms themselves." Sir Oliver thinks, however, that "there is at the same time a system of reaggregation at work which constitutes a sort of regenerative process which will preserve the universe by the creation of new forms of matter in the place of forms that have been dissolved."

If these things be so it can no longer be said "that the ultimate details of atomic constitution are beyond our scrutiny." But, granted that these details are known, the mysteries of the universe are still unsolved. What is the nature of electric phenomena? What are those things which can evolve out of structureless simplicity the infinite complexities of the earth and heavens? Does a directive force, intelligent and eternal, become the necessary postulate for a rational conception of the universe? Are we warranted in concluding with Tennyson that—

> "Only that which made us, meant us to be mightier by and by,
> Set the sphere of all the boundless heavens within the human eye;
> Sent the shadow of Himself, the boundless, through the human soul
> Boundless, inward in the atom, boundless outward in the whole."

We are manifestly on the threshold of mighty discoveries. What part will the American intellect play in the investigation and solution of these problems? What part will the colleges and universities of this association play in the unfolding of this stupendous drama? In the laboratories of the chemist and the physicist the work must be done. To this end we need skillful workers, clear thinkers, prophetic men with trained intellects and scientific imaginations. To this end we need special endowments for research; but special endowment for research means large expenditure for the best material facilities which ingenuity can devise and skilled workmanship can construct. It means also highly disciplined and trained investigators whose time is not occupied with the drudgery of instruction, but which is devoted entirely to original work.

These conditions necessarily imply large expenditure, and the means for this must be obtained from the liberality of the nation and from the generosity of individuals. We must encourage the study of higher mathematics in order to develop men who shall be able to follow and interpret the mathematics on which such theories as those of the Sub-Mechanics of the Universe rest. We must create in our laboratories the Curies and the Kelvins and the Crookes and the Clerk-Maxwells, the Rutherfords and Bancrofts and Oswalds, who shall grapple with and if possible solve the mysteries of the physical universe. This, I trust, will fall largely to the lot of the colleges and universities which we represent to-day. Let us hope that from their halls shall issue the honored few; from their ranks shall arise the heroes of science who, in the achievement of these last and greatest results, shall be welcomed to join the ranks of the immortals.

With the accession of the Tudors in 1485 the influence of England in continental affairs had materially diminished. The days of Crécy and Poitiers and Agincourt with the passing of England's heroes—the Black Prince and Henry V—had also passed away. The treaty of Pecquini had left England none of her continental possessions except Calais, and this too was to pass to the house of Valois before the Tudors ceased to reign. The ascendency of Spain was unquestioned. Even after the abdication of Charles V the Spanish monarchy was the most powerful in the world. The vast over-sea possessions which that monarch had inherited from Ferdinand and Isabella he transmitted, enlarged and consolidated, to his son Philip. But the growing sea power of England, after the accession of Elizabeth, was destined ere the close of the century to give the Spanish power a fatal blow. The defeat of the Armada sealed the fate of Spanish supremacy, and proved that something more than prestige and gold was needful on which to build national power and national prosperity. From 1588 the star of Spanish dominion gradually declined and the scepter was by degrees transferred to mightier hands.

England followed close upon the track of discovery, but more than a century passed before any permanent settlement was made by her in the New World. Though she entered later on the race of trans-Atlantic adventure than either Spain or France, yet she was destined to outstrip all her competitors in colonial dominion. The colonies founded during the reign of the successor of the great Tudor queen were established

not by men impelled by the lust of gold, but by men who sought political freedom and liberty to worship God according to their conscience. They carried with them love of home, reverence for law, a deep sense of the inalienable rights of man, and the conviction that in their veins flowed the blood of Alfred and of the barons who extorted the Magna Charta from King John on the field of Runnymede; and here, with these convictions and with these traditions, they laid the foundations of what in the immediate future will be the mightiest nation which the world has ever seen. The Revolution of 1776 broke the political bonds which united the original colonies to the mother country; but it did not break the bonds of blood, of inherited traditions, and of the glory which attached to the common inheritance. All the glorious ideals of the race have quickened, enlarged, and intensified; and have found realization to a degree which could never have been attained within the narrow limits of the original home in the Old World. The immemorial heritage of freedom brought by Angle and Jute and Saxon from the banks of the Saale to those of the Thames and the Humber and the Dee, and after ages of growth within the British Isles transplanted to ampler fields in America has found its ultimate development in the great nation of whose origin and history we are all so proud to-day. And it may surely be a source of legitimate pride to the mother country that the great empire, which neither the ambition of Louis XIV nor the conquering power of Napoleon could dismember, received its first rude shock from the courage which she had communicated to her emancipated offspring, and that amid trans-Atlantic wilds grew up a race of men who have established real liberty on the principles which they inherited from ancestors who were the countrymen and compatriots of Bacon and Sidney, of Hampden and Oliver Cromwell.

In the United States of to-day even the busiest and the most actively employed in the intervals of leisure stop to inquire whence they came, what they are, and whither they tend. The apprehension has been felt and expressed that we are too much given up to the acquisition of wealth, too material, that we care nothing for the past, are absorbed in the cares of the present, and clothe the future in the draping of the accumulated gains built upon the foundations which we have laid. The hundreds have grown into the thousands, the thousands into the millions; we look to a future when the latter shall have expanded into billions; and then the golden age in another sense than that of the ancients will have superseded and supplanted all others, and wealth not brains will rule mankind. But wealth in the second generation, if not in the first, looks anxiously for a background of respectability. This is a wholesome feeling and a healthy indication. The wealthy long for something more than mere wealth to differentiate them from the masses. Energy and capacity and ability to accumulate wealth were indispensable, but these must have had an antecedent existence in the family. Heredity and atavism are assumed as the necessary conditions and these are sought for in family history. Family traditions, family records, title deeds, names and surnames, on this side the Atlantic and on the other, are eagerly examined, studied, collated, and translated into genealogies embodied in family trees with all the accessories of crests, mottoes, armorial bearings, and coats of arms. These ideas are not incompatible with republicanism. The Washingtons and Jeffersons and Adamses and Winthrops of colonial time were proud of their title deeds and genealogies and descent from the gentry and gentlemen and nobility of the mother country. Not only were the leaders in the American revolt of 1776 gentlemen and the sons of gentlemen, but most of the noncommissioned officers and men were of reputable English and Scotch and Irish descent. Gentlemen fought and won in the Revolutionary contest. In no subsequent war in which the United States has been engaged did the armies of the Republic contain so large a proportion of gentlemen. What, then, is called the modern craze for geneaology is a healthy, conservative, mental condition, an effort to discover, and if not to discover, to make a place in the annals of recorded or unrecorded gentility. Fortunately the original contributory elements which make up the history of the great Republic are not so difficult to discover. The early history of Puritan, Pilgrim, and Cavalier is well known. The politico-religious ferment which led to the emigration of the one and the spirit of adventure which led to the voluntary expatriation of the other are matters of history.

Other contributory elements from Germany and Scandinavia and central and eastern Europe have swelled the population of this newer and mightier England which occupies the best half of the North American continent, but the basis, the backbone, the brain of the country remains and will remain Anglo-Saxon. Our history thus finds its roots in the history of the peoples of the Old World and preeminently in that of middle England, which stands midway between the Saxon of the Saale and the Saxon of America. Through our relations with them Robert Bruce and Bannockburn are ours; Hastings and Runnymede, Evesham and Crécy,

Bosworth field and Marston Moor, Blenheim and Culloden. Through them we inherit the glory of an inalienable birthright in the common law, in the growth of parliamentary government, in the reformation of Knox, and the martyrdom of Latimer and Ridley. Through them we claim an equal inheritance in Wyclif and Bacon and Shakespeare; in Newton and Boyle and Harvey; in Burleigh and Halifax and Chatham; while we allow them to share the greatness of those who are peculiarly our own, Franklin, Washington, Longfellow, Andrew Jackson, and Abraham Lincoln.

Now, inasmuch as the students in our colleges and universities are or should be educated not as scholars and scientists only, but as citizens who will be concerned in shaping the destinies of the greatest people whom the world has ever seen, it is not less incumbent that adequate provision be made for the attainment of the one end equally with the other. The State university must be what Ezra Cornell, in founding the university which bears his name, wanted it to become, viz, a place where everything could be taught which it is possible to teach, and where everything could be learned which it is possible for one to know.

I would urge, then, with all the insistence which I may, the necessity that history and political philosophy with all their correlated subjects should become a special feature of the university and collegiate instruction which we represent. In many institutions they are already distinctive features. They should be made distinctive and obligatory in all.

Within the last two hundred years history has been made rapidly in America. For a time almost isolated from contact with European nationalties and in touch with the Old World mainly through official relationships, political life developed without interference from abroad. The theory of the New England commonwealth gradually became more political and less theological; the limits imposed upon religious freedom gradually relaxed and political freedom became more unrestained. The colonists were law-abiding, but the laws to which they subjected themselves were of their own making. So strong, however, was the traditional respect for law and order, and so conservative were they when least restrained by external authority, that their legislation never tended to sap the foundations of the commonwealth nor to impair the obligations of contract. Legislation was generally along the lines of precedent, following the recognized principles of the common law and adhering closely to the rights and duties laid down in the great charter of English freedom. When under new conditions new legislation was needed for which no precedent existed known to the lawmakers, the ample shield of the spirit of the common law and of Magna Charta was invoked to cover them. So in the interpretation of the law by the judge on the bench; if statute law did not exist to meet the cause in action, the common law was so interpreted as to apply, and the spirit of jurisprudence came to the relief of the dispenser of justice.

And this was exactly what had happened hundreds of years before in Wessex and Kent and East Anglia and Mercia and Northumbria. The principles of law and equity had grown up silently in the community, enlarging in their application as new conditions arose, and became embedded in the hearts of Englishmen ages before they found articulate expression in the laws of Ina and Offa, Alfred and Ethelred; ages before the charters of John and Henry and Edward placed the seal forever on the recognized and inalienable rights of Englishmen. This spirit and these traditions they brought with them to the new world. England alone of all the world could supply such colonists, and England alone of all the world could continue, without exhaustion, the work of colonization on such a scale as to assure ultimate success. The Puritans of the North and the Cavaliers of the South, reinforced in later times by the sturdy Scot from the Lowlands and the Highlands and, later on, by the equally hardy Scots of Ulster formed the basis of American nationality, and a nobler ancestry the world has never seen. The characteristics of the first settlers remain the predominant characteristics of the typical American of to-day and, however affected by subsequent infusions from continental sources, remain in large measure unmodified. This prepotency of race and of blood is manifest in every phase of the history of the American people. Only people of Anglo-Saxon blood, Anglo-Saxon endurance, and Anglo-Saxon devotion to freedom could have maintained and carried the struggle for independence to a successful issue against the power of the mother country. Only people of Anglo-Saxon blood could have maintained and successfully concluded the second trial of strength with the might of the British Empire in the war of 1812. Only the descendants of this heroic stock could have routed the armies of Mexico and planted the Stars and Stripes upon the ramparts of Chapultepec and Churubusco; and in that terrific contest, fought out forty years ago for the maintenance of the integrity of the Republic, when armies larger than those engaged at Marengo, Wagram, Austerlitz, Jena, or Waterloo, met each other on the field of battle, the men on

both sides, who led them to victory or defeat, and the men who composed them were in the main the descendants of the pioneers whose ancestors had lived for thirty generations within the four seas of Britain. Lee and Jackson and Stuart and Hampton and Gordon, McClellan and Grant and Sheridan and Sherman and Thomas are as thoroughly British names as Cromwell and Marlborough and Wolf and Wellington. With this people, its noble ancestry, its inspiring traditions, its stupendous achievements, and its glorious history, I would have the most ample provision made in every institution in this association for its students to become acquainted. The educated American should know the history of his own people in itself and in its relations. We go back beyond 1776, beyond 1620 and 1607. The roots of our being are identical with those of the patriots who worked out patiently and laboriously for six hundred years the problems of parliamentary government, of the relation of the subject to the state, of taxation to representation, of the coordination of liberty and authority. English history before 1776 belongs as much to Americans as to Englishmen, and American institutions are unintelligible if dissevered from their rational relationship. The American Constitution without the prior existence of Magna Charta, Habeas Corpus, and the Bill of Rights would have been impossible.

On one occasion Lord Beaconsfield gave utterance to a felicitous expression which roused to an intense self-consciousness the hearts of the British people. "Libertas et imperium" struck a note which vibrated through the British Isles. They felt that they had achieved empire through freedom. I would strike a kindred note here to-day. I would have this association adopt the motto: Education and Empire. Freedom we have. Freedom forms the basis of our national existence, the air which it breathes, the inspiration of the life which it lives. But the inspiration and the vitality of freedom and of empire must henceforth be intelligence—developed, strengthened, exalted, purified.

Not long since a conference of allied colonial universities was held in London. There were present men like Lord Kelvin and the leader of the House of Commons, eminent representatives of learning and science, men high in authority in the old universities of the mother country, and men of distinction in the more recently established universities of the King's oversea dominions. Mr. Balfour announced the object of the meeting to be "An alliance of all the universities that in an increasing measure are feeling their responsibilities not merely for training the youth which is destined to carry on the traditions of the British Empire, but also to further those great interests of knowledge, scientific research, and culture, without which no empire, however materially magnificent, can really say that it is doing its share in the progress of the world." What the statesmen of the kindred people beyond the Atlantic seek to do, we have already been doing for years. This federation of colleges and universities has been addressing itself to realize the objects set forth in the language just quoted, viz, the furtherance of the great interests of knowledge, scientific research, and liberal culture, "without which no empire, however materially magnificent, can really say that it is doing its share in the progress of the world." No such federation of educational agencies and activities as this association of ours has ever been seen. It is the first, the greatest, the most far-reaching in its aims, and the most successful in its results. It has long since passed beyond the embryonic stage. Embracing within its ample scope all that is valuable in the old and incorporating it with new ideals, it presents to the nation and the world a system complete because all-embracing, and, inspired by the vigor of youth, goes on conquering and to conquer. "To the solid ground of nature trusts the mind which builds for aye."

American institutions have materially influenced the principles of government in the Old World; American education is accomplishing a similar work in influencing the educational systems of Europe. Germany has felt its power, great though Germany be in intellect, in pure science, in discovery; England frankly acknowledges her obligations to American methods in university training and in the application of science to industrial production; Russia in her commercial exclusiveness pays a reluctant tribute to American enterprise. All these are legitimate sources of an honorable pride, and all the more gratifying because the federation of American colleges and experiment stations is the exponent of the idea. The precedence which we have won we must maintain.

In hoc signo vinces. State and nation are alike interested in the existence and development of the units which form this organization; and State and nation will respond with equal liberality in order to maintain the most comprehensive, most economic, most fruitful educational activity which human wisdom ever devised.

From a glorious past, through a marvelous present, to an illustrious future, the transition is natural and easy. If the growth and prosperity witnessed within the memory of living persons have been unexampled, it is because conditions—intel-

lectual, moral, religious, social, material, and political—existed such as never existed before. Some of these will continue, others will undergo material modification. The intellect through scientific discovery and liberal culture will probably become more keen and more intense in its activity. Social conditions and relations will change as they are changing now. The rich will become relatively richer and the poor perhaps poorer. A greater mastery will be obtained over the powers of nature, subordinating them to human control and to human utility. The visible embodiments of the collective will in civil government—executive, legislative, and judicial—will be determined by the moral and religious ideas and convictions which prevail.

If there be wholesome, vital, intense, and strong social and political convictions, the relation of the individual to the community, of the citizen to the State, will be determined by honest and rational means for the attainment of high and honorable ends. Upon the moral and religious life of the future will depend the future greatness of the great Republic. The vigorous beliefs in which the fathers and the mothers of the olden times were brought up have without doubt changed. Is it for the better or for the worse? Let us hope that human elements only have been eliminated and all that is divine is retained; that the dross and tin have been purged and that the gold remains. But somehow the shadow of a doubt sometimes crosses the mind that not the form only but the essence has changed, that—

> "Now there are new religions, many the codes and the creeds,
> Many the quibbling changes to fit with our fanciful needs,
> All of them waxing milder, waning in strength and tone;
> None of them stern and sturdy; none of them stand alone.
> None like the old religions—those that the fathers made,
> Built on the fearless basis—the God of the unafraid."

The moral and religious tone of the country upon which the greatness of the nation will depend will be influenced largely by the moral and religious tone which pervades the colleges and universities which compose this association. Let us see to it that the God of our fathers, reliance upon whom carried them through the throes and perils of the birth of the nation, is not forgotten; let us see that "the divinity that shapes our ends, rough-hew them how we will," is still recognized and reverenced—conscious that amid human affairs there is a power that works for progress and for righteousness and that the great lesson of all history, specially emphasized and exemplified in our own, is the realizing of the divine in the human; of the infinite in the finite; of the eternal in the temporal; that—

> "Not in vain the nation's strivings
> Nor by chance the current's flow,
> Error mazed yet truth directed
> To their destined goal they go."

We can picture to ourselves ere the close of this century a nation of seven hundred millions of people, Christian, peaceful, rich, and happy; with realized industrial, agricultural, and commercial wealth, tenfold that of the present; with a predominant influence in the councils of the world; with a fiscal system light in its burdens, with income balancing expenditure, with laws just and equitably administered; with ignorance banished, crime restrained, and pauperism nonexistent; with the relations of wealth and labor rightfully adjusted; and above all with a deep, all-pervading sense of the fatherhood of God and the brotherhood of man.

We can fancy these colleges and universities with endowments counted by millions and students by tens of thousands, recognized as the prime factors in individual and national wealth and greatness; venerable abodes of learning diffusing through their sons and daughters an enlightenment and culture pervaded by a deep religious sense, enlightened by science, and a science leavened and glorified by religion. We can think of them as the depositories of discovered truth whence the pilgrims of every kindred and clime recruit their stores for the enlightenment of mankind; as beacons whose illuminating beams irradiate every continent and transcend every sea. Then shall we realize the vision of the Hebrew prophet: "Who are these that fly as a cloud and as doves to their windows? Their sons shall come from afar and their daughters shall be nursed at thy side, * * * and I will make the place of thy feet glorious."

Happy land, happy people, yea happy is that people whose God is the Lord.

ARGUMENT OF

Ex-President James K. Patterson

BEFORE THE

Board of Trustees of the State University

August 5th, 1912

On the motion of Judge Barker to rescind and annul the "Conditions of Retirement" adopted by the Board December 9th, 1909.

WITH APPENDICES.

Press of
TRANSYLVANIA PRINTING CO.,
Lexington, Ky.
1912

Argument of Ex-President James K. Patterson before the Board of Trustees of the State University, Aug. 5, 1912, on the motion of Judge Barker to rescind and annul the "Conditions of Retirement" adopted by the Board December 9, 1909.

With Appendices.

Mr. Chairman:

Compliments of

James K. Patterson, Ph. D., LL. D.

sprudence that be proven and and not on the rtunity to place foreign to our he law requires of the witnesses will rest, that specifications be made and ample time given for the defense.

In the present instance you are asked and expected to ignore and disregard these safe guards. Upon exparte statements, hearsay testimony, supplied to members *individually*, the sources of information being withheld from the accused and no opportunity being given to test their accuracy or credibility, you are asked and urged to proceed against the accused and to condemn him. You are asked without cause alleged, without specifications made, without proof submitted to annul the action of the Board of Trustees of Dec. 9, 1909, to repudiate the obligation then created, sanctioned, and accepted and to annul a contract solemnly entered into on the good faith of the faithful fulfillment of which my resignation as President of the University was offered. The information comes to me from credible sources that you have been told *individually*, on the basis of hearsay testimony, irresponsible obiter dicta, that my attitude to the State University during the last session of the General Assembly was hostile and disloyal, that I counseled members to refuse appropriations for its benefit, that I opposed and defeated legislation necessary for its effective and successful man-

Argument of Ex-President James K. Patterson before the Board of Trustees of the State University, Aug. 5, 1912, on the motion of Judge Barker to rescind and annul the "Conditions of Retirement" adopted by the Board December 9, 1909.

With Appendices.

Mr. Chairman:

It is the glory of English and American jurisprudence that everyone is considered innocent until the contrary be proven and that the burden of proof rests upon the accuser and not on the accused. To condemn without a full and fair opportunity to place all the facts before judge and jury, is altogether foreign to our ideas of justice. Even in cases of high treason, the law requires that before trial the accused be furnished with a list of the witnesses upon whose testimony the charge of criminality will rest, that specifications be made and ample time given for the defense.

In the present instance you are asked and expected to ignore and disregard these safe guards. Upon exparte statements, hearsay testimony, supplied to members *individually*, the sources of information being withheld from the accused and no opportunity being given to test their accuracy or credibility, you are asked and urged to proceed against the accused and to condemn him. You are asked without cause alleged, without specifications made, without proof submitted to annul the action of the Board of Trustees of Dec. 9, 1909, to repudiate the obligation then created, sanctioned, and accepted and to annul a contract solemnly entered into on the good faith of the faithful fulfillment of which my resignation as President of the University was offered. The information comes to me from credible sources that you have been told *individually*, on the basis of hearsay testimony, irresponsible obiter dicta, that my attitude to the State University during the last session of the General Assembly was hostile and disloyal, that I counseled members to refuse appropriations for its benefit, that I opposed and defeated legislation necessary for its effective and successful man-

agement, and this alleged attitude and action without further investigation or proof, is sufficient warrant, you are assured, for the abrogation and annulment of the contract of Dec. 9, 1909. The charge of hostility and disloyalty to the University I deny, and the further charge that I counseled members to withhold needed appropriations I also deny and challenge the production of the proof. That I opposed and assisted to defeat a measure to repeal the present admirable system of appointment on compelitive examination, I admit and you and the University and the Commonwealth ought to thank me for it. I have endeavored, without success to procure the names of those persons upon whose exparte statements you are asked to base your proposed action. I now and here protest against any action adverse to me being taken, until a preliminary inquiry establishes the truth or falsity of the charges upon whose assured and assumed correctness you are asked to proceed. I respectfully request that distinct and unambiguous specifications of charges be made; that the names of witnesses be furnished me with the alleged material facts which they are expected to establish; that the privilege of examination by an attorney of witnesses on oath be allowed and that a reasonable time be given within which to prepare my answer. I ask for nothing but what law and justice concede to the humblest citizen. Custom and courtesy and law and justice entitle me to this and I insist upon it, not as a matter of grace, but of right. The proceedings of this body in its discharge of judical functions, should be in harmony with those of a court of justice. Impeach me before this Board sitting in this capacity and concede to me the privileges and the rights which the accused may claim. Whatever this Board may do or not do, they cannot afford to incur the imputation of refusing the necessary facilities for defense and vindication to one who has been identified with the University from its origin and who by the common consent of all has made it what it was when he resigned January 15, 1910.*

At this stage of the proceedings, Judge Barker urged that the Board take immediate action. He moved to rescind and annul the "Conditions of Retirement" adopted by the Board Dec. 9, 1909.

*See Appendix V.

The chairman, Gov. McCreary, asked me if I had anything further to say. Whereupon, I rose and addressed the Board as follows:

Mr. Chairman:

Judge Barker in moving the resolution that the Board of Trustees rescind and annul the "Conditions of Retirement" adopted by the Board on his reccommendation, Dec. 9, 1909, said: "the campus is not wide enough to hold him (Patterson) and me, I don't speak to him, I hate him." In reply I said: "I am quite well aware that he hates me with a hatred intense implacable and eternal. But, notwithstanding all the wrong that he has done me and the injustice, which, with a frantic appeal, he urges the Board to do me, I do not hate him. I profoundly dislike his ways and his doings, but I do not hate him. I could not hate a man with whom my personal relations were formerly so cordial, especially when he was busily engaged in efforts to facilitate my retirement and resignation, efforts the signifiance of which I understand better to-day than I did in Dec. 1909.

Some of his most intimate frienls have told me that he cares nothing about the annuity, that its legality or illegality is a matter of indifference, but that he feels overshadowed by my presence and by my superior intellect and attainments and would readily concede the continuance of the annuity, provided I would agree to resign my seat on the Board of Trustees and in the Faculty. Evidently Judge Barker's supersensitive conscience plays strange freaks with his conceptions of legality and illegality, convenient words with which to juggle by a man who has reduced verbal jugglery to a fine art. But, it is surely none the less a humilating confession for him to make. If I overshadow him, that is his misfortune, not my fault. It would be none the less a matter of questionable legality and morals for you to penalize me because of his natural defects and deficiencies. Education might to some extent have remedied them, but, unfortunately of education, as education is commonly understood, he has, though President of this University, little or none.*

Much to my regret, the unfortunate alienation which grew out of my reluctance to support Judge Barker's candidacy to succeed me

*See Appendix III.

as President of the University has grown wider and more acute. This alienation has become more acute in consequence of radical differences of view in regard to certain policies connected with University adminstration. I have no desire to widen the breach, but would gladly see the chasm bridged over and a return to the "status quo ante." We are both human and things have no doubt been said and done which had better been left unsaid and undone. I do not question his loyalty, and that of those who think with him, to the University. I am still more certain that no one who knows the facts can question my loyalty to the University.

I was not the University while President, neither is Judge Barker, my successor, the University. The University is bigger than the President, or the Board of Trustees, or the faculty. These are temporary, transitory, continually shifting; the University is permanent and enduring. The President of the United States and the Governor of Kentucky are important entities, selected to discharge delegated duties, but the one is not the Nation, and the other is not the Commonwealh. They may come and go; the Nation and the State remain.

Judge Barker apparently endeavors to make the Board a party to a personal quarrel; in identifying the University with himself, he would seem to give dignity to his controversy with me and to place the Board in the front to bear the brunt of the quarrel.

With the exception of Director W. P. Thorne of the Ohio Experiment Station, I am the only survivor of those college men who organized in Washington City in 1885, the Association of Agricultural Colleges and Experiment Stations, of which this institution has been a continuous and an honored member. In 1904, I obtained membership for the State College in the Association of State Universities, although it was then a college only and not a University; in 1908, in the International Tax Association and the Conference for Education in the South; and in later years in the National Education Association. All these meetings, and others of educational character, I have regularly attended and participated in their proceedings, keeping the State University always to the front. Their knowledge of the State University was obtained through me and aside from me it would have been

practically unknown. While I did not seek prominence in these meetings, I was called upon to make addresses, write resolutions for committees, and to do other delegated work. In 1903 I was President of the National Association of Agricultural Colleges and Experiment Stations. Through acquaintance thus made, I was invited from time to time to make commencement addresses in Vermont, South Carolina, North Carolina, Oklahoma, Ohio, West Virginia, Michigan, Arkansas, Tennessee and Hanover College, Indiana. All knew the State University through me and it took rank side by side with Cornell, Ohio State University, the Universities of Illinois, Indiana, Missouri, Minnesota, Wisconsin, Pennsylvania, Louisiana and other great institutions, north and south.

Section 5* of the conditions of retirement adopted and agreed upon by the Board, sets forth in detail the privilege and the duty of my continuing to represent the University in these and kindred associations, state and national, the fulfillment of which constitutes a bona fide consideration. In my capacity as President Emeritus, I have made addresses in the University to the Department of History and Economics, to the students of the Law School, to the student body in chapel, conducted chapel service, accompanied by extemporaneous addresses, addressed the Y. M. C. A. and the Literary Societies, aided in the collection and classification of books for the library. I have also, when invited, represented the University at meetings of the Commercial Clubs of Louisville and Lexington, Bankers Association, and Greater Kentucky Convention. The manifest desire to secure my attendance at meetings of this character and the hearty welcome given me upon all occasions testify unmistakably to the weight and influence attaching to my name. Whenever and wherever my name is mentioned, it suggests the State University of Kentucky, and vice versa.

This is not spoken from egotism, but from the conviction that my name is and has been considered a valuable asset to the University, and its use and connection with the University constitutes in the legal sense a consideration in the agreement which the Board made with me. This contract, deliberately entered into, under

*See Appendix II.

the general powers given by the Legislature to the Board, the Board had the undoubted power to make.* Furthermore in accepting its terms and in resigning the Presidency upon the strength of this deliberate agreement, I was induced to forego a substantial legal right, viz., the Presidency of the University, which in itself constitutes a valuable and sufficient consideration to sustain the contract.

In adopting these conditions of retirement, the Board of Trustees evidently had two things in mind, viz:

1st. A recognition of the value of the service which I had rendered to the college and university during a period of forty years, and

2nd. A desire to utilize still further for the good of the University the prestige attaching to service already rendered and the ability to render active service still, not as an instructor or administrator, but in the wider field of speech and action which involved experience, activity, wide acquaintance with leading aducators and devotion to a definite ideal.

Moreover, the board of trustees knew that the basis upon which the value of my name as an asset rested was no fiction. They had in mind the long and meritorious service which I had rendered from 1878 to 1910. In 1878 the college had an anomalous, nondescript existence. I provided for it both "a local habitation and a name." I got the money from Lexington and Fayette County for the erection of its first buildings, one of which is the dwelling house from which the President now seeks to eject me, and from the Legislature its first charter, and the half-cent tax which now yields $50,000 per annum, defended and maintained the tax in 1882 in the Legislture and in the Court of Appeals against the opposition of the denominational colleges, the churches, the grange and the opposition of all the press of Kentucky, except the Courier-Journal, the Lexington Press, and the Danville Advocate. This united opposition was upheld and maintained by the best legal talent in the Commonwealth.**

In 1882, when misled by our architects, the building fund obtained from Lexington and Fayette County was exhausted and the college in danger of going into the hands of a receiver, I placed

*See Appendix I.
**See Appendix V.

my private resources at its disposal, carried it triumphantly through all difficulties, legislative, judicial and financial. Its shield was battered with many a blow and pierced with many a thrust, but never abandoned to a foe.

"Dead and buried had they seen me,
So the ready tale they spread,
But I lived to see the tellers
Buried all themselves and dead."

I made enemies then. I have never been without enemies during all my educational career in Kentucky. I have them now —who that is worth his salt has not?—but I always waged an honorable warfare and no one can say that I ever struck a blow below the belt. Heads of colleges, leaders of the bar, bankers and men of business who led the opposition against me thirty years ago have since congratulated me on my victory and on the fact that I carried the day against them.

Well, my work did not stop there. I gave material aid to the passage of the Hatch Bill in Congress for the endowment of Experiment Stations. If Speaker Carlisle were living today, he could tell you that my opportune intervention during the close of the session of Congress in 1887 assured the enactment of the Hatch Bill. So of the Morrill Bill in 1890, to my effective service in the enactment of which Senator Morrill himself bore gratifying testimony, and the Nelson Bill in 1907, each of which gave $25,000 to the State of Kentucky in support of higher education. I might speak of the appropriation for Patterson Hall, for the gymnasium, for additional income in 1904 and in 1908, and last of all, of the Carnegie Library, every dollar of which I secured from the great philanthropist. I found the institution starving on a scanty income of $10,000 in 1880. I turned over to my successor in 1910 an annual income, without padding or wadding, of $145,000, and buildings, grounds and equipments that have grown from absolutely nothing to $930,000. Every acre of ground and every brick in every building were my creation.

The Board of Trustees in 1909, when I signified my intention to retire, had all of this in mind, either as tradition or actual knowledge, and in their appreciation and gratitude for forty-one years of faithful work, did not hesitate to give to the retiring President, then seventy-seven years of age, the deserved recognition contained in these generous conditions of retirement. (See Appendix II.)

And now we have another note, unsympathetic and discordant. My successor, whom I could not support in his candidacy, because I wanted an educated man and a man of experience to succeed me, repents that he recommended, as a member of the committee, the conditions of retirement which he urged upon their acceptance. He could not, with any degree of self-respect, recommend the board to rescind its action upon the ground of retaliation as a penalty for opposing his election, as a punishment for the alienation which has grown up between us and the antagonisms that have grown out of radical differences of opinion on questions of important policy. He thinks now that he has discovered that the contract is illegal and he makes this a pretext for an appeal to you to rescind your action, to stultify yourselves, to stifle all your generous impulses and undo what your better nature impelled you then to do. Perhaps you may take his advice and follow his lead, but it will be a barren victory to him and not by any means complimentary or creditable to you. I shall not believe it until the recorded aye and no votes make manifest your decision.

I am quite well aware that in the estimation of the law past services, however long and meritorious, do not constitute a consideration, where they created at the time no legal liability which remains unsatisfied, but it is competent to show that past services, in the estimation of the board, led up to and formed the basis upon which anticipated future services, as expressed in Section 5 of the agreement and contract, may be regarded as a consideration in law.* My work, the work of forty years of toil by day and sleepless vigil by night, looms up before you. These are the revenues which I created, the grounds which I acquired by donation and purchase, the buildings, a score in number, which I erected, and the library, museums and equipments which I provided, these stand today as a

*See Appendix II.

memorial and a monument to my devotion to the University, not to be gainsaid or disparaged. *Si quaeris monumentum, circumspice.* And in generous recognition of this, the board, upon the recommendation of Judge Barker himself, adopted the conditions which I accepted as an agreement, a bona fide contract. This they did and this solemn pact the repentance and change of mind of the President importune you to undo. The fiction of illegality he invokes in aid. He asked you in May, 1911, to rescind your action. You declined. When the General Assembly of 1912 convened a committee was appointed to investigate the affairs of the University. He importuned the committee on investigation to ask the board to rescind the conditions of retirement adopted December 9, 1912. The report of the committee on investigation complied with his request, but the whole report of the committee was regarded by some of its own members and by many other members of the Legislature as a piece of ill-disguised white-wash. One of the members of the committee told me that if the committee had made such a report as the facts before them warranted, it would injure the University, and *that* the committee did not want to do. The committeeman from Judge Barker's own Congressional District absolutely refused to sign the report because its contents were not warranted by the testimony taken. That part of it relating to the retiring allowance of the ex-President counts for little. It was according to my information, in the first place, incorporated at the instance of Judge Barker himself, upon an *ex parte* statement, and, second, the recommendation of the committee, when reported to the General Assembly, made no noticeable impression upon either house. With the rest of the report, it was ordered by the House to be *received* and by the Senate to be *filed.* No member thought fit to raise any question upon the recommendation, or to base any motion upon it. As a matter of fact, it was treated with absolute indifference and wholly ignored. It is absolutely certain that the report was not adopted by the Legislature. But a singular and emphatic comment upon the rest of the report was the penalizing amendment incorporated in the bill of appropriatioss, providing a fine and imprisonment for any official of the University who should expend money without warrant of law. The insistent request for the inter-

vention of the committee was an ingenious device, but it miscarried in its inception and in its consequences. While carrying apparently more weight and more authority than the President's own individual request to the board, it did neither. The truth is, it collapsed. The electric current was weakened and exhausted by the increased length of the circuit. The opinion of the committee, treated with indifference by the Legislature, carries with it no more weight than would the request of a committee of a commercial club or other body of citizens obtained and addressed to you on the initiative and through the importunity of any member of the board or any other person.

All law, whether written or unwritten, traditional or statutory, has its roots in the sense of moral obligation inherent in mankind. As a general rule, what is right in morals cannot be wrong in law; what is worng in morals cannot be right in law. Law expresses articulately in human speech and concretely in statutory enactment the inalienable and ineradicable convictions of moral obligation. The *jurist* interprets its restrictions and its mandates, in conformity with the recognized canons of interpretation and the principles of jurisprudence. The *casuist* seeks to find in it a web full of meshes to entrap the unwary and of loop-holes to evade the obligations of contracts and of technicalities to facilitate the escape of those who violate its precepts.

When I look back, I am amazed at the wonderful results achieved during the last forty years, not so much in acres of land, in brick and mortar, in machinery, laboratory or library, but in the educated men and women who have laid here the foundation of success, whose manhood has been stimulated and inspired to become leaders of men, the Haileys and Bowdens, Campbells and Joneses, the Doughertys and Scherffiuses, the Morgans and Kastles, and Kirbys and Blessings, the Tandys and Branhams and Hamiltons, the Lyles and Bronaughs and Frankels, the Weavers and Sandefurs and Lambuths and Deans and Brocks and Whitlocks, and scores of others, who, but for this institution, would, many of them, have been hewers of wood and drawers of water today. Of all the alumni who have graduated since 1869 there is not one per cent of failures. What other institution in America has such a record?

Gentlemen, you are on trial, and not I. The general public knows what has been. These proceedings cannot be hidden. Rescind your action of two years ago and hundreds of alumni and thousands of citizens will cry shame.

It is thus sought to obscure the real issue and have you decide upon a collateral but contingent and factitious issue, an afterthought and a pretext only. On May 30, 1911, the President of the University urged the board to revoke their action of December 9, 1909, on the ground that a retiring allowance was illegal. On May 31 the board refused by a unanimous vote to entertain his appeal. On June 1 he recommended to the Executive Committee a retiring allowance to Mrs. Blackburn and the board adopted the motion. So much for the importance which the President himself attaches to the alleged illegality of an annuity. I beg you, gentlemen, in your consideration of the subject before you, to discriminate clearly between the actual motive and the ostensible motive, between the real issue and the nominal issue, between the moral and the legal obligation and the *ex parte* fiction of illegality. The real motive, as I see it, and I have no doubt as you see it, is to punish me, to humiliate me, to injure me, to retaliate on me because he HATES me because of my opposition to his candidacy and his election to succeed me. The ostensible motive which he wishes you to believe is the real motive is the alleged illegality of the condition providing for the annuity.

Men familiar with the law, counselors at law, will clearly distinguish between the actual and the unreal, between fact and fiction.

In this discussion some things stand out prominently which it would be well to recapitulate, even at the risk of repetition:

The ostensible cause of Judge Barker's attitude to the retiring allowance, namely, its illegality, and his resolution to annul the agreement made with me is, it seems to me, not the real cause.

The alledged illegality of the agreement or contract rests upon the assumption that the board exceeded its powers, and yet the statute expressly declares that the board has the power "to sue and be sued, implead and be impleaded, contract and be contracted with." (See Appendix I.) Judge Barker had been a practicing attorney for twenty-five years, a judge of the Court of Appeals for

nearly a whole term, and a trustee of the University for ten years. Either he knew the statute and how to construe it, defining the powers of the board, or he did not. If he knew the statute when he recommended the retiring allowance and had no doubt then of the validity of the recommendations made in the "conditions of Retirement," his changed attitude to its interpretation *now* implies either a wanton disregard of its meaning and interpretation *then*. or an inexplicable change of front *now*. If he did not know the correct construction of the statue then, or did not know of the existence of the statute, his ignorance was inexcusable and argues his unfitness for the responsible position of trustee, much more of President. That a lawyer, a judge and a trustee should be a member of the board for ten years and yet not know the scope and powers of its organic law argues a singular neglect or a singular misconception of his duties under his oath of office.

The statement made to the members of the Board, whether made by the mover of the resolution or by some one else matters little, that the Legislature *adopted* that part of the report of the committee on investigation which recommended that the Board of Trustees discontinue the retiring allowance guaranteed me under my agreement with the Board December 9, 1909, is utterly devoid of truth.

This statement was also made in a report of the proceedings of the Board August 5, 1912, which appeared in the Lexington Leader on the 7th inst., whether an editorial or an authorized communication by the administrative authorities of the University is not apparent. Its significance, however, is the same. The statement is as follows, viz: *"The report of the special committee was adopted by the Legislature and the University Board."* If an editorial, it was based on information furnished by the University authorities.

The further statement or inference that the Board of Trustees had a consequent mandate from the Legislature to annul the allowance involves a double perversion of fact and of truth. I have shown that the report fell flat, that it was given the scant courtesy of being received in the House and filed in the Senate, that no joint resolution was based upon it, and no bill enacted into law was

based upon it. I wonder if Judge Barker, or any other member, can conceive that to *receive* a report and to *file* a report are identical with the *adoption* of a report. To receive a report acknowledges that a report has been made; to adopt it means that its contents have become the action of the body to whom it has been made and that means will be devised to carry it out. *Adoption* would require a joint resolution or enactment through a bill. But of bill or resolution there was none. There was, therefore, no *adoption,* no bill passed, no mandate. And yet the Board of Trustees and the public are gravely assured that the report was adopted and that a mandate expressed or implied to rescind the allowance was issued. Could perversion of the truth and plain undisguised misrepresentation go farther? The alledged or implied mandate and the action asked from the board based thereon is a shameful and disingenious perversion of fact, utterly inexcusable, utterly indefensible. The retiring allowance may or may not be held by the courts to be illegal. But if so, it will not be on grounds of perversion of fact and statements transparently untrue.

To impose upon the Board of Trustees and the public a fiction for a fact and urge this fiction as a basis of action, a mandate noncompliance with which would be a dereliction of duty, is both inexcusable and monstrous. A startling comment this upon the scathing criticism of the report of the Carnegie Foundation. Is this the lead given to Kentucky on public law and public morals by President Barker and the State University?

The true cause of moving the resolution by Judge Barker was, "I hate you."

The resolution of Judge Barker was adopted. (Messrs. Stoll and Breathitt voted against the resolution. Mr. Clay was unavoidably absent, but would have voted against it. Gov. McCreary and Messrs. Hamlett, Carpenter, Davies and Nichols voted for it, but explained that they did so on the assumption that it was a question for the courts.) Subsequently he moved another resolution annulling the annuity of Mrs. Blackburn, though he had solemnly assured her after the adjournment of the Legislature that her annuity was not and never had been in any danger.

"The mills of the gods grind slow,
But they grind exceeding small.
Though with patience stand they waiting,
With exactness grind they all."

The public of Kentucky will in the end do me justice, even though the board now refuse.

APPENDIX I.

Powers of the Board of Trustees.

Sec. 2. Act approved, May 9, 1893, and still the law of the University. "The Board of Trustees when appointed and qualified shall be a body-corporate, under the corporate name of the Agricultural and Mechanical College, now State University of Kentucky, and as a corporation shall have power to sue and be sued, implead and be impleaded, contract and be contracted with, and possess all the immunities, rights, privileges and franchises usually attaching to the governing bodies of Educational Institutions. They shall have power to receive, hold and administer on behalf of the institution whose government, administration and control is committed to them all revenues accuring from all existing or future endowments, appropriations or bequests by whomsoever made, subject to the conditions attaching thereto, to receive, administer, and apply for and on behalf of said college (now university) all moneys, devises, stocks, bonds, buildings, museums, land, apparatus and etc., etc., under the conditions attaching thereto. Said Trustees shall have power to determine from time to time the number of departments of study or investigation which the College—University—shall comprise within the scope of the organic act of Congress or acts supplementary thereto, donating land strip for the endowment of Agricultural and Mechanical Colleges; the relation which each department or group of departments shall sustain to each other and to the whole; to devise, allot and arrange the distribution of departments or group of departments with the designation appropriate to each and to devise the means required for their effective administration and government. They shall also have power to appoint Presidents, Professors, assistants, tutors and other officers

and to determine the salaries, duties and official relations of each; and shall provide for a definite salary in money to all positions created and filled by the Board of Trustes; and there shall be no additions thereto in the form of fees, perquisities or emoluments of any kind whatever. They shall have full power to suspend or remove at will any of the officers, teachers, professors or agents whom they are authorized by law to appoint and to do all other acts which may be needed for the welfare of the institution."

APPENDIX II.

DECEMBER MEETING, DEC. 9, 1909.

Mr. Stoll, for the committee specially appointed, consisting of President Patterson, Mr. Carpenter, Judge Terrell, Judge Barker and himself, to look into and recommend to the Board the terms of the retirement of President Patterson as President of the University, made the report of said committee, which report is as follows:

To the Board of Trustees of State University,
Lexington, Kentucky.

Gentlemen:—

Your committee which was appointed to look into and recommend to the Board the terms of retirement of James K. Patterson, as President of this University, beg leave to make the following report, to-wit:

Upon the resignation and retirement of President Patterson, that the University agree:

First: To pay to President Patterson for and during the remainder of his natural life, sixty (60) per cent of the present salary which he now receives, which sixty (60) per cent amounts to three thousand (3,000) per year; that this sum be payable in equal monthly installments.

Second: That President Patterson be designated as President-Emeritus of the University and shall continue a member of its faculty.

Third: That he be permitted and allowed to sit with the Board of Trustees in its annual and semi-annual sessions and that he be permitted to participate in the deliberations of the Board but without vote.

Fourth: That he be recognized as an adviser and auxiliary to the Vice-President of the University until a new President is selected.

Fifth: That he be given the privilege of representing the University at meetings of the National Associations, Kentucky Teachers'

Associations, District Associations, County Associations, and High Schools of the Commonwealth and that when he does so represent the University, all of his expenses be paid, but this privilege of representing the University shall not be exclusive and he shall not take precedence in such representations over the new President when he is elected, should he be present at such Associations.

Sixth: That the University rent to President Patterson the house and premises which he now occupies for and during the remainder of his life for an annual rental of two hundred and forty (240.) dollars per year.

R. C. Stoll, Secretary.

It was thereupon moved and seconded that said report be received and the reccommendations therein contained be adopted as the action of the Board and after remarks upon the motion, and the roll call, the vote stood as follows:

Ayes: Messers: Carpenter, Hopkins, Nichols, Crabbe, Walker, Smith, Clay, Stoll, Wilson and Barker. 10.

Nays: None.

President Patterson not voting.

The resolution was unanimously carried.

APPENDIX III.

The following extract is taken from the sixth Annual Report of the President and Treasurer of the Carnegie Foundation for the Advancement of Teaching, than which there is no higher authority on education in America. The Foundation is intimately acquainted with the resources, organization, and management of all first-class colleges and universities, their standards and results. On page 109 the following paragraph occurs:

"Two years ago the governing Board of the University of Kentucky chose a new President upon the retirement of a President who had served the institution for forty years. Kentucky is one of the most backward of all the States in education. For the next decade it needs more than all wise educational leadership, and to the State University and its President the State should have been able to look for such leadership. It was, therefore, greatly to be hoped that the members of the board would choose a president on the ground of fitness for educational leadership. The board consists of the Governor of the State, a graduate of Harvard, who was ex-officio president, the State Superintendent of Public Instruction, and fifteen other members appointed by the Governor with the approval of the Senate. They considered the question upon the ground of educational fitness, but in the end chose a member of their own board, a man who had long been in political life, who was about to lose the office which he held, and who had no qualifications for the educational duties to which he was called. Perhaps no one thing has been so discouraging to those interested in education in Kentucky as the outcome of this matter. To the outsider it was difficult to understand whether the board of well-meaning gentlemen who took this action were influenced by political considerations or whether they failed to appreciate their duty to the Commonwealth and the University. In either case they dealt their State and the institution of which they are trustees a heavy blow."

On the foregoing comment is needless. It may be added that the report of the Carnegie Foundation goes to every president and to most of the members of the faculties of all the great colleges and universities of America.

NOTE. The State University enjoys the unique distinction of being governed, under the Board of Trustees, by a Council, the inner coterie of which consists of five members no one of whom has a collegiate or university degree for undergraduate work.

APPENDIX IV.

Some of the achievements of Judge Barker's administration may be summarized as follows:

1. The violation of the law of appointment of beneficiaries to the State University on competitive examination, through instructions given to county superintendents to disregard the law, and the consequent admission of hundreds of illegal appointees thereby.

2. The expenditure of about $12,000 upon traveling expenses and free lodging, fuel and lights to these illegal appointees.

3. The alienation and hostility of all the denominational collages and universities in Kentucky because of the wholesale violation of the law, and the attraction of students to the State University by the offer of free tuition, exemption from all fees, traveling expenses, free lodging, fuel and lights—students who but for these inducements would have entered one or other of the denominational colleges.

4. A narrow escape from an injunction by these institutions to compel the University to obey the law, and to account for funds illegally expended.

5. The possibility of a prosecution for alleged malfeasance in office through the illegal expenditure of public money.

6. The proposition to tax all non-appointees in order to pay traveling expenses of those who do not hold appointments from their respective counties. This, if attempted, may, probably will, lead to an injunction to restrain the collection of such fee or tax.

7. The repudiation of the contract entered into with the ex-President on his retirement and the litigation which may follow the annulment of the "Conditions of Retirement" on the good faith of which he offered his resignation

A brilliant record truly, and a fit commentary on Appendix III.

APPENDIX V.

Louisville, Ky., December 22, 1909.

To President James K. Patterson, Lexington, Ky.

Dear Sir:—The Trustees of the State University, having received your letter resigning the presidency of the institution which has been so long under your fostering care, are unwilling that it should be answered only in the words of a formal acceptance. They have, therefore, appointed us a Special Committee to express for the whole Board the regret we feel that the time has come when the University must lose your supervising oversight; the deep gratitude we owe you for the great work you have done for higher education; and the warm personal affection we bear you, an affection which originating in the intimacy of our official relations, has grown and deepened as the years have rolled on.

The history of the State University is a part of the history of Kentucky for the last half a century. Nearly all of us know something of the hard and painful struggle by which it advanced from an almost insignificant beginning to its present magnificent proportions; and we know that to you more than to any other it owes its final triumph over seemingly insuperable obstacles.

We recall that when it was divorced from all sectarian alliances and launched upon its career as a purely state institution, there arose a host of enemies who sought by every means to impede its progress if not to entirely strangle its life. These enemies you met in the Courts, where the constitutionality of the tax for the benefit of the institution was questioned; in the halls of the General Assembly, where the policy of state aid for a state school was challenged; in the Constitutional Convention, where it was sought to forever forbid the state to foster higher education—and overthrew them all.

The endowment of the University is now a permanent fact, and there will be no reaction from the deep interest the people feel in higher education.

To your inspiring teaching Kentucky owes her final recognition of the truth that even measured in money, there is no investment she can make that will yield so great or so sure a return as the education of her young men and women and returning them back to the bosom of society with sound morals, sound minds, and sound bodies.

Borrowing from your letter: "The State University is now an integral part of the Commonwealth, recognized by the constitution, head of the educational system of Kentucky, an honored member of the Association of American Colleges and Universities, and doing, according to its means, work equal to the best of them and superior to most of them. It has survived 'the winter of its discontent,' has grown from infancy to maturity, and has learned the lessons of endurance and patience and discretion and hope."

Realizing the truth of this statement of the present status of the University, we recognize that it is due to your learning, your patient toil, your indomitable courage, and so recognizing we desire to express to you the gratitude of the whole state for the noble work you have wrought and our deep regret that the duty is cast upon us of finding your successor. We rejoice, however, that while we lose your services as President, we will still have you with us as President Emeritus and as a member of the Board of Trustees, and that we may in the future still draw upon that fountain of wisdom and experience that has been so potent for good in the past.

With great respect and gest wishes for you and yours, we are,

Your friends,

(Signed) Henry S. Barker,
Cassius M. Clay, Jr.,
J. G. Crabbe.



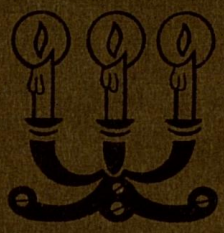
COMMENCEMENT ADDRESS

TO THE

FACULTY AND STUDENTS

OF

HANOVER COLLEGE, INDIANA



"Influence of the Bible Upon Civilization"

BY

JAS. K. PATTERSON, Ph. D., LL.D., F. R. Hist. S.
PRESIDENT EMERITUS KENTUCKY STATE UNIVERSITY

JUNE 7, 1911

Transylvania Printing Co.
Lexington, Ky.

COMMENCEMENT ADDRESS

TO THE

Faculty and Students of Hanover College, Indiana

BY

JAS. K. PATTERSON, Ph. D. LL. D., F. R. Hist. S.

"Influence of the Bible Upon Civilization"

IT has been well said that mankind, preceding the advent of the Saviour, had been subjected to discipline and culture on a variety of converging lines. Finite as we are, no single individual and no single race could suffice as the vehicle and embodiment of the manifold and varied preparatory work which conditioned the fullness of time. Each of the great historic races of the pre-Christian world had its time of development and its appropriate office in the education of mankind. The Eastern Aryan, who left his Central Asiatic home ages before the dawn of history and who, passing the Himalayas and the Indus, spread over the fertile lands of India, lost his original monotheism in the deification of the forces of nature, and gave a divided allegiance to Indra and Dyaus and Varuna. While unity of cult and unity of religious belief were lost, free scope was given to the play of the imagination and the Eastern Aryan became the type of the bold thinker, unchecked by logical sequence or ethical consequence. Pure thought, the form of thought apart from the matter of thought, the science of logical processes, whose analysis surpassed that of Kant and whose generalizations rose higher than those of Aristotle, moved on, while imagination held the reins, to elaborate, establish, assail and destroy systems which the Academy and the Porch, the Idealism of Berkeley, the Nihilism of Hume, the Pessimism of Schopenhauer and the Pantheism of Spinoza but repeat and reproduce. The dominant philosophies of the classic age and of the modern era were anticipated hundreds of years by our dusky kinsmen on the Ganges and the Jumna, and nothing in these latter ages has been better said than by the sages of Hindustan three thousand years ago.

But with all in grandeur of thought and its great riches of speculation, there is a grotesque side to Hinduism, from which the classicism of Greece is free. Greece had her polytheism also, a polytheism which, there is reason to believe, followed and supplanted a monotheism equally grand and simple with that which Hindu and Greek alike derived from a common source, a polytheism fostered by, if it did not grow out of, the

physical conditions of hill and mountain, rock and river, fountain and sea which made Greece of all lands the loveliest and of all homes the most beautiful. The beauty of nature around him evoked the idea of the beautiful in his soul, kindled the creative genius within and enabled him to realize conceptions in poetry, in marble and in canvas which became the priceless heritage of mankind. Science perfected art and art beautified and adorned science.

The Roman had neither the imagination of the Oriental, nor the sense of beauty which prevaded his Hellenic kinsmen. Rude in speech, rugged in thought, stern in demeanor, owing and rendering an allegiance to his country beyond that which Hindu or Greek with rare exceptions had ever conceived, the civic virtues shone in him with a lustre which dwarfed and eclipsed all others. The Roman was an organizer of men and his mission was to teach men how to obey. With resistless energy and untiring zeal he gathered into one Commonwealth all the nations of the Old World and held them in obedience for centuries to the city on the Tiber. He gave an external unity to the fierce Cherusci, the fiery Numidian, the polished Greek and the dreamy, languid, imaginative recluse of the Orient. He welded into one all the historic nations which preceded him and infused into them the new blood and the new life of the barbarian Gaul and Frank and Burgundian and Goth.

To the Hebrew was given a grander mission than to any kindred stock. Possessing neither the logical power, the metaphysical subtlety and the vivid, unrestrained imagination of the Hindu, nor the exquisite conception of the beautiful and the power to project its ideal of the Greek, nor the exalted civic virtues, the unbending force of will and the genius for organization of the Roman, to the Hebrew was given a sense of all-pervading Deity, in the universe but above it, conditioned by no limitations of space or time, personal, holy, beneficient, the creator of all, to whom is due the allegiance of all, unbegotten, self-existent and eternal. With this ideal exalted and exalting, was given the cognate one of personal devotion, through acts of worship, service not fitful, transient, occasional and formal, but the service of a heart whose duty it was to essay justice, purity, holiness and beneficence. The essential ideas forming the center around which all others clustered, were the unity of God and service acceptable to him through a life of personal purity and obedience.

For two thousand years the scriptures of the Old Testament traced the development and growth of these ideas. The sense of sin and the sense of ill-desert formed the dark back-ground to the ideas of God and the necessity of personal purity in the human soul, and the problem thence emerged of how to reconcile man to himself and with God. This problem also confronted the Aryan sage on the Hydaspes and the Ganges; it loomed up before the Zoroastrian in the plains of Media and Iran and though perceived with less distinctiveness by the Socratic and the Peripatetic, its shadow fell across the Porch and the Academy and shrouded in mysticism and gloom the speculations of the later philosophy of Greece. The questions ever recurring, but never answered: "How shall man be

just with God?" and "If a man die, shall he live again?" found authoritative response neither from Brahmin nor Buddhist, Pyrrhonist nor Stoic.

How, during these twenty centuries and more, the Hebrew learned and forgot this lesson, adored Jehovah and worshipped Baal, flung himself repentant upon the earth in dust and ashes and again sold himself to the unhallowed orgies of Ashtoreth, these grand old Hebrew scriptures faithfully portray. And when on these converging lines the fullness of time came and God was manifest in the flesh, justified in the spirit, seen of angels, preached unto the Gentiles, believed on in the world, received up into glory, the scriptures of the New Testament declare with equal simplicity, fidelity and truth.

In comparison with the sacred books of the great ethnic religions of mankind, the Bible stands alone. It is not a difference in degree merely, but in kind; it is not that it stands first and they second, but like the Olympian Jove of Horace, all the minor deities stand at a distance so immeasurable that no one is second to him or like him. Its thought, its expression, its authoritative utterances, all commend themselves as above men. We read and we yield unconstrained acquiescence. The human soul accords an instinctive response and whether it has declared the whole counsel of God or not, consents that it is holy and just and good. Its analysis of the weakness and greatness of man, its recognition of the schism within him made by the consciousness of guilt and his longing for higher and better things, its clear deliverance on the immortal destiny which awaits him and his responsibility to a power above him, all find corroboration and proof in his own consciousness. How trivial the cosmogonies of Greek and Roman, Hindu and Zoroastriam, compared with simple yet sublime utterances in Genesis: "In the beginning God created the heavens and the earth." "God said, Let there be light, and there was light," "The Lord God formed man out of the dust of the ground and breathed into his nostrils the breath of life, and man became a living soul." The Vedic hymns, beautiful though they be, awake no such sense of the fatherhood of God as the Twenty-third Psalm: "The Lord is my shepherd; I shall not want," no such sense of his goodness as the One Hundred and Third: "Like as a father pitieth his children, so the Lord pitieth them that fear Him," no such sense of his love as the utterance which forms the burden of the New Testament: "God so loved the world that He gave His only begotten Son that whosoever believeth on Him should not perish, but have everlasting life." The hymns to the Maruts, among the sublimest in the Veda, have no such lofty grandeur as the Eighteenth Psalm: "He bowed the heavens and came down and darkness was under his feet. He rode upon a cherub and did fly; yea, he did fly upon the wings of the wind." Neither in the Vedas nor in the Zendavesta nor in the Koran is found any such lofty conception of the Majesty and Infinity and Omnipotence of God as in the 11th chapter of Job: "Canst thou by searching find out God? Canst thou find out the Almighty unto perfection? It is as high as Heaven; what canst thou do? Deeper than Hell; what canst thou know? The measure thereof is longer than the earth and broader than the sea."

The parables of Buddhagosha contain maxims of worldly prudence and of personal and social ethics which have justly excited the admiration of scholars, but place them side by side with the proverbs of Solomon and the Sermon on the Mount, and we see at once that they are of the earth, earthy, not heavenly treasures in earthen vessels, but treasures and vessels of identical mould.

We can hardly say that even the greatest among the sages of the classical world had any well-defined belief in immortality. It was a hope, rather than a belief, a yearning inspired by a sense of incompleteness, a desideratum of philosophy, rather than a religious conviction, an aspiration of the Schools, rather than an ethical fact regulative of human life,

> "An infant crying in the night,
> An infant crying for the light,
> And with no language but a cry,"

but in the Gospel, it is the ground-work of the Christian system. The wisest of uninspired men, in that solemn scene recorded by Plato, after drinking the cup of hemlock, discourses on the immortality of the soul in language which Cato and Cicero regarded as the glory of philosophy, but Socrates lays him down upon his couch and composes his stiffening limbs with no clear vision of the future, and enjoins one of his faithful companions to sacrifice a cock to Aesculapius. Compare this with the words of Jesus; with whom Socrates is sometimes compared: "I have glorified Thee on the earth; I have finished the work which Thou gavest me to do. And now, O Father, glorify me with thine own self, with the glory which I had with Thee before the world was. Father, I will that they also whom Thou hast given me be with me where I am, that they may behold my glory."

Homer relates in the Odyssey how Ulysses, in his journey through the realm of shades, came in succession upon the heroes whom he had known, and who were now doomed to a cheerless existence in the nether world. Meeting Achilles, the bravest of the Greeks, he adverted in terms of compliment to the precedence accorded him, and received this reply:

> "Say me not death in praiseful words, noble Ulysses.
> "I would sooner be a bonded serf,
> "The laborer's tool to ply,
> "To some small cotter on the heath,
> "With wealth exceeding small,
> "Than be the lord of all the shades,
> "In Pluto's gloomy hall."

How different this from the language of St. Paul at the close of his ministry, with the axe and the block before him: "I am now ready to be offered and the time of my departure is at hand. I have fought a good fight; I have finished my course; I have kept the faith. Henceforth there is laid up for me a crown of righteousness which the Lord, the Righteous Judge, shall give me at that day, and not to me only, but to all them also that love his appearing."

Responsibility to one God, the author and sustainer of all, alienation from God by reason of sin and inability to make expiation therefor, atonement and reconciliation through the God-man, the fatherhood of God and the brotherhood of man—these were the distinctive features of the Christian system as the outgrowth and complement of Hebraism and these were the doctrines which, when accepted, revolutionized the religion and the morals of the Roman world. As a corallary to these, devotion to a personal Saviour, intense zeal for his service, love for the author of our being, humility, forgiveness, mortification of self, charity, unselfishness, became the springs of a new activity, the essence of a new morality, the inspiration of a new life, the lever and the fulcrum by which the potencies of humanity should be brought into play for the regeneration of mankind. Virtues which found no place among the philosophies of the time, or had been relegated to a subordinate place, now rose into prominence and came to the front.

The new doctrine spread rapidly, first among the lower classes, then among the middle, and lastly reached the highest strata of society, until in a little over three centuries, its adherents, though persecuted, proscribed, banished, despoiled of goods and oftentimes called to seal their testimony with their blood, became a majority of the Empire and the first sovereign of the new Rome on the Bosphorus acknowleged his allegiance to the once despised Nazarene. And much mankind needed the infusion of the new leaven. In all the annals of the world, there have been no such boundless bogs of moral corruption and social rottenness as the historians and satirists of Rome chronicle and denounce. From the cottage to the throne throughout the whole expanse of Roman dominion, and among the one hundred and twenty millions over whom the imperial city bore sway, mankind, degenerating from year to year and from age to age, was perishing, through venality, rapacity, dishonesty, and abominable lust. The shameless, nameless vices which polluted the imperial palace and were quenched only by the cup of the poisoner or the dagger of the assassin threatened to banish love and reverence and charity from earth and transform it into a pandemonium. In another and more awful sense the fullness of time had come.

But silently, steadily, resistlessly, the new faith entered on its mission of transformation. In spite of the corruption which abounded, a deep anxiety, a restless longing, a painful unrest pervaded the souls of men. But the fatherhood of God, the brotherhood of man, reconciliation through a Redeemer, purification of self, the depression of the ignoble elements of human nature and the elevation of whatever good existed, these, through devotion to a personal Saviour, infused new hopes, created new ideals, awakened new impulses and lifted all who accepted them to a higher plane and to a healthier atmosphere.

Long before the fall of the Western Empire, its great dependencies had accepted the Christian faith, and Gaul and Syrian, Iberian and Greek, Italian and Numidian bowed before the cross. The highest magistrate and the humblest citizen, the master and the slave, the poor peasant receiving the scanty earnings of his daily toil and the great proconsu[l]

whose broad acres covered rich provinces, met and worshipped on equal terms under the same roof. They sat at the same sacramental board, united in ascriptions of praise to a common Father and a common Saviour, chanted the same penitential psalms and looked forward with hope and trust to the same resurrection from the dead. We of this age who have never known otherwise, cannot, without an effort realize the mighty transformation wrought by the Gospel. It was a transformation from the stench and corruption of the charnel house to the freshness and verdure of the summer landscape, lighted by the sun and overhung by the gladsome sky. It was a lifting from the valley of the shadow of death to the mountain summit, sparkling in the sunlight and revealing on the not distant horizon the Paradise of God and the city of the redeemed. Not extinction, not oblivion, not the gloomy abode of the shades and the shivering throng on the banks of the infernal river awaiting each his time for that grim ferryman to cross the melancholy flood to the regions of perpetual night, were ever present to depress and terrify; but release from the bondage of sin, union and communion with Christ and with God, cheered through life and gave to the adherent of the new faith a placid quiet and a triumphant death which the greatest of the sages of heathenism could never know.

And when the Northern races, moved by that mysterious impulse which precipitated them upon the frontiers of the now tottering Empire, flung themselves with resistless force upon its defences, holy men issued from their cells and inspired with a burning love for souls, met Goth and Hun, Vandal and Lombard, Burgundian and Frank, with open Bible and uplifted cross and led their conquerors captive to the Cross. The fierce warriors of the North bowed their heads at the baptismal font to do homage to the Saviour and to become his men. Many were the deeds of cruelty wrought by these imperfectly Christianized barbarians, rude were their conceptions of the Christian life, but the good seed sown in these iron hearts softened them in time and ample charities, holy lives, churches consecrated, idols overthrown and heroic Christian deaths, go far to relieve the turmoil and warfare of the ages which followed the fall of the Empire.

These fruits you and I behold today. THE GREAT FACTOR IN MEDIEVAL REGENERATION AND MODERN PROGRESS IS THE BIBLE. It has developed the rights of man, determined the relations of the governing to the governed, emancipated the human mind, broken down the barriers of caste and race, founded and endowed universities, built hospitals, ameliorated prison discipline and reared asylums for the unfortunate. It reforms the drunkard, reclaims the magdalene, curbs the passions, and by its exemplar of one perfect man in the annals of our race, presents the sublimest ideal and the loftiest standard of excellence for imitation. It inspired the great Apostle of the Gentiles to brave perils by land, perils by water, hunger, nakedness, the dungeon and the axe. It animated St. Francis Xavier in his weary wanderings over the mountains and rivers and plains of India and China in his zeal to bring souls to his

master. It gave fortitude to Ridley and Latimer at the stake and rent for them the clouds for a vision beyond the skies. It kindled the ardor of Knox to consecrate his people to Christ's covenant and crown and made the hills and vales of his country vocal with the prayers and praises of the gallant men and devoted women who sealed their testimony with their blood. These fiery trials gave hardness to the bone and toughness to the sinews and strength to the brains of a people once the poorest in Europe, but whose influence in the development of civil and religious freedom, in the diffusion of sound moral and religious principles, in philosophy and literary industry and self-reliance, has been out of all proportion to its population. In the language of another:

"Paul stamped his image upon Augustine, Augustine upon Calvin, Calvin upon Knox, Knox upon Scotland, and Scotland upon universal protestantism."

I may add: "Protestantism, with its open Bible, rules the world today."

And now a few words in reference to our own authorized version, the ter-centenary of which has excited so much enthusiasm and religious feeling in Great Britain and in America. Rev. F. W. Faber, a former member of the Episcopal Church, but latterly in the Roman Communion, speaks of the Authorized Version as follows:

"It lives on the ear like a music that can never be forgotten, like the sound of church bells which the convert hardly knows how he can forego. Its felicities often seem to be almost things, rather than mere words. It is part of the national mind and the anchor of national seriousness. The memory of the dead passes into it; the potent traditions of childhood are stereotyped in its verses. The power of all the griefs and trials of a man is hidden beneath its words. It is representative of his best moments and all that there has been about him of soft and gentle and pure and pentinent and good speaks to him forever out of his English Bible. It is his sacred thing, which doubt has never dimmed and controversy never soiled. In the length and breadth of the land there is not a Protestant with one spark of religiousness about him whose spiritual biography is not in his Saxon Bible."

George V. of England, replying to a deputation which on the 21st of March presented him with a copy of the ter-centenary edition of the Authorized Version of 1611, said:

"This glorious and memorable achievement, coming like a broad light in the darkness, gave freely to the whole English-speaking people the right and the power to search for themselves for the proofs and consolations of our faith; and during three hundred years the multiplying millions of the English-speaking race, spreading ever more widely over the surface of the globe, have turned in their need to the grand simplicity of the Authorized Version and have drawn from its inexhaustible springs of wisdom, courage and joy."

The only version of the Scriptures which can be compared with the Authorized Version in point of influence is the Vulgate of St. Jerome. This Latin translation has for sixteen centuries been familiar to scholars

and to the better educated among the Roman clergy, but has been in the main a sealed book to the masses. Not so the Authorized Version. It became accessible to every person who could read and familiar to those who could not read through the weekly ministrations of the pulpit. It permeated every stratum of society. Its lessons and the language in which they were conveyed became household possessions. The life of the people became saturated with its all-pervading sanctity and with its divine authority, its incomparable message of life and hope, it was not the heritage of the few but the possession of all.

When the English colonist left his native shores, he carried this precious treasure with him. This was the bond that bound him to the home of his fathers and united him with all who thought his thoughts and spoke his speech. To the Protestant colonist it was an indissoluble bond of nuion with those he had left behind him. The ordinary layman who left France or Spain had no Authorized Version to carry with him. The Roman hierarchy kept the Scriptures in their own hands, for the use of the clergy, but the Bible was for the most part to the layman a sealed book. I make bold to say that the Bible is the great unifying influence which binds the English-speaking stock together in one, giving them today precedence in the arts of peace, leadership in civilization, invincible prowess on land and on sea, and a preponderating influence in the dissemination of Christianity and in the councils of the nations.

That phase of Christianity which Hanover College represents has been prolific of important results to mankind. The Bible provides us with a perfect rule of faith and practice. In the standards of the Presbyterian Church, its Confession and Catechism, is found, in my opinion, the most scriptural and the most complete of all creeds, a system of theology as perfect as human wisdom can devise. To one of its aspects only I desire for a brief space to call your attention.

Its political cult has given freedom to the English-speaking race. It recognizes the essential equality of all men. It sketches in bold outline the distinction between those who govern and those who are governed, as well as the reciprocal rights and duties of equals. The most philosophic body of systematic theology in Christendom, it is logically perfect and metaphysically impregnable. The germs of freedom had been brought into Britain by the Angles and the Saxons from their primeval home in the Teutoberg forest on the banks of the Saale. They had been struggling for centuries to obtain and to secure permanent recognition when indubitable support and sanction came to them from Christianity. "Whether the democracy of later centuries had its roots in the guilds and brotherhoods preceding the Reformation and its appearance in the sixteenth century is to be regarded as a revival, rather than a birth, matters little."* Borgeaud says: "Modern democracy is the child of the Reformation. To make the religious revolution lawful, it was necessary to proclaim these two principles, viz: Free inquiry and the priesthood of all believers, which contain in them the germs of the political

* Lobengier.

revolution." In Geneva as early as 1540, "the Small Council, the Council of Sixty and the Council of Two Hundred contain the essentials of the Scottish League and Convent and of the American Constitution. The enactment of the organic law, its discussion, submission for popular approval, ratification and adoption, are all found therein"† Knox carried these principles with him to Scotland, made them the foundation of his ecclesiastical polity and his successors during the Puritan Rebellion made the solemn League and Covenant the basis and the condition of their co-operation with England. Calvin's theocratic state contains the essential elements of all civil and religious freedom, by recognizing the equality of all orders of men, both in church and in state. Transplanted to Scotland, it has formed the ground-work of civil and religious freedom, in the British Isles, in the United States of America, and throughout the colonial dependencies of the British Empire. That the people are the ultimate source of law and that the Presbyterian and old Puritan stock were the depositories of this sacred trust is the inheritance bequeathed to us by John Calvin and John Knox.

"The solemn league and covenant
"Gave Scotland blood, gave Scotland tears,
"But it sealed freedom's sacred cause.
"If thou'rt a slave, indulge thy sneers."

Froude says that Scotland saved Protestantism once and may have to save it again, and James Bryce, author of the "American Commonwealth," than whom there is no higher authority, says:

"Someone has said that the American government and constitution are based on the theology of Calvin and the philosophy of Hobbes. This at least is true, that there is a hearty Puritanism in the view of human nature which pervades the instrument of 1787. It is the work of men who believe in original sin."

Large numbers of Scotch were among the early settlers of Pennsylvania and though they were far outnumbered by the Germans, exerted a political influence out of all proportion to their numbers. In the Carolinas they were controlling factors in government. In the period from 1650 to 1750, more than three hundred thousand Scots from Scotland and from Ulster emigrated to America, most of whom settled in Virginia and the Carolinas. These for the most part were saturated with the principles of the Covenant and boldly applied them to the political organizations which formed its counterpart. "The chronicles and diaries of the period" show how keenly they resented and how steadily they resisted any encroachment by the colonial government on their freedom of thought and action. The "Regulators' Movement" in North Carolina in 1768, the "Wautauga Compact" of 1772 in East Tennessee, and the "Mechlenberg Declaration" of May 31, 1775, preceded by one to eighty years the more famous and more articulate Declaration of July 4, 1776. And when the colonists had by formal act severed their allegiance to

† ibid.

the British crown, the Scots of the Middle States, of Virginia and of the Carolinas formed the back-bone of the army of the Republic. It was not the Puritans of New England, nor the Cavaliers of the South, nor the Patroons of New York that won independence, but the strong arm and resolute heart of the Presbyterian Scot, with the Covenant in one hand and the sword in the other. The bloody battle of King's Mountain, in the Carolinas, was no less decisive of the ultimate issue than Saratoga, and made the surrender of Cornwallis at Yorktown inevitable.

Happily after more than a century, the wounds left by the Revolution are healed and bitter memories of the unfortunate cleavage obliterated. Community of interest in common ideals, identity of race, language, laws, literature and religion, have brought the two great branches of the English-speaking stock together in a sense that can be affirmed of no other nations. All outstanding differences have been adjusted and the treaty of arbitration now pending will, when adopted, provide the basis of lasting friendship and co-operation. Their united influence and example may in the no distant future bring about the era of universal peace for which all Christians of whatever name and creed earnestly hope and pray.

The Bible, the Confession, the Covenant and the parochial schools made the Scots. They moulded his character, civil and religious, and when these emigrants came to the colonies, they were not less careful than their Puritan contemporaries of New England to found schools and colleges. Modest and unpretending they often were, but they made scholars who were able to read the Scriptures in the original texts, to interpret the standards of their faith intelligently and to maintain their tenets against all comers. They made scholars who understood the rights of man, their obligations no less than their duties. George Buchanan in his "De Jure Regni" more than two centuries before the American Revolution, defined the relations of the subject to the crown and set forth clearly the limits of allegiance and obedience. With a passionate devotion to Christ's crown and covenant, they cherished an equally passionate devotion for political freedom.

Princeton College, Miami University in its early days, Hanover College, Centre College in Kentucky, Hampden-Sidney, LaFayette, and other Presbyterian institutions of like grade throughout the country have stood for Evangelical Christianity, the religious training of the youth of the country, sound learning and wholesome submission to salutary restraint. The tendency nowadays is to secularize education. State institutions rightly claim immunity from ecclesiastical control. They cannot claim and must not be allowed to claim exemption from Christian influences. The relatively small college must still be the home of piety, associated with classical culture where the lamp of an enlightened religious cult is kept burning with a clear and steady flame. It can afford to hand over the scientific studies which require elaborate apparatus and expensive equipments, to the control of the State. It cannot afford to allow the State to dispense to the sons and daughters of the men who made the Republic an education materialistic and godless. Measured by

the influence exerted upon their fellows by the men who have graduated from Hanover College, men who have distinguished themselves at the bar, in legislation, in the healing art, in the pulpit, and as missionaries of the Cross, I know of no institution, at home or abroad, which can dispute with her the palm. The Bible, the Confession, the Covenant have made her and she has made the men who make her name illustrious.

After the lapse of more than half a century from graduation, I return on the invitation of the President and faculty to deliver the Commencement address. Sixty years have passed, on the 5th day of May, since I entered Hanover College. All who were then connected with it have long since passed over to the majority. John Finley Crowe, its founder, saint and sage, tall and erect even at seventy; Thomas Ebenezer Thomas, vigorous, scholarly, imperious, powerful in thought and eloquent in expression, dreaded by Freshmen, but adored by Juniors and Seniors, a stout defender of the Confession and a brilliant expositor of the Philosophy of the Conditioned; Jared Merwin Stone, immersed and versed in science, delightful in his intercourse with classmen; S. Harrison Thompson, deeply read in Euclid and in Newton, urbane and gentle, yet rigorous and exacting; William Bishop, saturated with classical culture, under whose inspiration the "Homeric battle clanged and Pindar's eagle flapped his wings of thunder." These were great men, men of faith, as well as men of action. They have gone, but their work remains. May their memory ever be green and may the sod rest lightly upon their hallowed graves.

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Dr. J. K. Patterson
With great respect
and esteem — Wm. Gibson

CHARLES DICKENS

AN ADDRESS

BEFORE THE

State University of Kentucky

Under the auspices of the

ENGLISH DEPARTMENT

BY

WILLIAM GIBSON

Late General Superintendent of Transportation

Baltimore & Ohio R. R.

April, 1912.

PRESS OF THE MYERS & SHINKLE CO.
PITTSBURGH, PA.

ADDRESS BY WILLIAM GIBSON

LATE GENERAL SUPERINTENDENT OF TRANSPORTATION, BALTIMORE AND OHIO RAILROAD, BEFORE THE STATE UNIVERSITY OF KENTUCKY, APRIL, 1912.

Charles Dickens in early life had to contend with many disadvantages. But he made difficulties his stepping stones and gathered determination from defeat. He won success by good solid hard work, day after day, and that, let me say, is not the least of the lessons to be drawn from this life.

When he was 22 years of age the reading public were attracted by a series of papers which appeared periodically in the "Monthly Magazine," and in the "Evening Chronicle" during the years 1834 and 1835. By the end of the latter year enough had been published to make two volumes, which appeared early in 1836 under the title of "Sketches by Boz, Illustrative of Every-day Life and Every-day People," by Boz, and the reading world of England sat up and took notice, and began to ask "who in the Dickens is Boz?"

"Boz," it might be well to say, was a nickname he had bestowed upon his younger brother Augustus, in honor of the Moses of the "Vicar of Wakefield." The word pronounced through the nose, became Boses, afterwards shortened to Boz.

The first books contained in germ all, or nearly all, of the future Dickens. "The Posthumous Papers of the Pickwick Club" followed almost immediately, and the popular reputation of Charles Dickens was made. Thackeray did not do his best work until he was forty. We thus see that Dickens, unlike his great contemporary, sprang into fame in the very bloom of his early manhood. He continued to add to that fame during his life-

time, and it has gone on rising since his death almost 42 years ago, until at the present day it stands higher than it ever stood before. No artificial effort is needed to advance it.

Dickens is to be judged by what he created,—by what he brought into the world. Books must stand or fall by their contents. Macaulay says very truly, that the place of books in the public estimation is fixed, not by what is written about them, but by what is written in them. Criticism does not make them and cannot unmake them. So it is with mankind. Every man must make his own way and carve out his own life.

The magic of Dickens touches our lives, and the manhood of the Anglo-Saxon race is colored by his works. The purely human element in him was strong. He was a lover of his kind as well as the satirist of it, and he was as much the champion of the poor and the oppressed as he was the inveterate foe of every variety of sham. He was at war with the abuses of his own time, and with the cant and humbug and hypocrisy of every time.

Dickens was in large degree a dramatist. He often presented illusions of life rather than life itself, but his symbolism was of a sort easily appreciated by the plain Anglo-Saxon, and far removed from that of the psychologically profound German.

So strong has the Dickens cult become in this country that the arrival of the great man's son, Alfred Tennyson Dickens, last winter created widespread and permanent interest.

Instinctively when we think of Dickens as a writer we call to mind his chief characters. Owing to various considerations many of his novels were distorted in a way that must have vexed his artistic soul, for a great share of them, as Andrew Lang reminds us, were issued in parts of conventional length, made necessary by serial publication. But "David Copperfield," "Great Expecta-

tions,'' and ''Dombey and Son'' will certainly live so long as English literature is admired for its commentaries on human life, and its exemplifications of human experience.

I hope you are all familiar with your Dickens, because then I can be sure that you share my affectionate devotion to a writer who has filled so many lives with joy. Rich indeed the man or woman who knows the immortal beings of Charles Dickens' imagination—who has roared with Sam Weller, loved little Nell, loathed Pecksniff, and felt his heart grow heavy over the bitter sufferings of Oliver Twist, Poor Jo and tragic Smike.

You may well ask what is the secret of this power,—this grasp—this insight? Dickens' unique force in literature he was to owe to no supreme artistic or intellectual quality, but almost entirely to his unequalled gift of observation, his sympathy with the humble, his power over the emotions, and his incomparable endowment of unalloyed human fun.

To contemporaries he was not so much a man as an institution, at the very mention of whose name faces were puckered with grins and wreathed in smiles. He created a feeling of good will to all the world about him, the wish to be happy and comfortable, and to have all your surroundings in like condition.

Truly did he look upon life with loving eyes. ''The Christmas Carol'' revealed the novelist in his truest attitude, as ''the man who cheers us all up,'' and, even had he written nothing else, that immortal panegyric of love's transforming power would alone have kept his memory green for evermore.

To many his work was a revelation,—the revelation of a new world and one far better than their own. And his influence went further than this in the direction of revolution or revival. Always did he fight on the right side, giving his genius to good causes,—to the greatest

of all causes, the struggle of mankind forward in civilization toward justice and enlightenment. He opened to the neglected, the poor, the weak, the lowly, and the fallen, a world of compassion and tenderness. He taught kindliness and brotherly love, and that charity which is not condescension. He told stories that went to the heart of humanity, he amused, he warmed, he cheered the world. He was the Homer of the humble.

His influence gave that class of people who were then called the "lower orders" a new sense of self-respect,—a new feeling of citizenship. Like the Declaration of a New Independence, it emitted a fresh ray of hope across their firmament. In Matthew Arnold's noble phrase, he was "the friend and aider of the human spirit." He did for the whole English-speaking race what Robert Burns had already done for Scotland,—he gave it a good conceit of itself. And no one knew his Burns better, nor understood him more, than did the great novelist Charles Dickens. He knew that,—

"Rank is but the guinea stamp
The man's the gowd for a' that."

It is common for critics to say that Dickens was essentially a caricaturist. Now caricature involves an original which is distorted. The great quality in the work of Dickens was not only characterization, but originality in the invention of characters, so far as literature can invent human characteristics. He had that power of making characters real existences, not by describing them but by letting them describe themselves,—a power which belongs only to story-tellers of the first rank.

Dickens painted the characters, and ridiculed the follies of life with equal strength, humor and propriety. He was indeed a humorist; his highest faculty was humor. To perceive relations in things which are not apparent generally, is one of those exquisite properties of humor by which are discovered the affinities between the high

and the low, the attractive and the repulsive, the rarest things and things of everyday,—which bring us all upon the level of a common humanity.

It is this which gives humor an immortal touch that does not belong of necessity to pictures,—even the most exquisite,—of mere character or manners,—the property which, in its highest aspects, Carlyle so subtly described as a sort of inverse sublimity, exalting into our affections what is below us, and drawing down into our affections what is above us. When the suddenness, the unexpectedness, the apparent oddity of the one by the side of the other, strike the mind with irresistible force, it means that the divine gift of humor has touched the spring of laughter by the side of the spring of tears.

Dickens knew the wonderful neighborhood in this life of ours, of serious and humorous things; the laughter close to the pathos, but never touching it with ridicule. It was Bulwer-Lytton who remarked that the happiest effort of imagination, however lofty it may be, is that which enables it to be cheerfully at home with the real. Dickens knew that humor is in everything and in everybody, and he knew how to strike the responsive humor chord in the human breast so as to get the only true effects.

Looking over his writings, the reflection that rises to the mind is one of thankfulness that the most popular of writers, who had carried into the lowest scenes and conditions an amount of observation, fun and humor not approached by any of his contemporaries, should never have tarnished that world-wide influence by a single hint of impurity or a possibility of harm. There is not a page of the thousands which he wrote that might not be put into the hands of a little child. And to his eternal honor let it be said that his delineation of women is always governed by the most exquisite discrimination, and the utmost fidelity to nature.

This is why he found his way to the hearts of the two great English-speaking nations as no other novelist has from the beginning of time until the present day. As the late Lord Beaconsfield said of his father, Dickens made literature charming to the multitude. This is what makes him such a demigod and his public success such a marvel, and this is also why any exclusively literary criticism of his books is bound to be so inadequate.

The fame of Dickens is a tradition which defies criticism. Those who love him, love him whole heartedly and accept him, faults and all, without reserve.

It has been remarked that there is no evidence in Dickens' works that he ever read a book. Now it is quite true that he could not be called a literary writer in the sense that he made varied allusions to the literature of the world. But it is impossible that any writer could pour out such a flood about the world and human nature without refreshing his own mind at the great fountains of literature. It was not perfection of style, nor masterly construction, nor logical development that gripped and held people's interest. It was his vivid perception of the varying aspects of life and his power of transmitting his own perceptions to his readers.

Among the great thoughts attributed to Dickens is the awakening in human beings in general of a true understanding of children, of the realization that they have minds and hearts and souls. Dickens had a rare love of children, and the insight that is born of love, and a rare memory of the way he thought and felt as a child. His own childhood was miserable. Distress and suffering stamped recollection into him. You may read in his "Life" how exactly, how minutely the tale of the hard life in mean streets, of little David Copperfield reproduces his own sorrows. He had, indeed, no Mr. Murdstone to torture him, but then there was no Betsy Trotwood to come to his rescue. He felt so bitterly the in-

justice done to him that he never would tell his children about his own childhood. The penury, the servitude to rough work were not observed,—were not imagined. They had been lived through.

It is this which gives reality to his ill-used children, not only to David, but to Jo and Tiny Tim,—which discovers pathos in those young ruffians, the Dodger and Charley Bates. It is this which fired his imagination whenever his scene needed a child,—which gave us the affectionate subtlety of the study of Pip and the Jellyby children.

His children give us some of the truest and most charming child fancy that ever was written down, some of the most vivid moments of child life, perhaps the finest, the purest expression in all literature of the inherent pathos of childhood. But they give us, too, some of the most richly embroidered sentimentality, some of the heaviest rhetoric that ever was wrapped about a child.

Dickens, even the Dickens of legend that we know, may be far from perfect, but his style of writing began in truth and went straight to the heart of his readers. From Carlyle who loved and admired him during a friendship of thirty years' standing, from Longfellow to the English tradesmen, to the New England farmer, to the miner marooned in the Rocky Mountains there came the one verdict before which all critics lay aside their pens. He wrote for no one period but for the ages. Dickens will live on.

Well may we express, as best we may, the gratitude we feel for one who lived and worked in behalf of humanity so nobly,—for his shining spirit,—for his great and enlightened soul.

The sudden death of Alfred Tennyson Dickens, to whom I have already referred, in a New York Hotel last January, as the result of an attack of heart failure,

removed another link between us and the personality of the great novelist. He was of a modest and retiring nature, but withal a genial and loveable man, and was rich with original facts and stories of his celebrated father.

It was my privilege and pleasure to see a great deal of Alfred Dickens during his visit to Pittsburgh in the last Christmas week.

Mr. Micawber, he said, was his own grandfather. Mrs. Nickleby his grandmother. Alfred Dickens understood that the newspaper reporter who met Martin Chuzzlewit on his arrival at New York, was no other than the afterwards famous James Gordon Bennett. Another curious thing Mr. Dickens mentioned was the fact that a jury not long ago empanelled at Melbourne, Australia, contained a Dickens, a Dombey, and a Scrooge. "Great Expectations" was written while Alfred was a schoolboy, and he was confident Joe Gargery and his wife were drawn from the elder Dickens' sister and her husband.

Alfred gave me an amusing illustration of his father's absent mindedness. Gad's Hill is near the Cathedral City of Rochester, and father and son walking, passed on the road a man who saluted, and to whom the father bowed most profoundly. Walking along he said to his son, "Who was that distinguished looking dignitary who spoke to me?" "Why, father," said the boy, "that was the extra waiter you had in to assist at your last dinner party."

When Alfred departed for Australia, his father was writing "Edwin Drood," but the book was never finished, and the son was in a far off land when the news reached him that on June 9th, 1870, the great novelist had died suddenly at Gad's Hill.

Alfred Dickens' recollections of his father also throw an interesting light on the family life at Gad's Hill, and Devonshire Terrace where he was born, and gave us inti-

mate views of the literati of the earlier Victorian period. Alfred Dickens had the most popular writer of the day as his father; the author of "In Memoriam," and "The Idylls of the King" as his godfather; as a boy he was the pet of Thackeray. Yet he spent most of his life in the prosaic occupation of raising sheep on a ranch in Australia, and first emerged as a lecturer when he began a tour of American cities. He did not have fortune smile upon him in several instances. The early death of his wife in a runaway accident, and the loss of his stock on his sheep farm through disease, were but some of "the slings and arrows of outrageous fortune" that sent him afield upon the lecture platform.

The American people have the warmest sentiment for the name and work of Dickens, and for that reason, as Alfred Dickens said, over an after-dinner cigar, and among a few congenial friends, he felt that his task in coming to the United States was to be an easy and a pleasant one. He found us with our arms open,—a fact which should be particularly comforting to us, and which no doubt has been, in some sense, a consolation to his relatives in England, and to his bereaved children in Australia. Alfred Tennyson Dickens was laid to his final rest in Trinity churchyard, New York, on Wednesday, the tenth day of this current month, and his death and burial in our country will tend to draw closer the ties of attachment binding Americans to the undying name of Dickens.

You have all heard of the Dickens Centenary Book Plate stamp which is an artistic souvenir of the great author's birth. The profits arising from the sale of these stamps were devoted to a fund for the benefit of those members of the Dickens family who are in adverse circumstances. The movement was the spirit of Dickens himself, entered into the person of each of his admirers or lovers, that prompted the generous recognition of what he did for all the English-speaking world,—the gifts of inestimable value that he presented in the products of his genius.

But, I believe, it is quite a mistake to suppose that all Dickens' kindred are needy. All fair-minded people, however, must agree with that great scholar, lawyer and diplomat, the Hon. Joseph H. Choate, when he said that the American people owe a large debt to Charles Dickens, and that it could be recognized and partially atoned for in no more fitting way than through and to his living descendants quite regardless of the existing financial situation of any one or all of them.

No student of Dickens can fail to be familiar with the copyright laws that prevailed during his lifetime and up to his death. Aside from religious disputes and quarrels about land, scarcely any subject has given rise to more bitterness than literary pilfering, and enactments in restraint thereof have been, as a rule, most unsatisfactorily dealt with by legislators.

The question plays an important part in literary history. In the palmy Augustan age Virgil was a victim to the plagiarist, and in his "Sic vos non vobis" and elsewhere, lifted his voice high in complaint to gods and men. In the spacious days of Queen Elizabeth filching was quite an art. Shakespeare himself was a free purloiner, and was indignantly anathematized in all the moods and tenses by some of his aggrieved and less successful contemporaries. Ben Jonson raided the classics and annexed the fairest provinces of thought and speech in the style of a literary Captain Kidd. Poor Samuel Richardson had many a vexatious tilt with the Dublin pirates, who reproduced his "Clarissa" ad libitum, without any respect for the author's property in his own works.

And no one in the whole range of English literature suffered so much as did Dickens with regard to the American editions of his works.

Although he was well paid by certain publishers for a few short stories, it is known that he never received

a single penny in American royalties on his novels. And so far, therefore, from any benefit or testimonial to the descendants of Dickens being looked upon as charity, every lover of fair dealing will regard it as a genuine, if belated, installment of justice and righteous compensation. This is the view which has appealed to "a kind, large-hearted, generous and great people."

It is also a great mistake to suppose that Charles Dickens left his family in straitened circumstances. Much to this effect recently appeared in our daily newspapers, but Forster, his lifelong friend and biographer, and one of his executors, records the fact that Dickens' estate totalled $465,000, and Alfred Dickens is my authority for the statement that it is altogether wrong to suppose that his father was not a good business man. As a matter of fact he was possessed of the keenest business ability. He reaped rich profits both from his books published in England and from his readings, and Alfred Dickens also told me that his father's last lecture tour in the United States, two years before his death, brought him 37,500 pounds sterling, or $187,000. This amount, however, was subject to considerable loss due to the then depreciated condition of our currency.

Whatever misfortunes may have overtaken his descendants, or whatever the needs of any of them may be, or have been, it is only the commonest kind of justice to the memory of a great man to say that he did his full share during his life and that he was an affectionate, unselfish and devoted father.

Charles Dickens' readings from his popular novels were the most successful entertainment of the kind ever given in this country. Readers there were in numbers at the time, but how differently did Dickens read! He did not, in fact, read—he related the descriptive passages, and when he came to scenes he acted them.

With a trained appreciation for stage management and theatrical effect, Dickens saw to it that no accessory was

lacking. He carried with him a staff of men, including a gas man, whose duty it was to erect the miniature border light, which was supported over Dickens' head and which threw his fine, expressive face into relief. Back of him on the platform, was a white screen, and before him a curiously designed reading desk, arranged with a high rest for his book, and a lower convenient shelf for his water bottle and glass. Dickens appeared on the stage at his readings in full evening dress, wearing a massive ring, and a heavy gold chain fastened by a locket in the middle, and leading in a double festoon to either watch pocket, as if he wore two watches. In his buttonhole was the invariable scarlet geranium.

As a mere boy I was taken by my mother to hear him read, and his appearance on the platform was as nearly as possible as I have just described it. The world of today knows Dickens as a writer, but as a story-teller he was even more marvelous. He told stories almost as constantly as Lincoln, but they had a mysterious peculiarity. Remember them—repeat them word for word—and they had lost their magic, like translations from Greek and Latin. No ancient poet has been rendered in a way to satisfy those who know him,—the magic remains incommunicable.

When the last will of Charles Dickens was opened after his death it was found that clear instructions had been left concerning his funeral. He desired no publicity, and none of the well-meant assembling of friends when his remains should be committed to the earth, and when he was laid to rest in Westminster Abbey there were only present, outside of the immediate members of the family, Thomas Carlyle, Alfred Tennyson, Wilkie Collins and Mr. John Forster, fourteen persons in all.

On the Sunday following the burial, Dean Stanley, whom I knew, and remember well, preached the funeral sermon in Westminster Abbey. He took as his text the verses in the 15th and 16th chapters of St. Luke, which embody

the parable of the rich man and Lazarus:—"He spoke this parable. There was a certain rich man which was clothed in purple and fine linen and fared sumptuously every day. And there was a certain beggar named Lazarus, which was laid at his gate full of sores, and desiring to be fed with the crumbs that fell from the rich man's table."

After commenting at some length upon the parables of the New Testament, and especially upon the one selected for consideration that morning, the preacher thus applied the text:—

"It is said to have been the distinguishing glory of a famous Spanish saint that she was the advocate of the absent. That is precisely the advocacy of this divine parable, and of those modern parables which most represent its spirit—the advocacy, namely, of the poor, the absent, the neglected, of the weaker side, whom, not seeing, we are tempted to forget. It was the part of him whom we have lost to make the rich man, faring sumptuously every day, not fail to see the presence of the poor man at his gate. The suffering inmates of our workhouses—the neglected children in the dens and caves of this great city—the starved, ill-used boys in remote schools, far from the observation of men—these all felt a new ray of sunshine poured into their dark prisons, and a new interest awakened in their forlorn and desolate lot, because an unknown friend had pleaded their cause with a voice that rang through the palaces of the great as well as through the cottages of the poor. In his pages, with gaunt figures and hollow voices, they were made to stand and speak before those who had before hardly dreamed of their existence. But was it mere compassion which this created? The same master hand which drew the sorrows of the English poor drew also the picture of the unselfishness, the kindness, the courageous patience, and the tender thoughtfulness that lie concealed under many a coarse exterior, and are to be found in many a degraded home. When the little work-

house boy wins his way, pure and undefiled, through the mass of wickedness around him—when the little orphan girl, who brings thoughts of Heaven into the hearts of all around her, is as the very gift of God to the old man who sheltered her life,—these are scenes which no human being can read without being the better for it. He laboured to teach us that there is even in the worst of mankind a soul of goodness—a soul worth revealing, worth reclaiming, worth regenerating. He labored to teach the rich and educated how this better side was to be found, even in the most neglected Lazarus, and to tell the poor no less to respect this better part of themselves—to remember that they also have a calling to be good and great, if they will but hear it.

"There is one more thought that arises on this occasion. As, in the parable, we are forcibly impressed with the awful solemnity of the other world, so on this day a feeling rises in us, before which the most brilliant powers of genius and the most lively sallies of wit wax faint. When, on Tuesday last, we stood beside that open grave, in the still deep silence of the summer morning, in the midst of this vast solitary space, broken only by that small band of fourteen mourners, it was impossible not to feel that there is something more sacred than any worldly glory, however bright—or than any mausoleum, however mighty—and that is the return of the human soul into the hands of its Maker. Many, many are the feet that have trodden, and will tread, the consecrated ground around his grave. Many, many are the hearts which, both in the old world and the new, are drawn towards it as towards the resting place of a dear personal friend. Many are the flowers that have been strewn —many the tears that have been shed—by the grateful affection of the poor that have cried—of the fatherless —and of those that have none to help them. May I speak to them a few sacred words, that will come perhaps with a new meaning and a deeper force, because they come

from the lips of their lost friend—because they are the most solemn utterances of lips now closed forever in the grave? They are extracted from the will of Charles Dickens, dated May 12, 1869, and will now be heard by many for the first time. After the most emphatic injunctions respecting the inexpensive, unostentatious, and strictly private manner of his funeral—injunctions which have been carried out to the very letter—he thus continues:—

"'I direct that my name be inscribed in plain English letters on my tomb. I conjure my friends on no account to make me the subject of any monument, memorial, or testimonial whatever. I rest my claim to the remembrance of my friends in their experience of me in addition thereto. I commit my soul to the mercy of God, through our Lord and Saviour Jesus Christ; and I exhort my dear children humbly to try to guide themselves by the teaching of the New Testament, in its broad spirit, and to put no faith in any man's narrow construction of its letter here or there.'

"In that simple but sufficient faith he lived and died. In that simple and sufficient faith he bids you live and die. If any of you have learnt from his works the value—the eternal value—of generosity, of purity, of kindness, of unselfishness, and have learnt to show these in your own hearts and lives, then remember that these are the best monuments, memorials, and testimonials of the friend whom you have loved, and who loved with a marvelous and exceeding love his children, his country, and his fellow-men. These are monuments which he would not refuse, and which the humblest and poorest and youngest here have it in their power to raise to his memory."

2

COMMENCEMENT ADDRESS

TO THE

Graduating Class of Clemson Agricultural College

DELIVERED BY

JAS. K. PATTERSON, Ph. D., LL. D., F. R. S.
President Emeritus, Kentucky State University

Memorial Hall, June 13, 1911

THE R. L. BRYAN COMPANY
COLUMBIA, S. C.
1911

Commencement Address

DELIVERED BY

DR. JAS. K. PATTERSON, PH. D., LL. D., F. R. S.,
President Emeritus Kentucky State University,

TO THE

Graduating Class of Clemson Agricultural College,

June 13, 1911—Memorial Hall.

Mr. President, Gentlemen of the Faculty and Board of Trustees, Members of the Graduating Class:

I am gratified by the evidences of thrift and prosperity which I have seen since coming within the boundaries of South Carolina. I feel today that I am standing on hallowed ground. This college occupies the homestead of one of the mighty trio, who, during the first half of the last century, made this Commonwealth famous, whose public utterances thrilled and swayed millions of his fellowmen.

In the providence of God it is peculiarly appropriate that this domain, the Mecca of South Carolina, should be devoted to the education of the men who will control its destinies and build up the industrial and material developments of a State which, out of all proportion to its area or population, has impressed itself upon the thought and the life of the nation.

On the western shore of Loch Lomond, in Scotland, is the ancestral home of the Conquhouns, from whom the illustrious statesmen whose memory South Carolina delights to honor, sprang. For centuries there has been a baronetcy in the family. I have been over the estate, and a magnificent one it is. Within a few miles of it, the domain of the Colquhouns, my father and mother were born. You can then readily imagine the thrill of pleasure which it gives me to be present

today in intimate association with the memories of one of the greatest men of all times. Great in intellect, great in moral power, great in his devotion to the well-being of his people, and great in the conspicuous ability with which he fought on the Hustings, and in the halls of Congress the battles of his State and country, he remains to you an everlasting memory and an everlasting possession. The Sumters, the Pickenses and Marions and Rutledges; the Haynes, the Butlers, the Colquhouns and the Hamptons, and last of all, the distinguished statesman, whom I see here today, Senator Tillman, to whom, on behalf of Kentucky, I present my respectful homage,—may a kind Providence deal gently with him, restore his physical strength and spare him long to wear with honor and with dignity the mantle of his distinguished predecessors,—these present to the historian a succession of men worthy your everlasting admiration. South Carolina, after the terrible experiences of the war, has risen again like the Phœnix from its ashes in brighter plumage than ever. The sap swells high in her veins today and will swell higher still tomorrow.

I have been greatly impressed with the magnitude of Clemson, its splendid expanse, its ample domain, the number and variety and excellence of its buildings and its equipments,—the material appliances which make education effective. I have been impressed with the manifest ability and patriotism of its Board of Trustees, with the intelligence and economy which have characterized their expenditures, and their administration of the responsible trust committed to them—all testify to honesty, capacity, economy, and integrity of the highest character. No wonder that with such administration your institution is growing daily in the affections of your people, that its roots are striking deep into your Commonwealth, and that in the near future it will be second to none within the length and breadth of the land.

In the nature of things agriculture must, for ages to come, be the predominant occupation of your people. The statistics of the Department of Agriculture show that the era of improvement has begun. Under the impetus of the leadership of Clemson, its Board of Trustees, its faculty, and its educated sons, industrial progress in agriculture, engineering, and in

textile fabrics is going rapidly forward. Manifestly a new era has begun.

Agriculture is an ancient and an honorable occupation. Its foundations are almost coeval with the birth of the human race. Before the expulsion of mankind from the Garden of Eden, we are told that the Lord God took the man and put him in the Garden of Eden to dress it and to keep it. From that day to this, men have been largely dependent for subsistence upon the products of the soil. It is true that in the early history of the world, before its population had become dense, men were able to obtain a subsistence by appropriating the spontaneous productions which nature afforded. The use of the rude implements of offensive warfare made the labors and the pleasures of the chase subsidiary to their maintenance and well-being. Later on the pasture lands of the east afforded abundant subsistence for flocks and herds. Then agricultural operations, gradually introduced, became one of the few human industries that occupied at least partially the attention of mankind. As population multiplied and as the spoils of the chase diminished, the occupiers of the soil found it necessary to depend more largely upon the products of the field for the maintenance of themselves and of their flocks and herds. This led gradually to stationary instead of nomadic residence. It led, furthermore, to well-defined occupation of the soil and proprietary interests therein and what at first was comparatively an unimportant feature in subsistence gradually became the most important factor of all. For ages progress was necessarily slow. The range of human intelligence was comparatively narrow. Men thought and acted within circumscribed boundaries and the limitations imposed upon them by the force of circumstances it was found difficult to transcend. They lived in almost complete ignorance of the laws of nature, although its operations were manifest all around them. The sun shone, but they knew nothing of the source of his power. The rains of heaven fell and watered the lands, but they knew nothing of the meteorological conditions which determined the supply of water necessary for the irrigation of their fields. With the rude implements of husbandry then at their command, they were able to rear and reap harvests from a virgin soil, but of the origin of

soils they knew nothing. Of the constituent elements of plant life they knew nothing. Of the constituent elements of animal life they knew still less. They knew neither how seeds germinate, how crops feed, nor how crops grow, and then these products of the soil were fed to sheep and cattle and horses; they knew nothing of the processes of digestion, or the elements of nutrition by which they developed from birth to maturity.

Thousands of years passed before even the rudimentary truths which lie at the foundation of intelligent agriculture were apprehended and when apprehended, could be intelligently applied. And yet agriculture, though slow in its development, kept pace with advances along other lines. The traveler upon a swift steed could cover many miles in the course of a day, but movement in masses was necessarily slow. Ages passed before those who lived upon navigable rivers, or upon the shores of the ocean could make headway even in smooth waters, much less against wind and tide. The healing art was among the earliest developed applications of human knowledge, and yet little was known of the causes of disease and still less of their effective remedies. The sense of justice was implanted in the human soul and was coeval with the introduction of man upon the earth. Hence the elementary principles of law soon found expression in determining the relations of men, their rights and their duties. Under all these adverse conditions, with abundant experience, but a limited knowledge of the material laws by which they were surrounded, the generalizations of mankind were slow and conclusions were oftentimes reached which were necessarily modified from time to time as human knowledge widened and deepened. But as one by one these laws became known and as experience led to their tentative application, the foundations of a rational system of procedure were gradually laid and in the end a well-reasoned body of knowledge, drawn from experience and observation, became available for the development of human industry.

Notable among these was the discovery of the utility of steam as a motive power. After many years of laborious effort, successive inventors advanced step by step, until, in the latter part of the eighteenth century, the genius of James Watt made its utility and control an everlasting possession for the

benefit of mankind. Within fifty years after this discovery, it was no longer limited to stationary application, but became available for locomotion by land and by sea. The introduction of the railway has superseded all other means of transportation by land and the application of steam to trans-oceanic navigation has in like manner almost entirely supplanted, except for coasting purposes, travel and transportation by the sailing vessels of the olden times. Co-operative activity has played a very important part in this application of energy. A line of stage coaches was easily within the possession of a single person. A sailing vessel of five hundred tons burden was quite within the means of men of average individual wealth, but the construction of a railway, even for a short distance, was altogether beyond the power of even the wealthiest men of the times, and the construction and navigation of the iron built steamer of 25,000 and 30,000 tons capacity propelled by triple expansion engines was equally beyond the reach of the average possessor of wealth. But what could not be accomplished by individual enterprise was easily within the power of associated wealth and co-operative energy. The more energetic and the more far-sighted pioneers of industry easily gathered together in joint stock companies hundreds of millions for the building of railways and the construction of ocean steamers. It is not too much to say that the introduction of steam has revolutionized the industrial activity of the age.

During the ages to which the terms antiquity and medievalism are properly applied, educational institutions representing the knowledge of the time had sprung up in the centers of civilization and had become the exponents of the learning and intelligence of the age. These dealt largely with subjects relating to the cultivation and development of the human intellect, mainly along deductive lines. Metaphysics and moral philosophy were cultivated with as much energy and with as keen a zest by Aristotle and Plato and their followers in the ages preceding the Christian era as they are today. All the energy of the human intellect was concentrated upon these subjects, both for themselves and in their relation to law and theology. The modern sciences founded upon observation and experiment and which are generally known as inductive rather than deduc-

tive, were then practically nonexistent. Education, until the foundation for a knowledge of the inductive sciences was laid by Francis Bacon, in the early part of the seventeenth century, was consequently mainly confined to the deductive sciences and their application, but from the time of the great Chancellor onwards, some of the greatest intellects of the human race have been laying the foundations and building up laboriously the more recently organized departments of human knowledge, known as the natural sciences, physics, chemistry, comparative anatomy, biology, astronomy, geology. Within the last two centuries, and more notably, within the limits of the nineteenth, the individual and united energies of the greatest intellects of modern times have devoted themselves assiduously to a rational interpretation of the laws of nature in all these varied relations. The result has been that whole systems of knowledge have been built up and placed upon an enduring basis and that superstructures have been raised thereon which will endure through all the ages.

In this awakening of human activity, and in these fields of discovery, agriculture finds at last a rational and intelligent basis upon which to rest, and from which to conduct her varied operations. The progress of geology revealed the origin of soils. The discoveries of chemistry made manifest the constituent elements thereof. The processes of germination have been carefully studied and reduced to a science. How plants feed and how plants grow, the processes of development and nutrition, have been wrought out painfully and experimentally in the laboratory, and now find practical application in the fields of the agriculturist. The relations of insects to vegetation, beneficial and destructive, have been carefully studied and brought within the compass of practical application. The principles of stock-breeding and the development and growth of animals from embryonic conditions to maturity have been patiently investigated and the results made available for the stock feeder and stock breeder. The behavior of plants and of animals in disease as well as in health have been studied, formulated and are now within the reach of every intelligent farmer.

These conditions determine important changes in the educational institutions of the country. A little over forty years ago a new departure took place in education in America. Until then, classics, literature and philosophy had been the dominant features of college work. The natural sciences were still, comparatively speaking, in their infancy. Scientific men had for more than half a century been working along scientific lines. A priori deduction had given place to induction founded upon observation and experiment. The atomic theory of Dalton, the correlation of physical forces worked out laboriously and brilliantly by Helmholtz, Joule and Tyndall, the spectroscopic analysis of Kirschoff, the uniformitarian hypothesis of Sir Charles Lyell, and above all, the far-reaching generalizations of Wallace and Darwin, had made a new epoch in scientific discovery. It recalled the spirit of adventure which roused into feverish activity the boundless energy and endurance of Henry, the navigator, Vasco Da Gama, and Christopher Columbus, four centuries before. A new world of ideas seeemed to dawn upon mankind with the introduction of the telegraph, of railway construction, of steam navigation, and the application of science to the industrial arts. The age of the Utopia of Sir Thomas Moore and the new Atlantis of Bacon seemed to have dawned again upon mankind. The stimulus given to emigration brought hundreds of thousands annually to our shores and the impulse given to trans-continental migration through the development of the railway system east of the Mississippi transferred thousands upon thousands annually from the Atlantic and Middle States to the fertile lands stretched out in forest and prairie and ready to receive and to reward the hardy and industrious pioneer with comfort and plenty. The long pent-up energies of a young, vigorous self-reliant people broke beyond the geographical limits which had hitherto bounded their vision and their labors, and swept a living tide of humanity over hill and valley, over mountain and plain, from the Alleghenies to the Mississippi and Missouri, and from the Mississippi and Missouri to the Great American Desert, the Rocky Mountains and the shores of the Pacific. And thus the wave of settlement, adjusting itself to peaceful industry, laid the foundations of new States, planted new industries, brought vast stretches of

hitherto unproductive lands under cultivation, opened up the treasures of the mine, multiplied the lines of communication and poured the agricultural and mineral wealth of the great West into the commerce of the world.

The demand for a system of education adapted to the needs of the time, which should go beyond the requirements for classics, law, medicine, divinity and letters, an education which should utilize for the public good the known and discoverable laws and processes of nature, for the production and the multiplication of the comforts and necessities of life—this demand the Morrill Law, passed by Congress in 1862, was intended to satisfy, and upon this foundation more than fifty State colleges and universities were established, of which the Agricultural and Mechanical College of South Carolina is one. Mr. Morrill saw that in the rapid alienation of the public lands through settlement and gratuitous allotment to railway corporations, the public domain was being rapidly exhausted. He accordingly determined to dedicate a part of this rapidly diminishing public domain to the education of the American people along new lines and according to the necessities imposed by geographical and economic conditions peculiar to the western hemisphere. He provided that land scrip should be given to the several States in proportion to population, for the endowment of institutions of learning, wherein should be taught those branches of learning related to agriculture and mechanic arts, without excluding classics and other scientific studies, and including military tactics, for the education of the industrial classes in the several pursuits and professions of life. This was a radical departure from the old idea of education. It was a conception of college and university work such as had never yet been thought out by any thinker and whose realization had never yet been attempted. The existing body of human knowledge, whether of mind or of matter, was to be made available for appropriation by the learner, and the far greater domain of nature, unknown or partially known, invited the investigator, through observation and experiment, to new fields of discovery.

Many of the States, partly through mismanagement, realized comparatively little from the splendid benefaction of Congress. This is particularly true of the States south of the Ohio River.

Kentucky, for example, squandered her allotment. The scrip, representing 330,000 acres of land, an area equal to 1,500 square miles, was sold for fifty cents per acre. The proceeds, $165,000, invested in State bonds, is all that the State University has to show for its participation in the land grant of 1862.

But whether the States realized much or little, the land grant legislation of Congress, with the subsequent money grants of 1887, 1890, 1905 and 1907 by the Federal government, formed the basis of the splendid array of State colleges and State universities founded upon the original act. I do not know of any State which has not supplemented by liberal legislation the beneficence of the Federal government. The statistics of land grant colleges issued by the Department of the Interior for 1910 show the annual income from all sources of these institutions, a few of which I present herewith:

University of California	$2,720,000
University of Illinois	1,639,000
Cornell University	1,624,000
University of Wisconsin	1,697,000
University of Minnesota	1,415,000
Ohio State University	915,555
University of Missouri	684,000
University of Texas	539,000

These are the rich State universities of America. A large number, with much smaller incomes, follows:

The Michigan Agricultural College	$404,000
Mississippi Agricultural College	381,000
University of Tennessee	209,000
Clemson College	231,000

The compass of work done by the institution whose incomes are relatively small is necessarily circumscribed by financial limitations, but the quality of the work is equally good, equally thorough. They do not and cannot, however, educate so many persons, but their alumni take equal rank with those of the richer institutions, and in competition with them are quite able to hold their own.

These institutions founded upon the land grant, are rapidly becoming the great educational centers of the several States of the American Union. They have grown so rapidly that they are now recognized as the chief exponents of the higher education, coupled with the practical education which finds expression in ever multiplying bushels of wheat and bales of cotton and tons of steel, an education which conditions and renders possible the supremacy of America in productive activity and commercial enterprise. But our scientific achievements and their translation into material wealth are not to be content with these triumphs. The last forty years, a period coincident with the life of these institutions, have witnessed an increase in population and in wealth, such as the dreams of the most sanguine could not have ventured to anticipate. No parallel for it exists either in ancient or modern history, either in the old world or the new. In this mighty onward march, the State colleges and universities will lead the van. What part will Clemson College play in this mighty development of intellect and its application to material industrial production? That is the problem with which you have been confronted and which so intimately concerns you here today.

I have briefly indicated the education which a farmer should have. He should know the origin of his soils, their chemical constituents, the chemical constituents of the plants which he grows and the animals which he rears. He should know the processes of growth and development and adapt his cultivation and care to meet these necessities. He should know the conditions of crops in health and in disease, the conditions that determine the health of his stock, and the conditions which produce disease and their remedies. He should thus be somewhat of a geologist, a chemist, a botanist, a zoologist, a veterinarian, a meteorologist. He should bring all the circle of the sciences to bear upon the lines of production and conservation in which he is specially interested. Agriculture is sometimes described as a science. That is not quite correct. Agriculture is like medicine, not a science but an art, but like medicine, it is dependent upon each of the contributory sciences and their intelligent application to the healing art on the one hand and to agricultural production upon the other. He will become

learned in those sciences which relate to agriculture, taking a pleasure therein, because of his increased knowledge of nature and natural processes and because of their economic application to the enrichment of his soil, the multiplication of his crops, and the improved condition of his stock. Now, where is this learning to be obtained? Manifestly not at the old type of college whose special function it is to prepare men for law and medicine and theology; but all these sciences and an acquaintance with them are to be found and obtained in the agricultural colleges of the country.

The student who matriculates in the Clemson Agricultural College there becomes acquainted, in the course of a few years, with chemistry and physics, botany and geology, biology, bacteriology, and their application to agricultural production. When he returns to the cultivation of his paternal acres, he thus carries with him a body of systematized and digested knowledge which he can immediately apply and in addition, he becomes a center of intelligence and information for all those in his neighborhood, in his precinct and in his county. He becomes a source of light and of leading to his friends and his neighbors, and they catch the spirit of enterprise and intelligent activity which he infuses into his own operations and are eager to give their sons and their daughters the benefit of the education which they see its fortunate possessor able to transform into dollars and cents.

Up until 1862 the various phases of engineering, viz., civil, mechanical and mining engineering, were yet in their infancy. Indeed, for many years thereafter, this continued to be the case. But since 1875 these professions and the preliminary courses of collegiate and university training which prepare men for these professions have made rapid advances. In the meantime electrical engineering has been created and now finds itself closely allied with the other departments of engineering. The same is true of hydraulic engineering, sanitary engineering, municipal engineering, and notably of chemical engineering. All these find their development on the instructional side mainly in the land grant colleges. I do not forget or ignore the Massachusetts Institute of Technology, and the Van Renssalear Institute, of Troy, the Stevens Institute, of Hoboken, but it is susceptible

of easy demonstration that the Engineering Schools of Cornell, of Wisconsin, Michigan, Illinois, Kentucky and Purdue Universities, Iowa and South Carolina State Colleges, are far in the lead in thoroughness, practical efficiency and in numbers.

The demand for educated men, highly educated men in these professions, has been unprecedented. These land grant colleges possessed the resources for supplying these demands and have promptly met them. They have purchased and created equipments for instruction in engineering science far surpassing those of the older institutions. They have established courses of instruction based upon extended attainments in mathematics, physics and chemistry, supplemented by large practice in the class rooms, in railway shops and in the field. They have worked out laboriously and successfully original problems from original data upon which theses are based for graduation, showing oftentimes marvellous originality in detail. I make bold to say that in no institution in this country or in the world are advantages to be found superior to those offered in some of the larger universities and colleges of the North and West.

In the domain of pure science likewise, these institutions take the lead. Chemistry has advanced by leaps and bounds. Let anyone compare the meager equipment and meager course of instruction given at Yale and Harvard half a century ago with the splendid laboratories and large staff of instructors in chemical science in the land grant university of today. The scope and compass and value, theoretical and practical, of the original work done would fill volumes. In the arts, in manufactures, in all the manifold applications of chemistry to modern industries, the chemist is in demand and indispensable.

And, so I might deal with botany, which concerns itself with the laws and processes of vegetable life, with biology, which concerns itself with the laws of animal life, variation, cross-fertilization, the physiology and pathology of all that lives and breathes. With the crucible and the microscope thousands of workers are attacking the problems of life and being, extorting from nature her secrets and forcing her to disclose her hidden treasures, pushing back every year the boundaries of the unknown and enlarging correspondingly the boundaries of the known.

You, ladies and gentlemen, citizen of South Carolina, are interested in this wonderful era and area of progress. You possess thousands of square miles of agricultural lands and much valuable but undeveloped mineral wealth. These material resources are capable of making you one of the richest communities in America. Manchester and Bradford, Lowell and Fall River have no such illimitable resources for manufacturing industry as those which Providence has given you. They will be developed in time. Will you do this for yourselves, or will you allow others to do it? In the former case, home-educated talent and home-created capital will do the work and your dividends will remain at home to enrich you. In the latter the brain and the capital of the alien and the foreigner will do the work and your dividends will go hence to enrich those with whom you have no interests in common. South Carolina will become a field of exploitation, but not for you.

This is the plea which I have to make to you in the interest of agricultural and technical education, coupled with the plea that you stimulate your Legislature, the men who manage your public affairs, to a wholesome and generous liberality in providing for the Agricultural and Mechanical College of South Carolina all that it needs to build up a well-rounded and symmetrical body of trained men and women who shall aid in lifting up these great and predominant industries to the position which they ought to occupy in this Commonwealth. But this is not all. The men who own the farms and cultivate the soil of South Carolina must be educated, not only as agriculturists and scientists, but as citizens. You have a great political inheritance in these federated States, nearly fifty in number, now forming the American Union. You possess an inheritance such as the world has never known. You are the heirs of no ignoble heritage; though there are many contributory elements from other sources which go to make up the eighty or ninety millions of people now resident within the boundaries of the great American Commonwealth, the basis of your blood and your traditions and your inheritance is the stiff old Anglo-Saxon imperial race, which has been working out its destiny in the old world within the four shores of Britain for a thousand years, a branch of which was transplanted to this western

hemisphere nearly three hundred years ago, and has now grown to be, if not the mightiest, among the mightiest nations of modern times. The great American nation has today an area of over three millions of square miles, exclusive of her transcontinental domain, a population of ninety millions of souls, the material for the greatest and most effective army upon the face of the earth, able, if she limit her activity to defensive operations, to defy the world in arms, if united with the arms and fleets of the mother country, to impose her will at no distant date, and to dominate the international relations of the world. The greatest possible individual freedom compatible with the well-being of society exists in the mighty nation of which you form a part, but there are grave problems which confront the statesman today. Somehow or other, I have an abiding confidence in the sense of justice and the self-regulated activity of the great American people.

The unequal distribution of wealth is a grave menace to the perpetuity of republican institutions. An hundred and twenty years ago, there was not a millionaire upon the American continent. They now number, not only hundreds, but thousands, many of whose wealth runs away up into the hundreds of millions, some of them even nearing the limit of a billion of dollars. The aggregation of such enormous wealth in corporate enterprise, in the ownership of railways, the ownership of industrial plants, the ownership of lines of steamship navigation, operates and must operate with tremendous energy and effect upon the legislation of the country. Less than 25,000 persons within the limits of the United States own more than half the wealth of the whole American Union. But while wealth exists in such enormous proportions in the hands of the relatively few, there are millions of men and women within this broad domain who live practically from hand to mouth. Within all the great cities of the country, existing side by side with the possessors of thousand of millions, there are found hundreds of thousands of men and women and children who are upon the very verge of starvation, and under the stress of commercial disaster and commercial crisis, when these large masses of people are thrown out of employment, they become a dangerous element and a perpetual menace to the well-being of

organized society. Between these two extremes, happily, there is a large middle class, neither very rich nor very poor. This substantial middle class constitutes the strength and the bulwark of the nation, and here it is comfortable to note that a large proportion of this substantial middle class consists of the farmers, the agriculturists of the South, of the near West, and of the trans-Mississippi region. This class of population is the steadying element, the conservative element, the ballast of the country. They are opposed to class legislation, because inimical to their interest. They are opposed to the excessive aggregation of capital controlled by irresponsible companies and by trusts, because the pressure weighs so heavily upon them that they are unable to realize the legitimate fruits of their industry. They are opposed to ignorance, because upon intelligence rests the basis of American institutions. In times of civil commotion, and these perhaps may come, sooner than we anticipate, they are the only conservative element of the nation. Within the large cities are found the explosive elements which may at any time, in times of commercial and economic distress, produce an explosion. The moneyless millions have nothing to lose and possibly something to gain by civil convulsions. They can then wreak their vengeance upon the physical embodiments of the wealthy whom they regard as their natural enemies, but the bulk of the wealth of the millionaires, consisting largely in stocks and in bonds, is easily transferable beyond the reach of danger. On the other hand, in times of civil commotion and upheaval, the agriculturist, the bulk of whose wealth consists in his buildings and in his stocks and in his barns, and in the produce of the fields, is exposed to the fury of the anarchist and the revolutionist, and the carefully accumulated results of years may vanish through the torch of the incendiary in a single night. He is thus specially interested in the perpetuity of civil government, conceived and executed along just and equitable lines.

Under these conditions, I think you will agree with me that the education of the farmer and the artisan not only as agriculturists and mechanics, but as citizens, is one of the most important problems of the day. They must be educated not as producers only, but as citizens to whom is committed, under Provi-

dence, the destinies of the greatest gift to humanity, in the embodiment of civil government, which the world has ever seen. They are free, but they must know how to preserve their freedom. They must know how to maintain the two elements which make human government possible in all time, namely, the greatest possible individual freedom, with wholesome and salutary restraint. In other words, they must learn to know the principles underlying civil government and how best to co-ordinate liberty with authority. Liberty unstrained becomes license, anarchy. Authority unrestrained becomes despotism. The business of the statesman is to know how properly to co-ordinate the two. The agriculturist is numerically superior; the urban, though rapidly gaining at the expense of the rural population, is still but twenty-five per cent. of the whole. These relative proportions must be maintained. We must endeavor, by all proper agencies, to make farm life attractive. This can be done by making it more remunerative than it has been heretofore, and this idea, coupled with the wholesome sense of independence which the farmer enjoys, will retain the vigorous young blood which now has a tendency to drift towards the towns and the cities, at home, where it may enjoy in connection with an active and vigorous life, the comforts of a wholesome independence which cannot be enjoyed elsewhere.

To you, citizens of South Carolina, today, in conclusion, I desire to say that you possess a noble heritage; the purest Anglo-Saxon blood of this continent is found within the limits of Kentucky, and Tennessee and the Carolinas. This is the race which has been working out laboriously the principles of human freedom and of self-government for hundreds of years. In the mother country, it found expression in the Magna Carta, in the establishment of parliamentary and responsible government. The settlers who came from Old England and to Virginia and the Carolinas 250 or 300 years ago, brought with them the inheritance and the traditions of human freedom which had been laboriously wrought out by their ancestors and transplanted these upon the American continent, where, under altered conditions, they have grown up into a vigorous maturity. And the Magna Carta of the home of your ancestors finds parallel expression in the magnificent Declaration of Independ-

ence, embodying the conception of the rights of men and of the true and genuine principles of human freedom, not only for the eighteenth century, but for all the ages to come.

From a glorious past, through a marvellous present, to an illustrious future, the transition is natural and easy; if the growth and prosperity witnessed within the memory of living persons have been unexampled, it is because conditions intellectual, moral, social, material and political existed among us, such as never existed before.

While we must educate, then, for the increase of the material comforts of life and for the development of a material civilization, we must not be content to stop there. We must educate for higher and nobler ends than can be measured by bushels of wheat, bales of cotton and tons of steel. We must educate in order to obtain a mastery over the powers of nature, subordinating them to human control and human utility. We must educate in order that the visible embodiments of the collective will in the civil government, executive, legislative and judicial, shall be applied for the upbuilding and maintenance of the great free institutions which form the noblest political heritage ever possessed by man. But it is not to be forgotten that these are only subordinate to still higher ends. Upon the moral and religious life of the future will depend the future greatness of the great republic. If there be wholesome, vital, intense and strong social and political convictions, these must rest upon a moral basis and be controlled by a moral sanction. The moral and religious tone of the country upon which the greatness of the nation will depend will be influenced largely by the moral and religious tone which pervades the educational and religious institutions of the country. Let us see to it, then, that the God of our Fathers, reliance upon whom carried them through the throes and perils of the birth of the nation, is not forgotten, that there is a "Divinity that shapes our ends, rough hew them as we may;" that there is a power controlling human forces which works for progress and for righteousness, and that the great lesson of all history, specially emphasized in our own, is that the divine dominates and controls the human, the infinite the finite, and the eternal the temporal, and that the great lesson of all history, specially emphasized and exemplified in our own,

is the realizing of the divine in the human, of the infinite in the finite, of the eternal in the temporal, that

"Not in vain the nation strivings,
Nor by chance the currents flow;
Error mazed, yet truth directed,
To their destined goal they go."

To the Members of the General Assembly of the Commonwealth of Kentucky

GENTLEMEN:—

The question of the violation of the law of appointment of beneficiaries to the State University was submitted to the Attorney General by Hon. Barksdale Hamlett, Supt. of Public Instruction. The Attorney General in an elaborate opinion decides that the county is the unit of appointment and not the State, as contended by the administration of the State University, at whose instance and under whose instruction, the law was disregarded and ignored by the County Superintendents. Judge H. S. Barker then addressed the Attorney General, requesting his attention to the doctrine of "Contemporaneous Construction." The Attorney General in a letter to Hon. Barksdale Hamlett, says: "Judge Henry S. Barker, President of the State University, has called my attention to the fact that I did not touch upon the doctrine of 'Contemporaneous Construction,' as applied to the statute in question, and he informed me that the construction now given to the statute is the same construction that has been given to it by those in charge of the University for several years, and for that reason he holds that the construction given it by the present authorities is the proper construction."

The Attorney General, after discussing "Contemporaneous Construction," says: "To my mind the statute is clear. I think the opinion given you under date of February 5, is the proper construction of the statute in question."

On the statement of Judge Barker, I wish to make the following observations:

During the period from 1893 when the law became operative until my retirement in 1910, there was a uniform simple and unambiguous construction of a statute which is quite incapable in ordinary hands of distortion or perversion. The statute requires a competitive examination, on questions prepared by the Faculty of the University—the examination is to be held between the first day of June and the first day of August, the time and place of examination is to be made known to the citizens of the county by the County Superintendent. The age limit is 14-24. All graduates of the common schools are eligible. The successful competitor is exempt from the payment of all fees, receives lodging, fuel and lights in the dormitories free of charge, and traveling expenses once coming from home to the University and once returning each year.

In all this there is nothing ambiguous, nothing susceptible of an alternative construction or interpretation. It requires neither the acumen nor the training of a jurist to understand it. During the period above named I neither countenanced or suggested or advised the slightest departure from the plain letter of the law. I had the statute printed upon every blank appointment sent to the County Superintendents in order that each time he filled the blank by an appointment he might have the law before him. "Contemporaneous Construction," in the sense suggested by Judge Barker there was none. A simple, ingenuous, common-sense construction was all that was possible. The plain letter of this statute was before the County Superintendents. I never found one who said he was in doubt as to its meaning. My duty uniformly exercised was to see that it was complied with in all its details.

The certificates of appointment which should be on file in the office of the Secretary of the University are conclusive evidence on this head. No County Superintendent or county appointee will testify otherwise than that I required full and complete compliance with all the requirements of the law in order to validate appointments.

"Contemporaneous Construction" is an after thought, a myth, and in view of all the facts, rather a clumsy one. "Inventions return to plague the Inven-

tors." The hundreds of illegal appointments made under the instruction and at the instance of the administration of the State University will involve a loss this year of about twenty thousand dollars, quality and preparation are sacrificed to the mania for numbers, the prestige and dignity of the University are lowered and its good name compromised. The "County and not the State is the unit," and those appointments and those only which have been made in strict compliance with the requirements of the Statute are legal and valid.

The opinion of the Attorney General is decisive until reversed by the Court of Appeals. "The county and not the State is the Unit." "Contemporaneous Construction" is a figment, and none know this better than those who use it.

The Commonwealth has a right to expect that in the State University the majesty of the law should be respected and its observance inculcated. That its administrative head should not lead the way in the violation of a statute fundamental to its prosperity and its efficiency, a statute which provides for the continuous supply of the best students, which places the University in every county in the Commonwealth by affording equal opportunities to all, exclusive privileges to none.

The committee has been misled in regard to the indebtedness. If the reports of the Comptroller can be relied upon, more than $60,000 of the debt has been contracted within two years.

The management of the University has been overlooked by the joint investigation committee, efficiency of instructors ignored, abuses, perquisites, cumulative salaries passed by, graft in unwarranted commutations disregarded. The report grazed the surface, but did not get into the inside of things.

On the recommendation of the Committee of Investigation that the Board of Trustees rescind the retiring allowance which they contracted to pay me on my resignation, I have but little to say. Whether one party to the contract can abrogate its provisions without the consent of the other would be within the competency of the Courts to determine. If after more than forty years of contin-

uous service in building up the State University, increasing its income from $10,000 per annum to $145,000 and its buildings, grounds and equipments from absolutely nothing to $930,000, the General Assembly adopts the recommendation of the Joint Committee, I shall be much surprised. It is not characteristic of the people of Kentucky to be oblivious or unmindful of public service. I did not ask the Board for the annuity. It was voluntarily offered by them and gratefully accepted by me. But I may say I felt that it was not undeserved. I could not support Judge Barker in his candidacy to succeed me because I wanted an educated man of University training and University experience as my successor. The result of my attitude to him was a breach which has grown wider and wider. Hence his request that the Committee recommend the discontinuance of the annuity which he asked the board to give me. Hence his determination to reverse himself and to exact, if possible, the pound of flesh as a penalty for my opposition to his election. This is not the magnanimity which one would expect from the head of a University.

Your obedient servant,

JAMES K. PATTERSON.

Presbyterianism

and Its Influence upon the Development of Civilization

An address delivered at Centre College, Danville, Kentucky, on Commencement Day, June 10, '15

BY

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Presbyterianism a Dominant Factor in Human Progress

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1. I propose briefly to show that the distinctive features of Presbyterianism as set forth in our Confession are in harmony with an intelligent conception of Natural and Revealed Religion.

2. That so interpreted it has been a dominant factor in human progress, in primitive, mediaeval and modern Christianity.

3. That Presbyterianism has been engrafted upon the most vigorous and most virile branch of the Aryan races.

4. That it finds its most complete fruition in the English speaking race, in Great Britain and her colonial dependencies, in America and notably in Kentucky.

5. The duty and responsibility of Presbyterians in Kentucky.

Presbyterianism is reproached with a bigoted adherence to creed and an almost superstitious veneration for dogma. Their creed is described as hard, inflexible, a creed which will neither bend nor break; a creed unlovely, uncompromising, arbitrary and unphilosophical.

A majority of those who thus characerize Presbyterianism profess to have no creed, to owe allegiance to no dogma, the one and the other they repudiate. They forget that all positive religion must rest upon some fundamental belief; that, whatever form of religion they profess, they must believe something. All positive religion rests upon one fundamental postulate, viz.: The existence of God, of a God self-existent, uncreated, eternal; infinite in all His perfections, knowledge, wisdom, power, holi-

ness, justice, goodness, mercy, truth and love, and unchangeable in all.

Upon one of these essential attributes rests the dogma, the hard, unyielding creed which forms the back bone, the warp and the woof of Presbyterian Theology, viz.: The doctrine of Predestination. "Whom He did foreknow He also did predestinate, whom He did predestinate them He also called, whom He called them He also justified"—held as free from the penalty of the law—"and whom He justified them He also glorified." This is the language of Paul and upon this doctrine of the foreknowledge of God, a doctrine accepted as an integral part of Revealed Religion, is founded one of the fundamental articles of faith in the Presbyterian Confession.

Infinite foreknowledge is regarded by this apostle as the foundation of a series of closely related doctrines, each dependent upon, and evolved from that which precedes. It may be regarded as the original major premise of a series of syllogisms and containing implicitly all the conclusions logically deduced therefrom. These conclusions form an unbroken chain in the divine purpose and work of redemption. These so-called doctrines of grace the intelligent Presbyterian accepts in their integrity and their totality.

How predestination, the selection, the call, the imputed righteousness and the glory which is to follow can coexist with the freedom of the will of which every human being is conscious we do not know. On the authority of divine revelation the Presbyterian accepts the one, on the authority of consciousness the other.

The Presbyterian Church is not alone in accepting predestination as a cardinal doctrine. The Episcopal Church which contains within its ranks today the most profound Christian scholarship of Christendom, incorporates predestination in the

"Thirty-nine Articles," as a fundamental article of Anglican faith. Article 10 contains the following: "The everlasting purpose of God, whereby, before the foundation of the world, He hath decreed, by His council, secret to us, to deliver from curse and damnation those whom He hath chosen in Christ out of mankind and to bring them by Christ to everlasting salvation." Says Dean Alford, an Anglican, and one of the ablest New Testament Greek scholars of the last century: "On the one side, 'God's Sovereignty,' on the other, 'Man's Free Will' is plainly declared to us. To receive, believe and act on both these is our duty and our wisdom. They belong as truths no less to natural than to revealed religion and every one who believes in a God, believes in both, but all attempts to bridge over the gulf between the two are futile in the present imperfect condition of man."

Now we see through a glass darkly, we may perhaps in the future be able to see both truths, the "Sovereignty of God" and "Man's Free Will" carried up into a higher unity and find them to be two coordinate branches of one greater truth, widely separated in time, but converging until they meet in eternity. These contradictions in theology, whether apparent or real, find their parallel in philosophy. So true it is that no difficulty has emerged in theology which has not previously or concurrently emerged in philosophy. An infinite non-commencement of existence, the fundamental postulate on which rests the doctrine of the "Sovereignty of God" and the consequent doctrine of the "Foreknowledge of God," we are utterly unable to conceive. The finite intellect cannot conceive an infinite regress in the chain of causation. On the other hand an absolute beginning of existence, a beginning beyond which there was no existence, a cause which was not itself an effect, a cause uncaused, we are utterly unable to conceive; and yet

this is the fundamental and indispensable condition of "Freedom of the Will" whether in man or in God.

Cardinal Cajetanus, one of the princes of the Church, says: "Thus elevating our mental eye to a loftier range we may suppose that God, from an excellence transcending human thought, so foresees events and things that from His providence something higher follows than evitability or inevitability, and that His passive prevision of the event does not determine the alternative of either combination, and, can we do so, the intellect is quieted not by the evidence of the truth known, but by the inaccessible height of the truth concealed."

St. Augustine says, "If there be not 'Free Grace' in God, how can He save the world, and if there be not 'Free Will' in man how can the world by God be judged?" and St. Bernard says, "Abolish 'Free Will' and there is nothing to be saved. Abolish 'Free Grace' and there is nothing wherewithal to save."

The Presbyterian accepts both of these seemingly inconceivable and reciprocally exclusive dogmas though the one and the other are equally inconceivable,—equally inconceivable because of the finite limitations attaching to all human thought. To this there are analogies in the physical universe. Take for example the law of gravitation. It is universally accepted not as a theory or an hypothesis but as a law. And yet, who understands how it exists?

Who understands the law of chemical affinities, and who rejects the deductions of chemical science because he does not understand how they can be? The fact that they exist, he knows; but how or why, he does not know. Who can explain the physical laws which govern the relations of motion to heat and heat to electricity, and how each may be expressed in terms of the other, and who rejects the

fact because he is unable to understand the cause? In our search for causes, infinite regress is impossible. All that is known rests in its ultimate analysis upon the unknown and the unknowable; and this because a finite intelligence can never comprehend the infinite. The Presbyterian conception of God in His infinite foreknowledge, manifesting itself in time as His infinite and unchangeable decrees, is thus a conception of deity having its roots in a sound and rational theology and in an equally sound and rational philosophy.

In the realm of mind and the realm of matter every accepted generalization from facts verified by experience and observation becomes first a theory, then an hypothesis, then a law, a dogma, a creed. Dogma and creed abound. The physicist, the chemist, the philologist, the biologist, the sociologist, all accept provisionally at least previous generalizations, and from these work out in the direction of an enlarged domain amplified by the incorporation of recent discovery. The far reaching generalizations of Wallace and Darwin and Herbert Spencer are a fine example of this. Their investigations were preceded by theory and hypothesis from Lucretius to Lamarck. A wider and more intimate knowledge of facts resulted in a new interpretation of the facts and the hypothesis now accepted as a biological law, variously known as Natural Selection, Survival of the Fittest and Evolution. This seems now to be placed upon an enduring basis, has become the law, the dogma, the creed of the biologist and will hold the field until a new law is generalized more fully explaining the facts of biology than the presently accepted law of evolution. Devotees of scientific research in every department of investigation are constantly employed in the effort to classify and confirm hitherto accepted laws or to substitute for them generalizations which better interpret the facts of nature. The old maintains its authority until its insufficiency is proven and until a more rational sub-

stitute is found. The intelligent man devoid of dogma or creed, whether in the realm of matter or in the realm of mind, is an impossibility.

The man who believes nothing, who is without creed or dogma, would be like a ship without compass or rudder upon a shoreless sea setting out from no port and arriving at no haven, the sport and plaything of wind and wave and tide.

There are, however, creeds and creeds, dogma and dogma, living and genetic principles of action. How shall we judge of their relative value? "By their fruits ye shall know them." It is not our purpose to make invidious comparisons between the distinctive features of the creed of Presbyterianism and that of any other Church, but we may with propriety and pride refer to some to whom the creed of the Presbyterian has been an inspiration and a solace and a guiding principle of action.

In the Epistle to the Romans, St. Paul unfolds and develops with a power and a dialectic that cannot be gainsaid the correlated doctrine of the foreknowledge of God with its corollary of predestination and the doctrine of justification by faith with its implied corollary of the freedom of the human will. This creed was the basis of the Christianity which Paul carried through toil and privation and suffering to Jew and Gentile, to bond and free, to the subtle Greek and the imperious Roman. On this foundation was built the early Church, the creed of Athanasius, the confessions of Augustine and the "City of God," the orthodoxy of the early Latin Churches and of the Greek Communion.

And when in the sixteenth century the Western Church was rent in twain, Luther and Calvin and Farel and Beza and Knox and Ridley and Latimer, adhering to the Pauline and Augustinian exegesis impressed themselves indelibly upon reformed Christianity. John Knox gave the little barren kingdom in which he was born to Christ and the theology

of Scotland has since that day been a powerful factor in human thought and in human progress. It inspired Cromwell and Hampden and Pym and Eliot to draw the sword for the privilege of Parliament and the freedom of England.

Half a century later it placed the Huguenot, William of Orange, upon the throne of the exiled Stuarts, and through the Scots of Scotland and the Scots of Ulster it carried the revolted American colonies through the crisis of the war of Independence and gave to the presidential chair some of the most distinguished of its occupants. Out of all proportion to its numbers it has wielded an influence in shaping the government and moulding the jurisprudence of the great Republic, and in guiding its political activity towards an intelligent realization of its manifest destiny.

Take away from the literature and civilization and discovery of the last three centuries what has been contributed by William Shakespeare, John Milton, Adam Smith, James Watt, Sir William Hamilton, Sir Isaac Newton, Alexander Graham Bell, James Rumsey, Godfried Leibnitz, Blaise Pascal, Jonathan Edwards, Michael Faraday, Lord Kelvin and Immanuel Kant,—what irreparable breaches would be made. Professed Calvinists and Anti-Calvinists who were reared under the strong metaphysical and theological discipline of Calvinism have for three centuries led the thought and shaped the destinies of Christendom.

They have built up Imperial Britain with her great colonial self-governing dependencies; they have built up the Great Republic; they have supplied models for parliamentary institutions to every government in Europe and in China and Japan; their language is spoken by 160,000,000, and their dominion covers half the globe. These results are due to the robust mental and physical virility of the English speaking race, penetrated and saturated with the twin doctrines of Grace and of Faith.

The man who knows and feels that he is an heir of immortality, predestined to eternal life before the world began, that he is united to the incarnate God by a living faith in His mission and in His work of redemption, and through this divine union made a partaker of the divine nature, bows with humility and awe in the presence of his God, but in the presence of his fellows, walks a king of men. This consciousness makes him invincible in council and on the battle field. His robustness and elasticity of mental fibre, his clearness of vision, his sense of proportion, his courage, his indomitable will and his unflagging tenacity overbear all opposition, and, unless overmatched by numbers, bring victory out of every conflict.

Dilute theories of religion and morals, and vague and fluctuating conceptions of duty do not make men. Men must be cast in a sterner mould and nurtured under a harder discipline. The Medo-Persian conquest of Syria and Babylon and Asia Minor; the Greco-Macedonian conquest of Persia, Central Asia and Egypt; the Roman conquest of Gaul and Spain and Western Asia, were accomplished by men and people of heroic ideals and inflexible purpose, men of a creed and a dogma, who believed in something outside of themselves, men convinced that they had a mission to accomplish, and nations whose creed, whose dogma was a profound belief in themselves also. This was the creed, the dogma of the founder of Islam, of the Corsican who carried his battalions into almost every capital in Europe, and of the Iron Chancellor whose gospel of "blood and iron" welded into a homogeneous Empire the hitherto discordant elements of the German fatherland.

Lexington, Ky.

Presbyterianism and the Nations

Look for a moment upon the race of men upon whom the "Doctrines of Grace," known collectively as Calvinism, when engrafted produced results so stupendous for the English speaking people and for mankind. It is well to look to "the rock whence we are hewn and to the hole of the pit whence we are digged."

From the researches of the ethnologist and the philologist working back beyond the historic era, results of great importance have been obtained. Mankind, whether originating from one center or from many, has been generalized into races differing from each other by well marked characteristics. These without including minor sub-divisions have been classified into the Aryan, the Semitic and the Turanian. To the Semitic belong the Hebrew, the Arab and the Assyrian; to the Aryan, the Hindu, the Zend speaking people, the Celt, the Greek and the Roman, the Teuton, the Slav and the Lithuanian; to the Turanian belong the Ottoman, the Hungarian, the Bulgarian, the Mongol, the Chinese and Japanese, with the possible inclusion of the negro and the American Indian. Some ethnologists postulate a distinct race called the Hamitic, to which they assign the negro of Africa and the negroid of Southern India. The Semite and the Aryan are the great historic races with which ancient and modern civilization have been chiefly concerned. Within the geographical area now occupied by them, there doubtless existed a pre-historic race or races, who dwelt in Europe and Western Asia before the advent of the Aryans by whom they were regarded as aborigines, and were spoken of as "Autochthones" or men sprung from the soil. The original home of the Aryan was in all probability the

region lying north of the Himalayas, known to ancient geographers as Bactriana and Sogdiana, and to moderns as Afghanistan and Turkestan. The congestion of population in the original Aryan home about twenty centuries B. C. determined a twofold migration, nomadic and warlike in character, and upon an extensive scale one branch moved westward into Persia and Media, unseating the aborigines and taking possession of the country. The other and larger branch crossed the Himalayas and overspread the Punjab and central Hindustan, enslaving, exterminating or driving southward the Autochthonous races whom they found in possession. This migratory wave known to history and philology as the Sanskrit speaking people developed a civilization of high character, a language the richest, most copious and most perfect in grammatical structure and in flexibility the world has ever known, and brought into existence a literature which for mythical and legendary lore and for keen, subtle, metaphysical and logical analysis has never been surpassed. This civilization and language and literature were hoary with age before Homer chanted his Iliads or Plato wrote the Republic or the Stagirite his Organon.

The next great migratory wave to leave the central Asiatic home was the Celtic. They moved slowly westward traversing the country north of the Semitic settlements of Assyria, Babylonia and Asia Minor, and north of the Black Sea, occupying southeastern, central and western Europe and the British Isles, enslaving, exterminating or driving into inaccessible fastnesses the aboriginal races whom they found in possession of the soil. Remnants of these aboriginal races are still found in the Basque provinces of Spain in the recesses of the Alps, in Finland, in Lapland, in Liguria and even in South Wales.

The next great migratory wave known as the

Teutonic left the original Aryan home within the historic period. They also moved westward, traversing almost the same route as the Celts who preceded them, enslaving, exterminating or driving before them, the Celts as the Celts had the aborigines. The Teutons thus occupied Southwestern Russia, Northern Germany, Scandinavia and the Netherlands. They were, however, unable at that early date to effect the passage of the Alps, or to establish themselves west of the Rhine. Italy and Romanized Gaul opposed for a time an effectual barrier. The Teutons were sub-divided into numerous tribes chief of whom were the Gepidae, Heruli, Marcommani, Germani, Saxones, Angli, Franks, Goths, Vandals, Sicambri and Batavi. During the times of Julius Caesar and his immediate successors, Rome came into frequent contact with the Teutons on the northern boundaries of the Empire and along the eastern frontiers of Gaul.

Every classical scholar remembers the passionate, despairing wail of Augustus when the annihilation of Varus and his three legions by the Germans in the Teutoberg forest was reported to him—"Varus, give me back my legions." For five centuries Rome strove to maintain the integrity of the Empire and to defend its barriers, but in the end she was overwhelmed by superior numbers who had meanwhile learned something of Roman organization, Roman discipline and Roman civilization. The Goths stormed and plundered the capital and occupied Italy, Southern Gaul and Spain; the Franks crossed the Rhine, the Vandals crossed the Straits of Gibraltar and took possession of Northern Africa. Their Teutonic invaders had the wisdom to adopt the language, the administrative polity, the religion and civilization of Rome which they found in the conquered provinces and from their fusion with the Romanized Celts whom they had subdued there grew up after centuries of unrest the

monarchies of France and Spain and in Germany itself, a monarchy which believed itself to be the successor of Imperial Rome.

The Romanized kingdom of the Vandals continued till it was overthrown by the Saracens who obliterated all traces of the civilization which they found in the conquered country.

The sub-division of the Teutons which most concerns us is the Angles and Saxons with the allied Jutes and Frizians. These within an early period of the Teutonic occupation dwelt upon the banks of the Saale and the low lying lands near the mouths of the Weser and the Elbe. Most of them were sea-faring people, daring navigators, bold freebooters making frequent incursions into the lands bordering upon the North Sea, and plundering the inhabitants of the regions which they visited. They were unable to make any permanent settlement in Britain till after the withdrawal of the Roman legions which were needed to defend the boundaries of the Empire.

The Romanized Celts of Britain unaccustomed to the use of arms during the Roman occupation fell an easy prey to the Saxon invaders. Within two centuries all of Britain south of the Clyde and the Forth was subdued. The conquerors retained their own language but adopted by degrees the religion which they found in Britain, viz.: Christianity. The Angles, Saxons, Jutes and Frizians were a liberty-loving people, possessing in a high degree the genius for political organization and clinging with a passionate attachment to the elementary principles of the unwritten legislation and jurisprudence which they had brought with them from their Teutonic homes. Their ineradicable love of freedom rested upon the conviction that man, the Saxon man, belonged to himself, that he was neither the slave nor the vassal of any man; that he owed allegiance to no authority except what he voluntarily created

for the public good; that this allegiance involved reciprocal rights as well as duties; that if authority were usurped or abused, and grievances complained of remained unredressed, the right of resistance, of revolution, existed and could be invoked.

A very simple political creed this, but it contained in embryo the splendid history of the twelve centuries which were to follow. This was their keynote and the inspiration of the government and legislation and jurisprudence of Ina and Offa and Alfred and Edward the Confessor. After William, the Norman, overthrew the Saxon monarchy on the field of Senlac in 1066, he engrafted upon the Saxon institutions which he found in England the aristocracy and feudalism of Normandy; and just here a word about the Normans. They were descended from the Northmen of Sweden, Denmark, Norway and Iceland, and were the boldest and most fearless navigators that the world has ever seen. They might be described for energy and enterprise as the flower of the Teutonic race. They undertook long voyages for discovery and plunder, harried the coasts of England and France in the West and of the Baltic in the East, entered the Mediterranean and established settlements in Italy.

In 896 Rolf the Ranger, with a large body of followers landed in Northern France, laid siege to Paris and extorted from the French King, Neustria, subsequently called Normandy, to be held by Duke Rollo and his successors as a fief of the French crown. For indomitable will, robust physical energy and stubborn perseverance, the Norman had no equal on land or sea, and this prepotency he transmitted to his descendants.

The tendency of Norman and Plantagenet government was to become autocratic and arbitrary, but this tendency was constantly checked by the popular demand for renewal of the charters and for adherence to the legislation of the Saxon monarchy.

Old charters were confirmed or new ones granted from time to time. The misgovernment and incapacity of King John brought matters to a crisis. In 1215 the Barons assembled on the field of Runnymede, near Windsor, extorted from the most ruthless of the Plantagenets Magna Charta, the great charter of English freedom and of the freedom of the English speaking people throughout the world —of the mother country, the United States, Canada, Australia, New Zealand and the Union of South Africa. Ultimately it will become the charter of freedom for India, from the Himalayas to Cape Comorin.

From the days of King John to the last extension of the franchise in Britain, the English speaking stock in the British Isles have been working out the problem of Civil Government, how best to safeguard the rights of man and to co-ordinate liberty with authority. Alike under Normans and Plantagenet, Tudor and Stuart and Hanoverian, the Nobility and the Commons have stood for freedom. Simon de Montfort brought into existence the House of Commons as a counterpoise to the influence of the Nobility and of the crown. Oliver Cromwell and his Puritan compatriots brought Charles Stuart to the block for invading the privileges of Parliament. The Nobility and the Commons under the leadership of William of Orange drove the Stuarts into exile and when the American colonists rose in revolt against the mother country they demanded only the rights of Englishmen which they in common with their kindred of the British Isles had inherited for ten centuries. Their revolt was not against the British Constitution or British jurisprudence, but against the arbitrary, personal rule of the Hanoverian dynasty.

And who were these colonists? Whence came they? Without going into detail, it may be said that the immigrants to America from the British Isles rep-

resented the best blood of the realm. The well to do Puritan, vigorous, hardy, industrious, saturated with Calvinistic theology, stubborn in debate and courageous in battle, loving liberty with a fierce intensity and prepared to defend it at all hazards; the Cavalier descended for the most part from the younger sons of the Nobility recruited from time to time by the most energetic and prosperous of the commons, who had accumulated fortunes from trade or from the liberal professions, equally jealous of their freedom and prepared to maintain it by the sword; the Scots from Scotland and the Scots from Ulster, an identical people who had emigrated for the double purpose of escaping persecution under the Stuarts and of improving their economical condition, a stout, self-reliant, hardy stock, imbued with an absorbing passion for civil and religious freedom, intelligent, well educated, prudent, obstinately persevering, and aggressive, yet kind, sympathetic and self-denying, deeply religious, devout adherents of the creed of Calvin and Knox, industrious, economic and acquisitive with an intuitive adaptation of means to ends. In addition to these were Huguenots from France and Holland, self-expatriated exiles from the Palatinate, and a few immigrants from Scandinavia, mainly from Sweden. The Catholic immigration during the colonial period was comparatively small. The majority of the immigrants were Protestants of the ultra-Calvinistic type. The Cavaliers and many of the Yeomanry of the middle classes from England were members of the Episcopal Communion, whose emigration was determined by political rather than by religious considerations, but whose love of freedom was equally strong. The Friends and the Germans from the Palatinate settled mainly in Pennsylvania, the Dutch in New York, the Puritans in New England, the Calvinists in Virginia and the Carolinas, the Scots in the Carolinas, Virginia and Pennsyl-

vania. From 1700 to 1750 no less than 250,000 of them came to America. They were among the most uncompromising opponents of British misgovernment which caused the colonists to take up arms against the mother country.

The Mecklenburg Declaration by the Scotch Presbytery of North Carolina preceded the Declaration of Independence by a year and sounded the key note of the Revolution in the South. They turned the scale by winning the battle of Kings Mountain and made possible the victorious campaign which ended in the surrender of Lord Cornwallis. It was not the Puritan of New England nor the Cavalier of the South that carried the revolted colonies through the Revolution and brought the war of Independence to a successful issue, but the stout, liberty loving, indomitable Presbyterian Scot of Scotland and of Ulster.

Lexington, Ky.

Presbyterianism and Liberal Education in Kentucky

Kentucky was, until it became a State, a part of Virginia. Early immigrants came for the most part from Virginia, Pennsylvania and North Carolina. A large percentage of these were descendants of English and Scotch Colonial ancestry. They were of pure Anglo-Saxon blood. The spirit of adventure which was strong in the Angles, the Saxon, the Normans and in the early immigrants to America, was, if possible, still stronger in the first immigrants to Kentucky. If then the early Colonists represented the best and most adventurous blood of the British Isles, the early settlers of Kentucky represented the best blood of the Colonial pioneers. A casual glance at the names of the early settlers of Kentucky, the Boones, the Hendersons, the Poseys, the Logans, the Todds, the Shelbys, the Campbells, the Russels, the Lindsays, the Clays, the McDowells, and the Camerons, bears ample testimony to their Anglo-Saxon origin. With them they brought their hardihood, self-reliance, obstinate endurance, high sense of honor, passionate attachment to freedom, the conviction that organized government should rest on the consent of the governed, that man belongs to himself and is free, that his highest allegiance is due to truth, to integrity, to purity of life, to duty and to God.

"He feared God and had no other fear." A large element in this homogeneous stock was the Presbyterian who bore no inconsiderable part in constructing the frame work of the civil polity of the land west of the Big Sandy and east of the

Mississippi. He bore a conspicuous part in the survey and allotment of lands, in the organization of the commonwealth, in its sub-division into counties, in framing its constitution, in building its churches, in shaping its legislation and in establishing its schools. They made early provision for the education of their children on a broad and liberal basis, believing that freedom rests upon the emancipation of the human intellect and the diffusion of knowledge.

One of their earliest ventures in liberal education grew into Centre College whose centenary will be celebrated four years hence. The foundation of Centre College gave an accelerated impulse to Presbyterianism in Kentucky.

When in the early twenties the rationalizing tendencies of Transylvania University threatened the Commonwealth with the Unitarianism and Secularism which were rapidly vitiating the Congregationalism of New England, the Presbyterians, the descendants of the Scots of Scotland, and the Scots of Ulster, grappled with the enemy in his stronghold. "When the enemy came in like a flood the spirit of the Lord raised up a standard against him."

Presbyterianism with the sons of Centre College in the forefront saved Kentucky for orthodox Christianity and for the faith once delivered to the Saints. Her laity and her clergy, her professors and her students met the enemy and vanquished him. I do not disparage or minimize the part played by Methodists and Baptists in this contest, but I do them no injustice when I say that the Presbyterian, the exponent of the Gospel of Saint Paul and Saint Augustine, organized the campaign and led the forces of orthodoxy against the common enemy.

This is the historic background of the early ascendency of Presbyterian education in Kentucky,

this the historic basis on which it rests. It did a noble work then. It led education in this commonwealth for more than half a century. It was to Kentucky then what Harvard was to Massachusetts, Yale to Connecticut, Princeton to New Jersey, and Columbia College to New York. It impressed itself indelibly upon the political and religious thought of the century. It provided men for the pulpit and the bar and the forum; men of thought, men of action, men of might. It provided, moreover, leaders of men for the adjacent commonwealths, for the bar, the bench, the halls of legislation, the liberal professions, men like Saul, conspicuous above their fellows. This has been the record of Centre College. Centre College in Kentucky, Hanover College in Indiana, Miami University in Ohio, for more than half a century led Presbyterian education in the West and Southwest.

In 1862 the general government gave an enormous impulse to secular education by its liberal provision for the creation and endowment of Agricultural and Mechanical Colleges, institutions which in a majority of States have grown into State Universities. Their large resources, State and national, have given them facilities for scientific and technical training far in advance of what most of the privately endowed colleges and universities are able to supply; but the denominational colleges have a work to do which the State institutions cannot or will not do. They must still continue to supply the classical and philosophical and liberal training which fit men for the liberal professions, for literature, for the service of the State, in legislation and jurisprudence, and in diplomacy; they must, moreover, supply an effectual counterpoise and antidote to the seemingly inevitable tendency of some State institutions to become centers for the nurture and diffusion of Secularism and Agnosticism. This is a Christian commonwealth founded by Christian peo-

ple. Christian people cannot consent through inertia and indifference to hand over the education of their sons and daughters to institutions organized on a basis devoid of religion, careless of morality, indifferent to the higher interests of humanity and devotees of the Gospel of wealth only; they cannot and must not confound freedom in religious matters with an indifference to all religion, or worse still, with a negation of all religion; they must not and cannot sacrifice the priceless heritage, inherited from the fathers, for a deceptive and misleading "No creed, no dogma, no belief in God."

This is the call, fellow Presbyterians, which comes to you today; this is the message which I bring: Centre College is richer today in buildings, in endowments, in the equipments and appliances which make instruction effective, than ever heretofore; the wealth of the Presbyterian laity of Kentucky is fourfold that of sixty years ago; they can double and treble and quadruple their endowment and thereby supply an educational staff fourfold the present one.

Having accomplished so much for the Church and the State and for the uplift of mankind, will you be content to rest upon the laurels of the historic past, to accept now a secondary place, to abdicate the priority and the prestige which once made you famous? Shall "Ichabod" be written upon your walls? Shall the glories of your race, the achievements of your fathers, Magna Charta, the Bill of Rights, the Mecklenburg Declaration, Kings Mountain and Yorktown; the Testimony for Christ's Covenant and Crown in the valleys of Piedmont and among the hills and glens of Scotland; the Testimony of Calvin and Knox and Witherspoon and Edwards and Chalmers and Hodge, the Alexanders, Thornwell and Palmer and Jackson cease to inspire those who bear their names and inherit their re-

nown? Or shall the spirit of the illustrious dead inspire the living and live again in the quickened activity of heroic men upon whom their mantle has fallen?

Kentucky and Centre College in Kentucky seem particularly fitted to carry forward the glorious traditions of the past. Representing the purest Anglo-Saxon blood in America, the protagonists of a mighty race, a race the most imperial that ever trod this planet, it is peculiarly incumbent upon them to bear and carry forward the standard of civil and religious freedom, to lead the van in the civilization and Christianization of mankind.

When Centre College shall have been re-established in its pristine strength and glory the vision of the Hebrew prophet may be realized in the quickened activity and larger usefulness of the institution founded by the fathers in prayer and faith and hope. "Arise, shine for thy light is come and the glory of the Lord is risen upon thee. Lift up thine eyes round about and see. All they gather themselves together. They come to thee, thy sons shall come from afar and thy daughters shall be nursed at thy side. The glory of Lebanon shall come to thee, the fir tree and the pine tree and the box together, to beautify the place of My sanctuary and I will make the place of My feet glorious."

And when the present cycle is complete, when the present order of things shall have ended, when the final consummation has been reached, when the sea shall give up its dead and they that sleep in their graves shall come forth and the final assize shall begin, we can imagine the hundreds and the thousands whom Centre College trained and educated for the service of the Church, of the State, and of God, standing in the presence of the Judge, a notable assemblage, sons of a mother not unknown. In answer to the inquiry, "Who are ye and whence do

ye come?" is the response, "We are the children of a venerable mother who taught us that to know ourselves we must know God and that the chief end of man is to glorify God and to enjoy Him forever," and then the welcome, "Well done, come up higher."

Lexington, Ky.

THE STATE COLLEGE.

The Constitutional Question.

Professor Patterson's Reply to Dr. Blanton's Last.

To the Editor of the Courier-Journal.

LEXINGTON, Jan. 4.—In an article which appeared in the Courier-Journal of to-day, over the signature of L. H. Blantom, D. D., the opinion is expressed that, although the constitutionality of the half-cent tax for the benefit of the Agricultural and Mechanical College will "receive a close and critical examination at the hands of those whose training and habits of thought qualify them for the task," yet "a plain recital of the facts of the case will carry conviction that the act levying the special tax is unconstitutional."

With the first part of this statement we think Dr. Blanton, if he was confident in it, might be content to rest his case. If those whose "training and habits of thought" make them experts in the construction of constitutions and statutes are not able to convince the authorities who will be called to decide the matter, discussions by those who are not experts will accomplish but little. How much or how little Dr. Blanton has contributed to the elucidation of the constitution the jurists of Kentucky can estimate. I shall not attempt to follow him through his article. I may, however, say that the friends of the State College, among whom are some lawyers of ability and distinction in their profession, say that in their opinion the A. and M. College has nothing to fear on the constitutional question before the courts. Indeed, there is where it properly belongs. The constitutionality of the act does not concern the conscience of any member of the present Legislature. The act was passed by the General Assembly which preceded it. If the present Legislature is satisfied on general grounds that the State College is already doing a good work, and, if a fair trial is allowed, likely to do a good work in the future, it can safely and consistently waive the constitutional question and relegate it to the tribunal to which it properly belongs.

It may be well, however, just here to ask Dr. Blanton whether his construction of article eleven of the constitution does not prove more than he intends, and whether this construction, if sustained by the courts, would not leave quite a difficult problem on the hands of the State for solution. The Institution for the Blind, the Institution for the Deaf and Dumb and the Institution for the Feeble minded are all educational. They are all remote from the common-school idea and the common-school system, differing from it not in degree only, but in kind. A lawyer of acknowledged ability and esteemed one of the best

advocates in Kentucky expressed to me, the other day, his opinion that the State College and the Institutions for the Deaf and Dumb, the Blind and the Feeble-minded stand upon precisely the same footing as regards maintenance by the State, and that an adverse decision relative to the one would involve the withdrawal of aid from the other.

The new-born zeal for common schools and for common-school education exhibited by Dr. Blanton and his associates is a curious phenomenon in this controversy. I have been in Kentucky for nearly twenty-six years, and until the 18th of November, 1881, I do not remember to have seen a line on the common schools from any of the gentlemen who signed the protest and appeal of that date. They may have entertained strong opinions on the subject, uncompromising, aggressive, philanthropic, but if they did, I have never heard that they were translated into action. I am not aware that they ever made the question of the increased efficiency of the common schools or an increase of taxation for that object the subject of a memorial to the General Assembly, or of instruction to their Representatives, or of discussion among their respective coreligionists. They all seem to have the impression that the common-school fund would be vastly enlarged by the repeal of the present half-cent tax, and that it is correspondingly diminished by the continuance of the tax.

In reading Dr. Beatty's article in the Danville Advocate the other day, and Dr. Blanton's in the Courior-Journal of the 2d inst., I wondered if it could be possible that these gentlemen seriously believe that the State aid now given to A. and M. College comes from the common school fund. I wondered if they could seriously confuse the facts in order to confuse the public mind. I should be reluctant to think so, and I am hence forced to think that they believe that the college is maintained out of the common school fund.

If it were proposed now to add fifty per cent. to the common school fund by taxation would the gentlemen who clamor so loudly for the abolition of the present organization of the State College memorialize their synods, and conferences, and associations, and annual missionary meetings to advocate the measure and recommend it to their respective congregations? Will these gentlemeu in the exercise of this new-born zeal ask their Representatives in the General Assembly to repeal the law exempting their college funds and property from taxation, and apply the proceeds to common school purposes? Why should they ask State aid themselves and refuse it to the State College? Exemption from taxation is surely State aid, and it amounts to thousands annually. Here would be a commendable exercise not of generosity, but of justice. Would it not be well for them to dispose of their own "mote" before applying themselves to deal with the State College "beam?" The aggregate amount of State aid received by some of the protesting sectarian colleges from the date of their organization in the shape of exemptions from taxation reaches the sum of nearly $100,000 These arrears, if collected, would form a considerable increase to the capital of the school fund, or would, if given to the State College, render it independent hereafter of aid from the State. Here is a rare opportunity for the protesting colleges to translate into action their ardent desire for the expansion of the school system or for the upbuilding of the State College, for whose growth and pros-

perity they express extreme anxiety. What a splendid exhibition of unselfishness this would be! How it would stimulate the liberality and munificence of every philantrophic man and woman in the Commonwealth!

In order to remove any erroneous notion lodged in the minds of some by the reference of Dr. Blanton to the Normal Department, established by an act of the Legislature, I would, in a few words, call the attention of the reader to the true relation of this department to the A. & M. College. One would infer from the language of the Doctor that this department had but a nominal connection with the A. & M. College, and that he might diminish its importance and prove its want of union with the common school system of the State, he definitely sets down the number of teachers employed in it at two. The statement of the Doctor is far short of the truth, and had he been anxious to put himself and his readers right in this matter, he could very easily have found out the facts in the case. The Normal Department of the A. & M. College, taken together with the other departments of the College, may be said to perform the same work with that of institutions strictly denominated Normal Schools or Colleges. Normal Schools have one or more teachers, whose business it is to impart a knowledge of the theory and practice of teaching, joined with such a complement of teachers as may be necessary to give instruction in the branches usually taught in our common and high schools. Such is precisely the condition of things in the A. & M. College. The duties of the principal of the Normal Department are of a professional character. The theory and practice of teaching, considerations respecting popular education, what it is, its aims, its history &c., all fall to be attended to by the head of this department. This is his work, his only work. That students matriculated in the Normal Department of the college may be made acquainted with the studies commonly pursued in the schools of the State, he passes them over to other instructors in the college. Hence then, every other department of the college, metaphysical, mathematical and scientific, may truly be regarded as subsidiary to the Normal department of the college, and, looking at the matter from the point of view afforded by the Normal department, that department of the A. & M. College, as certainly attains the end designed in its establishment as any of the schools whose specific purpose is to afford Normal instruction.

I shall advert to one more curious fact and then close. The opponents of the State College are endeavoring to convince the members from Eastern Kentucky that the institution which they assail with so much vehemence is organized entirely in the interests of Lexington and of the wealthy citizens of Kentucky. If this be their opinion, they are either singularly ignorant or oblivious of the facts. Lexington and Fayette county are allowed to send their quota of beneficiaries, as all other representative districts in Kentucky are. Why should they not? Beyond this I am not aware that any exclusive privileges are granted to either the city or county. I remember that when the present organization was effected I made a proposition to the board that, in recognition of the liberality of the city and county, a certain number of free scholarships in the college should be tendered to each. The board promptly said: No; we will not have it said that either the city or county enjoy any privileges or advantages beyond the privileges and advantages open to all, ex-

cept that which grows out of immediate proximity. And yet Lexington and Fayette county gave $80,000 in lands and buildings to this college. Their bonds issued for this purpose run for thirty years, and the payment of interest and principal of this donation with the annual interest on the value of the land costs Lexington and Fayette county $6,166 66 annually, besides their quota of the half cent tax. That would be equivalent to tuition for 100 pupils annually at the rate of $61 66 each. Why then should Lexington and Fayette county be reviled because they choose to patronize this college, rather than Center College, or Georgetown, especially when, to enjoy its advantages, they pay the ordinary rates of tuition besides?

If any member of the Legislature should step into the college chapel in the morning and survey those who sit in its seats, not all the College Presidents in Kentucky could persuade them that a majority of their occupants represented the sons of rich men. The assertion that only the sons of the rich can attend, or do attend, or the assertion that a majority of those who come from other parts of the State are the sons of the rich, are utterly gratuitous. But it is a college where the sons of rich and poor meet on equal terms. Neither feel out of place. It is a college where the poorest lad in the State can get a good education and earn a large part of his subsistence, if not all, while doing it.

Some time since a young man came from Western Kentucky, with, I think, three dollars in his pocket. He walked to Lexington from Danville. He wanted to put himself in the way of getting an education, but scarcely knew how. He had no county appointment. I received him, raised money among the professors to buy him an outfit, pay for his books and for his board a few weeks in advance. He refused to take the money as a gratuity. It was then tendered to him as a loan, to repay whenever he could. I gave him all his fees. Work was furnished him. Meanwhile he joined the Methodist Church, and one of the Bishops, hearing of his industry and promise, induced him to go to Vanderbilt University to study for the ministry. But while he remained with us he paid his way by his work, clothed himself, and before he went away brought back the money which he had consented to take as a loan but refused as a gratuity. This instance is not singular. There have been dozens and scores similar to it.

If the gentlemen who assail the college will combat it with facts, verified facts, no one will have reason to complain.

JAMES K. PATTERSON.

Tommy Hunt
from her nephew
A A Patterson

COURT OF APPEALS OF KENTUCKY.

M. G. HILL, - - - - - Appellant,

VERSUS } Brief for Appellee.

S. S. HAMILTON, Sheriff of Jefferson Co., Appellee.

Can the Legislature of Kentucky constitutionally provide for the support, by taxation, of educational institutions other than common or district schools? Is the State A. and M. College tax constitutional?

BRIEF BY

W. C. P. BRECKINRIDGE,
TEMPLE BODLEY, } For Appellee.

SIMRALL & BODLEY,
BRECKINRIDGE & SHELBY. } Counsel for Appellee.

Kentucky Law Reporter and Journal Print, Geo. A. Lewis, Frankfort, Ky.

Court of Appeals of Kentucky.

JANUARY TERM, 1883.

M. G. HILL, APPELLANT,

AGAINST

S. S. HAMILTON, SHERIFF OF JEFFERSON COUNTY, APPELLEE.

BRIEF FOR APPELLEE.

This is a test case directly involving the constitutionality of an act amending the charter of the State Agricultural & Mechanical College at Lexington, and imposing a tax of one half of one per cent. upon the taxable property in the State for its support.

It involves not only the existence of the State College, but the supremely important power of the Legislature to aid by taxation any educational institution other than the mere inefficient district schools, such as have been established throughout the State.

Counsel for the appellant maintain that the tax is unconstitutional because it is imposed "for purposes of education," but not for common school education, whilst the first section, of the eleventh article, of the Constitution provides that "any sum which may be hereafter raised in the State by taxation, or otherwise, for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools."

Appellant, we say, claims that the State Agricultural & Mechanical College is an educational institution but not a common

school; that a tax imposed in aid of it is a tax "for purposes of education," but not a tax for purposes of common school education; and, since the Constitution provides only for state aid to common school education, it prohibits such aid to other and higher education.

According to their reading of the first section of article XI, if it were amplified it would read substantially as follows: "The capital of the common school fund (consisting of several items named and amounting to $1,350,492 72), together with any sum which may be hereafter raised in the State by taxation or otherwise for purposes of (*common school, academical, normal, university, or any other*) education, shall be held inviolate for the purpose of sustaining a system of common schools. The interest and dividends of said fund, together with any sum which may be produced for that purpose, by taxation or otherwise, may be appropriated in aid of common schools, but not otherwise, &c." Most persons would naturally suppose that this construction would lead to the rather curious result that moneys thus raised by taxation for one specific purpose (namely higher education) would merely be diverted by the Constitution from that purpose and held inviolate for an altogether different purpose (namely, common school education). But as we have seen, counsel for appellant stand by the altogether incongruous proposition that, although the legislative act imposing this tax conforms in every other particular to the requirements of the Constitution, and although the sums raised by the tax are such as, according to their own theory, article XI seizes and holds inviolate for common school purposes, yet the act thus imposing a tax for purposes of higher education is unconstitutional. Further on we shall present these two inconsistent positions in bolder contrast and call upon the counsel for appellant either to reconcile them or to tell us whether the act in question is really void, and the tax therefore illegal, or the act is valid and the sums raised are to be held inviolate for the purpose of sustaining common schools.

According to our construction, the first section of article XI would read substantially thus: "The capital of the common school fund . . . together with any sum which may be hereafter raised in the State by taxation or otherwise for purposes of (*common*

school) education shall be held inviolate for the purpose of sustaining a system of common schools. The interest and dividends of said fund, together with any sum which may be produced for that purpose by taxation or otherwise may be appropriated in aid of common schools, but not otherwise."

Article XI, section one of the Constitution, which is the subject of the present controversy, reads as follows:

"ARTICLE XI—*Concerning Education.*

"Sec. L. The capital of the fund called and known as the 'Common School Fund,' consisting of $1,225,768 42, for which bonds have been executed by the State Board of Education, and $73,500 00 of stock in the Bank of Kentucky; also the sum of $51,223 29, balance of interest on the school fund for the year 1848 unexpended, together with any sum which may be hereafter raised in the State by taxation or otherwise for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools. The interest and dividends of said funds, together with any sum which may be produced for that purpose by taxation or otherwise, may be appropriated in aid of common schools, and for no other purpose. The General Assembly shall invest said $51,223 29 in some safe and profitable manner; and any portion of the interest and dividends of said school fund, or other money or property raised for school purposes, which may not be needed in sustaining common schools, shall be invested in like manner. The General Assembly shall make provision, by law, for the payment of the interest of said school fund; provided, that each county shall be entitled to its proportion of the income of said fund, and if not called for for common school purposes, it shall be reinvested from time to time for the benefit of such county."

This section embraces four sentences. The *first* sentence provides for the sacred *holding*, for the purpose of sustaining a system of common schools, of two things: 1. The *existing* common school fund known as the common school fund (consisting of capital $1,225,768 42; accumulated interest on it for the year 1848, $51,223 29, and bonds to the Board of Education, $73,500 00); 2. "Any sum which may be *hereafter* raised in the State by taxation or otherwise for purposes of education."

The *second* sentence provides for the *appropriation* "in aid of common schools but for no other purpose," of "the interest and dividends of said fund, together with any sum which may be produced for that purpose by taxation or otherwise."

The *third* sentence provides for the *investment* of the then accumulated but uninvested interest on the school fund for the year 1848 and for the investment from time to time of any other accumulations of these funds not needed for sustaining commons chools.

The *fourth* sentence provides (1) for the payment of interest on the school fund by the State, and (2) for the distribution of such interest amongst the counties or its reinvestment for their benefit.

It is with the first and second of these sentences that we are almost altogether concerned.

Counsel for appellant contend for a literal construction of the first sentence, which is at variance with its real meaning, as shown by its history, by the evil it was intended to remedy and by its contemporaneous and subsequent construction, both by those who framed it and by those who have acted under it; and we think the fallacy of the construction contended for may be deduced from the very words of the section itself.

I.

What is the meaning of the eleventh clause looking merely to the language of it?

It is contended by counsel for appellant that the Agricultural and Mechanical College is not a "common school," nor part of "a system of common schools;" and that the tax levied does not become part of a fund for "common school purposes."

If we accept these propositions as correct, it follows that if article XI of the Constitution concerning education refers *only* to the principal and increase of a fund for *common school* purposes, and appropriates that fund in aid of common school education, then the act now under discussion, appropriating *another* fund to *another* object, is not within the scope of its provision. Literally, this college is a common school; but since opposing counsel prefer not to carry their very literal interpretation so far, we propose to yield the point and to admit that the Agricultural and Mechanical College is *not* a common school. The question then is, does the eleventh article of the Constitution concern it at all? Does that article, in providing for the sacred holding for common school purposes of "any sum which may

be hereafter raised in this State by taxation or otherwise for purposes of education," refer to *any other kind of education than common school education?* If it does not, then clearly it does not refer to such education as the Aricultural and Mechanical College gives; for that college, *ex hypothesi*, not being a common school, the education it gives is not common school education.

What we contend for is this: the Constitution provides, and was intended only to provide, that a certain, specifically described, existing, common school fund, together with any additions that might be made to *that fund* "by taxation or otherwise," "shall be held inviolate for the purpose of sustaining a system of common schools;" that the framers of that instrument had no other sort of education in their minds than common school education; that they had no anxiety to prevent aid being given to any other or higher education; but that their sole desire was to guard and maintain the integrity of the then existing fund known as the common school fund, together with any increase that might accrue to that fund from any quarter whatsoever, whether by taxation or otherwise. We believe that a careful reading of the article will show that wherever the words "school fund" occur, "*common* school fund" is meant; that wherever the word "school" occurs "*common* school" is meant; that wherever the word "education" occurs "*common school* education" is meant, and that wherever the words "purposes of education" occur "purposes of *common school* education are meant." In short we think we can show, by a fair analysis of the article itself, as well as by extrinsic argument, that its whole aim and object was simply to protect against legislative encroachment, the principal and increase of a "*common* school fund"—a fund which included such moneys as had been already raised "for common school purposes," and which was to include any other "sum which might be hereafter raised, by taxation or otherwise, for the same purposes." Now the gentlemen representing the appellant insist upon attaching a literal and most sweeping signification to the phrase "purposes of education." But all language abounds in implied limitations of words, and your honors know how rarely that kind of literal interpretation will make sense. Let us test theirs.

The literal meaning of the phrases in question includes every dollar "raised in the State" "for the purposes of education." But our opponents will not contend that the article really refers to anything but *public* money, raised by *public* authority, for *public* education. We must, therefore, find some construction of the phrases, "*together with any sum, which may be hereafter raised in the State by taxation or otherwise, for purposes of education;*" and "*together with any sum which may be produced for that purpose by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose,*" which will exclude sums "raised in the State" "for purposes of education" by *private* subscription and donation, for it is certain that these were not intended to be seized by the Constitution and held for public educational purposes. We must then interpolate "public," as contradistinguished from "private," before "purposes of education."

Again, we must find a construction which will exclude local or rate taxation "for purposes of education." For it has been decided, in *Auditor* v. *Holland*, 14 Bush, that over that "school fund," rendered "inviolate" by the Constitution, the Legislature cannot abandon its control and turn the supervision over to any other authority, and that the Constitution requires the system to be uniform, general and common to the whole State; and by the proviso to article XI each county is entitled to its proportion of the income of that fund in that article referred to. So while it is clear that all sums raised by this local taxation are "raised in the State," by authority of the State, by "taxation for purposes of education," and come within the letter of the article; yet, clearly, they do not come within its real meaning. The necessary construction, to render such taxation constitutional, is to interpolate such words as will express the thought that the money is to be raised, not only by the authority of the State, but by the State, for the purposes of general public education over the whole State.

We have now modified the literal meaning of the article by excluding all private money raised for private education, and all public money raised for public education by local taxation.

We should furthermore exclude such construction as will prevent the support of the educational institutions for the blind,

deaf and dumb, the feeble-minded, the American Printing House for the Blind, and Teachers' Institute, camps for military instruction, taxation on auctioneers, for libraries for the law department of universities, purchases of Barlow's Planitarium, Tobin's Sine Pendulum, etc.; for sums raised for these purposes are literally raised for "purposes of education."

We submit that we are forced to the conclusion that the proper construction must be that the fund referred to in this article is the then existing common school fund, and such sums thereafter raised as are "raised" or "produced" 1, by authority of the State; 2, by the State itself; 3, for the purposes of general public education; 4, in the common schools of the State; and that the "education" concerning which that article legislates, and to which the income of that "said school fund" is to be appropriated, is public education in the common schools of the State, under the control of the State.

This construction renders all the acts alluded to constitutional, and is in exact harmony with the debates of the Constitutional Convention, the history of antecedent legislation, of contemporary construction and subsequent legislation, and with every line of the article itself.

The school fund—the common school fund, principal and increase—is sanctified to the support of common schools. If this be the true construction, how can this provision apply to *another* fund dedicated to *another* object? The fund is different, the object is different, and the argument is badly put which would have it that the article in the Constitution which consecrates the common school fund to common school purposes thereby prohibits the application of another and different fund to another and different object.

Is it disrespectful to apply to such a construction one of Broom's rules?

"That he who too minutely regards the form of expression takes but a superficial, and, therefore, probably an erroneous view of the meaning of an instrument." Broom's Maxims, 481. Or the observation of Mr. Cooley, that:

"It is quite possible, however, in applying constitutional maxims, to overlook entirely the reason upon which they rest, and, considering merely the letter, go but skin deep into the meaning."

Is this not fairly within the exclamation of Justice Reynolds, 54 New York, 332? "Or, as St. Paul hath it, 'it is the letter which killeth, but the spirit which maketh alive.'" 4 Comstock, 140; *People* v. *Utica Insurance Co.*, 15 Johnson; *Mason* v. *Rogers*, 4 Littell, 377; *Philips* v. *Pope's Heirs*, 10 B. Mon., 172-3; 8 Bush, 455; 10 Bush, 612-13.

But what is the real meaning of the eleventh article, looking merely to the language of it?

It will be observed that the "common school fund," consisting of $1,225,768 52, and $73,500 00 of stock in the Bank of Kentucky, and $51,223 29, balance of interest on the school fund, "together with any other sum which may be hereafter raised in the State by taxation or otherwise, for purposes of education, shall be held inviolate for the purpose of sustaining a system of common schools." This is the part of the section mainly relied upon by counsel for the appellant. Now, without reading any other part of the section, but stopping here with this language so much relied upon by our opponents, would not the construction contended for by them be unwarranted? All moneys, according to their theory, that are raised by taxation for the *purposes of education, other than common school education*, "shall be held inviolate for the purpose of sustaining a system of common schools." In other words, money raised in admitted conformity with the Constitution, for one purpose (viz: higher education), is to be held inviolate for an altogether different purpose (viz: common school education). Is this a reasonable construction?

But the meaning of this language is made clear when we read the rest of the section. It continues:

"The interest and dividends of said funds, together with any sum which may be produced for *that* purpose by taxation or otherwise, may be appropriated in aid of common schools but for no other purpose."

Now the first sentence of the section provides for the inviolate holding of, *first*, what is called the "common school fund," and *second*, any other sum raised by taxation or otherwise. Both of these are to be held inviolate for one single purpose, viz: to sustain a system of common schools. It will be observed, that this first sentence relates merely to the sacred *holding* of these

funds. The next sentence is the only part of the section permitting any *appropriation* at all, and it says that "the interest and dividends of said funds, together with any sum which may be produced for *that* purpose by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose." Here it is evident that no appropriation is allowed excepting in aid of common schools.

"*That* purpose" alone is referred to in this sentence. The taxation referred to is taxation for "that purpose" only, viz: "in aid of common schools." Now is it conceivable that the framers of the Constitution would have required that moneys raised by taxation for purposes of education, other than common school education, should be held inviolate for the purpose of sustaining common schools, and yet provide that appropriations in aid of those common schools should be made only out of the common school fund and such other sums as "may be produced by taxation or otherwise" in aid of common schools? Would they have provided that sums raised by taxation for higher education should be sacredly held for the purpose of sustaining common schools and yet not allow those sums to be appropriated in aid of common schools? In other words, would they have carefully provided for the sacred holding of three funds (viz: (1) the existing school fund; (2) the additions to it by taxation for purposes of *common* school education, and (3) the additions to it by taxation for purposes of *other* education), and then have absurdly provided that the Legislature should only *appropriate* in aid of common schools the income of the first and second of these three funds? Is it reasonable to suppose they intended to have the Legislature sacredly *hold* for the benefit of common schools any sum produced by taxation for purposes of education other than common school education, and yet leave it powerless to *appropriate* the income of that very sum to either kind of education? Yet this is the inevitable result of appellant's argument.

The *third* sentence also fortifies our position. It reads:

"The General Assembly shall invest said $51,223 29 in some safe and profitable manner; and any portion of the interest and dividends of said school fund, *or other money or property raised for school purposes*, which may not be needed in sustaining common schools shall be invested in like manner."

Now let it be observed that just as the first sentence provided for the sacred *holding* for common school purposes of moneys raised and to be raised, and as the second sentence provided for the *appropriation* in aid of common schools of such moneys then raised or which may be produced for that purpose by taxation or otherwise, so this *third* sentence provides for the *investment* of the interest and dividends of what? Of moneys raised for higher education? No. But only of "money or property raised for *school* purposes." Manifestly this sentence does not relate to any other proceeds of taxation than those raised for (common) "school purposes;" it does not direct the investment of the proceeds of any other taxation. But can we believe the Constitution would have carefully directed the profitable investment of sums raised by taxation for purposes of common school education and yet not have provided for the like investment of moneys raised for higher education when, according to appellant's construction, they are to be held inviolate for this very same purpose of aiding common schools?

We contend that an intelligent reading of the two sentences in connection can not fail to show that the purposes mentioned in the first and third sentences are precisely the same as those in the second, viz: "common school purposes." Indeed the caption of article XI, as interpreted by the marginal summary, indicates that only "common school education" is intended to be considered in the article. The marginal summary (prepared by a legislative committee, of whom the gentleman who proposed the eleventh article was one) is as follows: "The capital of the common school fund to be held inviolate." The whole design of aticle XI would seem to be to assert and maintain the integrity and inviolability of the common school fund. If this be true, then everything foreign to this idea would be excluded by the rule of interpretation which applies to all writings alike. Let us see what the probabilities are from induction and analogy.

The words "school fund" occur four times in article XI, and only once are they prefixed by the qualifying expression "common," and yet it is apparent that "common" school fund is meant throughout. The word "fund" is used three times in the singular or plural, and in every instance not only "school"

fund, but "common school" fund is meant. Indeed, in the first instance of its use, it is defined as the "common school" fund, a meaning intended to attach to it throughout. The word "school" is used five times in the singular or plural; in four of these with the prefix "common" expressed, while in the fifth "common" is manifestly understood. In the phrase "Board of Education," in line five (we refer to line five in the Constitution, as printed in the General Statutes) "Board of Common School Education" is undoubtedly understood; for this is the only sort of education under discussion, and the only kind of education in the State controlled by the State, through a board denominated the Board of Education. All analogy, then, would seem to require the prefix "common school" before "education," in the phrase "purposes of education" in the twelfth line. This presumption is rendered still stronger by the fact that, in the second sentence of article XI, the phrase "that purpose" means a single purpose already supposed to be clearly before the reader, and as no other single purpose is under contemplation than common school education, "purposes of education" is intended to have a singular meaning, which can be only if "common school" is understood as a qualifying and limiting prefix to be supplied before "education."

The second sentence, viz: "The interest and dividends of said funds, together with any sum which may be produced for that purpose, by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose," is but a repetition of the idea contained in the first sentence of section 1, with this difference—the first sentence defines the sources of income, and for what purpose these sources of income shall be held inviolate; the second sentence defines the proceeds of these sources of income, and directs to what purposes these proceeds may be appropriated. There is a remarkable parallelism in these two sentences, to which we call your Honrs' attention. In sentence one the capitalized principal of the school fund is described, viz: as three items, amounting to $1,350,491 71. This has its parallel in sentence two, in which the proceeds of this capitalized principal are described, viz: as the "interest and dividends of said funds." In sentence one the supple-

mentary funds guaranteed by the Constitution as applicable to the end contemplated are defined as, "together with any sum which may be hereafter raised, by taxation or otherwise, for purposes of education." This has its parallel in sentence two, in the expression "together with any sum which may be produced for that purpose, by taxation or otherwise." Now note the words "for that purpose." For what purpose? Evidently "common schools." Do not the words "for that purpose," then, express the scope and limit of the taxation discussed in article XI? Undoubtedly. "That purpose" is a single purpose—the purpose of aiding common schools.

The fact would seem to be that the qualifying and limiting expression "common school," constantly in the minds of the framers of the Constitution, was sometimes expressed, and sometimes omitted apparently for no other reason than to avoid its too frequent repetition. "Purposes of education," then, would mean "purposes of common school education;" nothing less and nothing more. Indeed, from this induction and analogy no other meaning seems probable. We might almost say no other meaning seems possible. The clause in the Constitution, upon the interpretation of which the constitutionality of the tax depends, which reads: "Any sum which may hereafter be raised in the State, by taxation or otherwise, for purposes of education shall be held inviolate for the purpose of sustaining a system of common schools," would then read: "Any sum which may hereafter be raised in the State, by taxation or otherwise, for purposes of (common school) education, shall be held inviolate for the purpose of sustaining a system of common schools." This interpretation harmonizes entirely and is altogether consistent with the idea that the whole scope and intent of article XI is to guard and maintain and defend the integrity and inviolability of the common school fund. It does not admit anything irrelevant. It excludes every consideration not germane to itself. This common school fund is to be preserved inviolate. No appropriations are to be made at its expense. It is to be applied sacredly and exclusively to the single purpose for which it was levied and to no other. This exhausts the significance of the article. It deals with one subject, one purpose, and no other. It excludes the consideration

of all other subjects, all other purposes. On every thing else, than on the single subject of "common school education," it is silentand the single purpose of maintaining the integrity and inviolability of this fund raised for this single purpose. All other sorts of education, and all other funds, or purposes relating thereto are ignored. Had the framers of the Constitution intended to prohibit taxation for any other kind of education than "common school education," the prohibition would have been direct, explicit, and precise, and either in a separate paragraph or in a proviso. It would have been in some such language as this: "Provided, however, that no tax shall at any time be levied for the support, or equipment of any academy, high school, seminary, college, or university, on any pretext whatever." Had the Constitution intended to prohibit a tax for any of these purposes it would doubtless have said so.

II.

But passing from the literal, let us examine the real meaning of the article in controversy; and let the examination be premised with the remark that, although in almost every other State in the Union there have been funds similar to our common school fund, and contests over common school education similar to that which existed here in Kentucky; and although in these states the constitutions, framed in view of such contests, almost without exception, provide that such school funds shall remain inviolably devoted to common school purposes, there is not a state in the Union, so far as we have been able to find, in which the general legislative power has been so far curtailed as to prohibit the legislatures from providing by taxation for other and higher education than may be had in common or district schools. Unquestionably in some of these states such higher education is distinctly provided for; but it is a significant fact that in not one of them has the Legislature been *prohibited* from aiding institutions of higher learning by taxation. If this has been done by our Constitution, then Kentucky is the only state in the Union which has set its face against higher education.

Since the act incorporating the State Agricultural and Mechanical College, and providing for the tax in question, un-

doubtedly conforms to ever other requirement of the Constitution than that embraced by article XI, it becomes necessary for the appellant's counsel to maintain that that article says, and intended to say, that taxation for purposes of education, other than common school education, is prohibited. It will not do for them to follow that language of the Constitution (for which, however, they seem to have so submissive a deference) and say that the proceeds of such taxation will merely pass into and become part of the fund, which shall be held inviolate for the purpose of sustaining a system of common schools. That, they see, would leave the tax valid and their charge against it bad. They must, therefore, contend that the eleventh article *pohibits* taxation in aid of higher education, and if it does not do so in plain language, then they must contend that upon a proper construction of that language such a prohibition is to be implied. Now it is a certain fact that the eleventh article does not in express terms prohibit State aid to higher education. Not one prohibitory word can be found in it from the beginning to the end. Then let us see by what process of construction they imply a prohibition from the words that are to be found in the article. According to their reading it substantially provides that any sum raised by the State in aid of an institution of higher learning shall be held inviolate, and its income appropriated for the benefit of the common schools. Grant this and what then? How does it follow hence that the act levying a tax for the benefit of the Agricultural and Mechanical College would be unconstitutional and the tax invalid? Its title sets forth truly its contents, and therefore it is not obnoxious to the charge that it is contrary to the constitutional provision concerning the titles of acts. And if, because of the educational purpose of the tax, the proceeds are diverted from the object mentioned in the act (the A. & M. College) to another object mentioned in the eleventh article of the Constitution (namely, common schools), that diversion of proceeds is surely not caused by any inherent defects in the act or its title, but merely by the Constitution itself. We therefore say that the logic of the construction contended for by counsel for appellant is, not that the act in question, or the tax imposed by it, is prohibited by the Constitution, but that the proceeds of the

tax, instead of being the property of the Agricultural and Mechanical College, would merely be laid hold of by the Constitution and applied to a purpose totally foreign from that intended by the Legislature when it passed the act. This result has not been and will not be contended for by the learned counsel, or by anybody. But is an absurdity which their construction necessitates and which ours obviates.

But what is the real meaning of the article in controversy? Did its framers intend by it to restrict the otherwise general power of the legislative department of the State to levy taxes for any purpose that the wisdom of the future representatives of the people, impelled perhaps by the experienced wants and more advanced ideas of those people, might dictate? If so, it seems strange that the prohibition was made so shadowy and vague as to require the subtlety of a metaphysical professor to discover it.

We maintain that there is no such prohibition, and our first general proposition is, that in the distribution of the powers of government the Constitution conferred upon the Legislature the general legislative power of the State, and this power is not to be deemed restricted unless by the clearest language of the Constitution. "The legislative power," says the Constitution, "shall be vested in . . . the General Assembly of the Commonwealth of Kentucky."

Judge Cooley says:

"There are two fundamental rules by which we may measure the extent of the legislative authority in the States—

"*First*—In creating a legislative department and conferring upon it the legislative power, the people must be understood to have conferred the full and complete power as it rests in, and may be exercised by the sovereign power of the country, subject only to such restrictions as they may have seen fit to impose, and to the limitations which are contained in the Constitution of the United States. The legislative department is not made a special agency for the exercise of specifically defined legislative powers, but is intrusted with the general authority to make laws at discretion." (Const. Lim., 87.)

"It must be evident to any one that the power to declare a legislative enactment void, is one which the judge, conscious of the falibility of human judgment, will shrink from exercising in

any case where he can, conscientiously and with due regard to duty and official oath, decline the responsibility." (Ibid, 159.)

Your honors must have already seen, and we do not understand it to be seriously questioned by counsel for appellant, that the section of the Constitution in controversy needs judicial construction. Indeed this was expressly decided in *Collins* v. *Henderson*, 11 Bush, 74. Without some limitation upon the meaning of its words we have seen that it would cause the confiscation to the State for the benefit of common schools of every dollar raised by private contribution for private education, by local taxation for local education, or in any wise for the education of soldiers or of the blind or deaf. So that there must at least be some limitation placed upon the literal meaning of the section. How far that limitation shall extend and what its nature shall be can best be ascertained (1) by reference to the history of State aid to educational institutions prior to the Constitutional Convention of 1849, (2) by reference to the evil then existing and requiring the restrictive clause which is now the subject of controversy, (3) by reference to the contemporaneous construction of the clause by those who framed it, (4) by reference to the executive, legislative and judicial construction given it since it was made part of the Constitution, and (5) lastly by reference to the relative inconvenience of the two rival constructions contended for by the appellant and appellee respectively. We think we can show that not one of these methods of construction will develop any sufficient motive for the alleged prohibition of taxation in aid of higher education. Let us consider them *seriatim.*

1. Prior to 1849, the mythical arguments of counsel for appellant to the contrary notwithstanding, we venture to assert that there never was any public contest of any kind whatsoever between the friends of higher education and the friends of lower education. The historical argument made by Judge Lindsay in the court below on the imaginary conflict between the friends of higher or collegiate education and of lower or common school education, based on a paragraph of the message of Governor Desha, was very handsomely done, for the distinguished advocate was wholly "unembarrassed by precedent," wholly untrammeled by facts and free from the restraints of public acts

or contemporaneous history. It had the distinguishing qualities of a spider's web—it was beautiful gossamer weaved out of the weaver's internal constitution. He read from the message of Governor Desha calling the attention of the Legislature of 1825 to the condition of Transylvania University, then, and for many years after, a state institution, and under the care of the State. The reference in the Governor's message to Transylvania University resulted in the appointment of a legislative committee who proceeded to examine into its condition. Judge Lindsay, when asked what the result of the report of the committee was, replied that "they discovered that there had been some bad book-keeping." This is perfectly true; but it is not true that from that time until 1849 there was any antagonism between the Transylvania University, or the education which it represented, and the common school education, which, during the interval between 1825 and 1849, had begun to grow. It it is not true that during this interval there was any contest or antagonism between the higher education, of which Transylvania was the exponent, and the education of the masses, of which the common school system was the exponent.

To anyone acquainted with the stirring scenes and intense excitement of the fierce and historic relief and new court controversy, and with the relative positions of Governor Desha and the leading men of Lexington, the cause of the hostility of Governor Desha to Transylvania is easily understood. But that paragraph stands alone; upon it no hostile legislative action was ever based. It is the solitary evidence of the imaginary conflict, waged for twenty-four years—waged with such ferocity that no participant was ever aware that he was engaged in the combat, nor did any contemporary discover its existence. It was reserved to this day—thirty-three years after this unknown conflict ended—for its existence, nature, and result to be discovered.

There did exist a controversy to which Transylvania and the friends of Transylvania were parties, but this controversy was theological not political. The parties to this controversy were Transylvania on the one hand and the partisans of the recently founded Presbyterian College at Danville on the other, the lat-

ter making war on the former because of the heterodoxy of some of its professors and because of the alleged heterodox tendency of secular education in general. But this controversy never became a factor in State politics, and there is not a shred of evidence to show that it did. There is not a shred of evidence to show that any candidate for any State office from 1825 to 1849 made it a factor, or attempted to make it a factor, in State politics. There is not a shred of evidence that any enemy of the school system was an enemy of the school system because he was a partisan of Transylvania or the educational interests which Transylvania represented. There is not a shred of evidence that any candidate for the Constitutional Convention of 1849 introduced Transylvania, or university and collegiate education, into the canvass as a rival of common school education, or that any plea was made for popular support and state recognition of the former in opposition to the claims of the latter. On what evidence, then, does Judge Lindsay ground the existence of this alleged antagonism? It is not to be found in the debates of the convention. It is not found in the newspaper literature of the day. And there is absolutely no evidence that it existed as a factor in State politics from 1825 to 1849. For twenty-four years, almost the measure of the life of a generation of men, no hostility to Transylvania or to higher education finds expression in any State paper, in any act of the Legislature, or in the canvass of any candidate for any State office, legislative, executive, or judicial. If there be any such evidence we have never seen it. If there be any such evidence the counsel for appellant have failed to produce it. And yet on the assumed existence of this antagonism the whole frame work of Judge Lindsay's historical argument rests.

If from 1825 to 1849 there were any other evidences of either executive or legislative hostility to Transylvania, the industrious research which discovered the paragraph would have paraded them. We have not had the time to examine all the acts nor any of the journals of the Legislature. But the statement made that since 1825 no friendly aid was given to higher education is hardly warranted, nor is it correct that after 1825 the Legislature never made any grants to collegiate and academic institutions. By an act approved January 29, 1830 (Ses-

sion Acts 1829–30, pp. 260–61), the fines and forfeitures in Hardin county were appropriated to the seminary in Elizabethtown; all fines and forfeitures and all escheated property in Louisville to the use of public schools; all escheated property in Fayette to Transylvania University. By an act approved November 26, 1831 (Session Acts, 1830–31), all fines and forfeitures in Estill county were appropriated to the Estill Seminary. By an act approved January 30, 1834, thirty thousand acres of land were devoted to the counties of Hancock, Calloway, Hickman, Graves, and McCracken to endow seminaries. On February 24, 1834, twelve thousand acres of land were donated to Spencer and Laurel counties for the same purpose. On January 8, 1835, Transylvania was given power to take possession of part of a street in Lexington and inclose it. On February 29, 1836, the law department of Transylvania was given copies of the public acts, journals, digests, and decisions then published and thereafter to be published. On February 1, 1837, the Madison Seminary was given the escheated lands in Madison, and on the same day, by another act, fines and forfeitures collected in Cumberland county were given to the Cumberland Female Academy. By an act approved February 16, 1838, the Legislature exercised its proprietary right over Transylvania and reduced the number of its trustees from thirteen to five, and ordered the new board to open correspondence with the presidents of the principal universities, etc., "with the view to obtain information as to the best mode of managing and governing Transylvania University." (Session Acts, 1837–8, p. 250).

It was at this session that the common school act drawn by Judge Bullock, one of the most honorable public services of a long, pure, and philanthropic life, was adopted. (Pp. 274–5.) And in section 41 of this act is found the original statutory separation of the cities from the counties under the operation of the general school law, a separation which still continues, but which is in direct conflict with the eleventh article of the Constitution, if the construction contended for by the appellant is correct. Judge Bullock was too wise and clear-sighted not to see that the system, possible and efficient in a city, would be wholly impossible in a thinly populated rural district, and he

made provision for these obvious differences and put the municipal authorities and powers to practical use; and this distinction has ever since been preserved.

By an act approved February 20, 1839 (Acts 1838–9, pp. 30c–2), Transylvania Institute was incorporated; the whole governmental control of the university was changed; eight trustees were to be elected, two to be chosen by the institute, three by the Council of Lexington and three appointed by the Governor. There was also appointed a Board of Overseers, consisting of the Governor, Lieutenant Governor, Speaker of the House and Superintendent of Public Instruction, *ex officio*, and one from each Congressional District, and Lexington was authorized to donate $60,000 to the university. At the same session, by act approved February 23, 1839, $600 were given to the Anderson County Seminary, for which seminary, by act of February 5, 1840, a tithe of one dollar was made legal.

In 1840 the financial troubles had become distressing; the State was staggering under a load of debt created for internal improvements, and to the necessities of these debts was sacrificed every form of education; and here we stop our review. We have not attempted to do more than select, somewhat at random, the evidences, scattered all through the statutes from 1792 to the formation of the Constitution, in 1849, of the continued friendship and generosity shown to collegiate and academic education; and through this long period we fail to find that conflict of which we heard in the oral argument.

In confirmation of the above review, and as conclusive against the possibility of the existence of such conflict, or that it was in the minds of the members of the convention, we assert, and our learned adversaries admit, that there is not a single word in the records and debates of that convention that has the remotest reference thereto.

So much for the history of State aid to higher education prior to the convention of 1849. We submit that it gives no reason for supposing that a constitutional provision was demanded which would prohibit the State from giving aid to institutions of higher education. Quite the contrary.

2. But there *was* an evil under discussion at the time the convention met—an evil affecting common school education—

which cried aloud for redress. The honor no less than the prosperity of the whole people was involved in the issue; and no subject of discussion in the convention demanded or received from the people at the hustings, or the members of the convention, more earnest attention. It is admirably described by Judge B. F. Buckner, in a brief sketch of the legislation concerning education prior to the convention of 1849; a sketch which he made part of his argument in behalf of the A. and M. College before the Legislature of 1881, which was asked to repeal the act which is the subject of the present controversy. We here insert this historical sketch as part of our brief:

"The Congress of the United States, by an act approved in June, 1836, distributed among, or as is said in the act, '*deposited*' with the States a very large sum of money arising from the surplus revenues derived from sales of the public lands. Although not so provided in the act, it was generally understood these sums were to be devoted by the States to the cause of education. Indeed, the act was passed on the application of the older States, who memorialized Congress to distribute among them sufficient quantities of the public domain to equalize them with the younger States. About 1822 resolutions were passed by the Legislature of Kentucky requesting our Senators and Representatives in Congress to advocate a bill granting 1,000,000 acres to Kentucky 'for the purposes of education.' These resolutions set forth that 15,000,000 of acres had been given to the new States, and that at least 10,000,000 of acres would be needed to equalize the older States with them, and that 1,000,000 acres should be set apart to Kentucky to be used for the purposes of education asked for by the States for this specific purpose. The prayer was granted by a gift of money instead of land, with the understanding that the fund would be so applied. The sum received by the State from this source was $1,433,757. Notwithstanding the State was in honor bound to use the whole sum thus received for 'the purposes of education' the Legislature used $433,757 for other purposes. It did, however, by an act passed on the 23d day of February, 1837, provide 'that the profits arising from $1,000,000 of the surplus revenue of the United States, deposited and to be deposited with this State by virtue of the act of Congress of the 11th of June, 1836, be and is hereby set apart and forever dedicated to founding and sustaining a general system of public instruction in this State, to the benefit of which the several counties shall be entitled in proportion to the number of children therein, whose instruction shall be provided for by

law, and until said number shall be ascertained, in proportion to the number of free white inhabitants therein as ascertained by the enumeration of 1835.'

"This sum, until a system of education shall be devised, was placed under the control of the Commissioners of the Sinking Fund, who were to keep it separate from the other items composing the fund, in order that its ultimate '*abstraction*' therefrom should not be difficult.

"The course of the Legislature in repudiating the solemn trusts which, in honor and conscience, if not in law, attached to the whole sum received from the Federal Government, by dedicating only about two-thirds of it to the purposes of education, was soon followed by another act, which showed in a still more direct and unequivocal manner, that without some restraint more substantial than an act of the General Assembly the public faith in regard to education could not be maintained.

"In the very act which established for the first time in Kentucky, a system of common schools, and which was approved February 16 1838, (see Session Acts 1838, p. 274), the sum of one million dollars, already solemnly dedicated by the act of the previous year to 'a general system of public instruction,' was reduced to $850,000.

"For this sum of $850,000 bonds of the State were issued to the Board of Education, bearing interest, payable semi-annually, and by act of 1839 (Session Acts, 355) all unexpended amounts of interest were directed to be funded by investments in State bonds or in bank stocks.

"Under the imperfect system then existing, very considerable sums soon were owing by the State on account of arrearages of interest, and whenever it happened that the State revenue did not afford a sum sufficient to pay all the current demands of the State, the Commissioners of the Sinking Fund, regarding the school fund as *a debt due by the State to the State*, appropriated the revenues to the payment of other creditors, to the exclusion of the Board of Education. From these facts, and the great commercial and financial revulsion which swept over the country about that time, prostrating business, crippling the energies and resources of capitalists, and subjecting even the purely agricultural district to great and alarming distresses, nothing could be more precarious than the revenues and annual resources of the school fund. This repudiation by the Commissioners of the Sinking Fund of the legal and moral obligations of the State, was submitted to the Legislature of 1840–41, and by them virtually ratified by the passage of an act (Session Acts, 59) increasing the taxes of the State, and appropriating the increase to the use of the Sinking Fund, to be 'applied to

the payment of the principal and interest of the debts now owing by the State of Kentucky for works of internal improvements.

"It will be borne in mind that during all this time the State had never levied any special tax to pay the interest on the principal of the school fund, and that payments for that purpose depended entirely upon whether there was, after the payment of current expenses of the government, a surplus in the Treasury not due to other creditors.

"But it was not until the 10th of February, 1845, that the climax was reached in this long course of legislative treachery. By the act approved on that day (Session Acts, page 69), the Board of Education and the Commissioners of the Sinking Fund were directed 'to surrender to the Governor the State bonds held by them respectively;' and it was also provided that 'the Governor, on the receipt of said bonds, shall cause the same to be cancelled and destroyed by burning in the presence of the Second Auditor and the Treasurer.' Thus, by a single stroke, the evidences of the existence of the entire school fund, in the main the result of the munificence and liberality of the General Government, were destroyed. The same act, as if to add insult to injury, declared that the destruction of the bonds should have no effect to impair the obligation of the State to pay the yearly interest on the school fund, and directed a list of the destroyed bonds to be preserved by the Auditor, of which list a duplicate was directed to be delivered to the Board of Education to 'stand in the place of the bonds,' which were thus directed to be destroyed; but (as if to render the list absolutely worthless, except as a memorandum of the number and amount of the bonds) it was directed that there should be inserted upon the face of it the provision of the law which forbade 'that it should be passed by delivery, be transferred, or assigned by said Board to any person or corporation.

"Notwithstanding the implied promise made in this act to pay the interest on the school fund, the Legislature took care to make no provision to make that promise effectual. Indeed while on the same day that it decreed the burning of the bonds, it enacted a new common school law, and with effusive expressions of good faith, declared that the interest on the $850,000 received from the United States was sacredly dedicated to the maintenance of the common school system, it expressly forbade the drawing from the Treasury for the use of the common schools, for the year 1845, any sum in excess of $15,000 (an

amount less than one-fourth of the interest on the principal of the school fund), accompanying the prohibition with the characteristic declaration that the act should not be construed to lessen the obligations of the State to preserve the fund set apart and dedicated for maintaining common schools.

"At the session of 1847-8, mainly through the patriotic and untiring exertions of the late Dr. Robert J. Breckinridge, then Superintendent of Public Instruction, an act was passed directing the Governor to issue and deliver to the Board of Education a bond of the State for $294,000, bearing five per cent. interest, on account of arrears of interest on the school fund, and dividends on the bank stock belonging to the school fund misappropriated by the Sinking Fund Commissioners. With characteristic prudence, however, this act directed that the bond should be made payable *at the pleasure of the Legislature*, and that it should not be assignable. This act also provided for taking the sense of the voters of the State on the propriety of levying a tax of two cents on the hundred dollars of taxable property 'for the purpose of establishing more permanently a common school system in the State.' The vote taken resulted in a majority for the tax of more than 35,000 votes; and this tax was the first provision ever made by the Legislature for the purpose of the regular maintainance of the common school system. Even this provision was imperfect, for the Legislature had taken care not to provide any law for the regular payment of the interest on school fund. In the report of the Superintendent for 1849 we find the following:

" 'I have heretofore called the attention of the Legislature to the extraordinary and dangerous fact that no provision is made by law for the regular payment of the interest due by the State on her bonds now held by the Board of Education. This interest, before the passage of the two-cent tax law, constituted all the pecuniary resources of the school system, except the interest (dividends) on the comparatively small amount of bank stock held by the board; and since the passage of the two-cent tax law it still constitutes more than half of the income of the board. If there happens to be a surplus in the State Treasury, out of the ordinary revenues sufficient to meet the drafts of the Superintendent of Public Instruction, they will be met. If they happen to exceed the surplus, which they will in all probability do this year, they cannot be met, even though the State is at that moment indebted by tens of thousands of dollars to the school fund—a fund which she declares to be sacred

and inviolate. . . . . The effect is, that, at the end of every year heretofore, the State has kept the great mass of the interest due to the schools, and from year to year this sum increases, leaving the State no alternative but to issue new bonds, from time to time, or to repudiate not only an honest but a sacred debt. When these new bonds are issued no provision is made for the payment of interest on them, and the old process goes on with an accumulated ratio—holding out to the State the prospect of a debt constantly accumulating, and to the school system hopes less and less capable of being realized, as the debt due from the State becomes larger and larger, and, therefore, its annual interest less and less likely to be paid.'

"Such, then, is the history of the common school system of Kentucky up to the meeting of the Constitutional Convention, on the first of October, 1849. It is not a history of which we may be proud. It does not present an inviting page from our legislative annals, but all its faults have been nobly redeemed by the subsequent action, first of the Constitutional Convention, and then by the liberality of the Legislature, sustained and ratified by the people at the polls.

"To return now to the thread of the argument: What were the objective features, which appealed to the convention for action? What were the remedies demanded for existing evils? What was the policy of the State in regard to the common school fund, which was to be engrafted in the organic law? These may thus be epitomized:

"(1.) The fund, which was called the common school fund, existed only by legislative sufferance, had been held to be a debt owing by the State to the State, which might be utterly destroyed by legislative action.

"This evil demanded a remedy at the hands of the convention, and that remedy was naturally the insertion of an appropriate clause in the Constitution, which placed the principal of the fund beyond legislative control.

"(2.) This common school fund, consisting mainly of the indebtedness of the State to the Board of Education, was, as to the principal, payable only at the pleasure of the Legislature; and although the interest, by the terms of the bonds, was payable semi-annually, and although this interest had been again and again solemnly dedicated to the purpose of maintaining a system of common schools, yet there was no existing law providing for the payment of the interest at stated periods suitable to the necessities of the Board of Education.

"These defects in the law demanded for remedy some action on the part of the convention which would compel the regular payment, at stated intervals, of the interest on the debt due by the State to the common school fund, and its honest application to the purposes to which it was originally dedicated; and this could be accomplished either by the insertion of a clause in the Constitution requiring the regular payment of interest on the fund to the Board of Education, and the levy of a specific tax therefor, or a mandate making it obligatory on the Legislature to provide for its payment, leaving the mode and manner of its execution to the discretion of the Legislature.

"(3.) After having made provision for the safety of the principal of the common school fund, and for the regular and periodical payment of the interest, it only remained to provide for the sanctity and inviolability of any accretions to the fund, whether in money or other thing, which might be granted by the Legislature."

It thus appears that the real existing evil which the Constitution had to remedy was not legislative ardor in supporting higher education, but legislative perfidy in refusing to support any education. even common school education. Naturally, therefore, the Constitution would provide, as we contend it did provide, simply for the protection of the principal and increase of the fund dedicated to the support of the system of common schools. There was neither a sufficient motive, nor a desire, on the part either of the people or of the members of the convention, to go beyond that and prohibit State aid to higher education.

3. Again, and most important, the very men who framed the Constitution and whose discussions of the identical clause in controversy have been fully reported and handed down to us, tell us what the clause means; and they tell us, in effect, that it does not mean a prohibition of State aid to higher education, but only the security of any funds raised or to be raised in aid of common school education.

"A constitution," says Mr. Pomeroy in his note to Sedgwick on Constitutional Construction, "is to be construed in the sense it is supposed it was understood when adopted" (p. 227; *Leavenworth* v. *Miller*, 7 Kans., 479); and that the contemporaneous opinions and proceedings of the convention adopting it

afford pertinent helps in its proper construction is certain in fact and settled by uniform authorities.*

The reported debates of the convention of 1849 upon the subject of education are exceptionally full. Many members of that Convention discussed the subject at great length and their interpretation of the resolution which was ultimately adopted as the 11th article of the Constitution is made clear beyond cavil. And it is wholly at war with the idea that any member of that Convention dreamed of a controversy between lower and higher education or for a moment contemplated a prohibition of State aid to higher education or contemplated any other provision than one best protecting against legislative encroachment the principal of the common school fund, and any other sum that might be added to it "by taxation or otherwise for purposes of (common school) education."

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* Judge Cooley says, "when the enquiry is directed to ascertaining the mischief designed to be remedied or the purposes sought to be accomplished by a particular provision, it may be proper to examine the proceedings of the convention which framed the instrument." (Cooley Const. Lim., 66.)

This authority is relied on by appellant's counsel to show that the debates of a constitutional convention are not entitled to much weight in considering the proper construction of a constitution. But the learned author's language warrants no such conclusion. He does indeed say that "These proceedings are less conclusive of the proper construction of the instrument than are legislative proceedings of the proper construction of a statute; since in the latter case it is the intent of the Legislature we seek, while in the former we are endeavoring to arrive at the intent of the people, through the discussions and deliberations of their representatives." And while the learned author cautions us against accepting as conclusive authority the dictum of any member of the Constitutional Convention, he does not say, and does not intend to say, that most valuable light may not be shed upon the construction of a constitution by the debates of the members who framed it. We think that an intelligent reading of Judge Cooley's language will show (what seems clear, independent of authority, and what is made clearer by authority) that the proceedings of a constitutional convention are always entitled to respect in the construction of a constitution; the weight to be given them, of course, depending upon the extent and nature of the discussion concerning the particular clause that is the subject of construction. And when, as in this case, the clause is the subject of most elaborate discussion by many members of the convention and no intimation is found of the existence of the evil which appellant claims was intended to be corrected by the clause adopted, the very silence of the members of the convention is perhaps even more significant and less liable to misinterpretation than their express arguments reported in the debates.

We have had printed and will submit with this brief, the debates of the Constitutional Convention relating to the section concerning education; and we earnestly request a careful reading of them; for from the beginning to the end of them it is manifest that the framers of the Constitution were considering merely the security of the then existing common school fund, and of any accretions to that fund which might arise from future taxation or otherwise.

The first mention of education in the proceedings in the Constitutional Convention is as follows:

"On October the 4th, Mr. Kelly, of Washington, submitted a project for the amendment of the then existing Constitution, contained in a series of nine propositions, of which the seventh was, "That the common school fund shall be made inviolate."

Mr. Root offered the following amendment:

"*Resolved*, That a committee be appointed, consisting of five, whose duty it shall be to report to this Convention the best mode of securing the common school fund, as well as its views in reference to enlarging the same."

"Mr. Kelley accepted the amendment, and they were postponed and ordered to be printed."

It is here shown that the object of these two active supporters of education was simply, first, to make inviolate the existing common school fund, and second, to provide means "of enlarging the *same" common school fund.*

The next mention of the subject of education was two days after this, and is very significant.

"The number and composition of the standing committees being under discussion, the following action was had, viz:

"Mr. T. J. Hood offered, as an additional resolution, an amendment providing that a committee of ——— delegates be appointed, to be styled the 'Committee of the Educational Fund,' whose duty it shall be to ascertain the amount of the present school fund, the character and condition of its investment, and to report the same to the Convention, with such propositions as in their opinion should be incorporated in the Constitution rendering such fund inviolable for the establishment of a permanent system of common school education."

"The amendment was adopted, and on the 8th the committee on education was announced."

Here it will be remarked that the name of the committee is, "the Committee on the Educational Fund," while the duties

of that committee are limited to the ascertainment of the amount of the school fund (known throughout the debates as the "common school fund"), and to reporting the best method of rendering that fund "inviolable for the establishment of a system of common school education." In other words, the broad adjective "educational" is used synonymously with the more specific adjective "common school;" and we shall find that they are thus used throughout the debates.

On November 6th the committee on education made its report, and the article on education proposed by it provided, by section 1, that—

"It shall be the duty of the General Assembly to establish, within ——— years after the adoption of this Constitution, and forever thereafter keep in existence, an efficient system of common schools throughout this Commonwealth."

Section 2 provided that the school fund shall remain a perpetual fund, the principal of which shall never be diminished by legislative appropriation or enactment, and that the interest thereof, "together with any other fund that may arise by taxation heretofore or hereafter imposed by the General Assembly in the aid of common schools, shall be inviolably applied and devoted to the creation, support and encouragement thereof."

The third section of the report provides that the interest of the fund, "as also any fund which may have arisen, or may hereafter arise, from taxation imposed for the purposes aforesaid, or otherwise," shall be distributed among the several counties in proportion to the number of children in them.

It here appears that up to this point there was never any question made about higher education, and the whole object that the framers of the Constitution seemed to have in view was the security and increase of the fund devoted to the aid of common schools, and common schools only.

Upon this report a lengthy debate was had between the friends of the common school education and those who opposed it. From the beginning to the end we find not a word indicating any controversy between this lower education and that higher education, which we claim it was left to the Legislature, in its discretion, to provide for. The opening speech of Mr. Hardin is a general outslaught upon common school education, and the

gist of his whole argument is expressed in the statement: "I have no opinion of free schools, anyhow, none whatever. They are generally under the management of a miserable set of humbug teachers at best."

We have commended these debates to your Honors' careful attention, and have done so the more earnestly because they are contemporaneous expressions of the very men who framed the constitutional provision in controversy in this case, and expressions about this identical provision, and it would surely seem that they afford the best possible mode of ascertaining its proper construction. That the provision does require such construction the Court of Appeals, in the Collins History case, has decided.

Mr. Proctor, in replying to Mr. Hardin, speaks only of securing the school fund and the "promotion of learning and the diffusion of knowledge throughout the State that will be calculated to secure, upon a permanent foundation, a system of public schools." He also, at this time, alluded, in the following language, to the fact that provisions similar to that which he was contending for had been incorporated in the Constitutions of many other States:

"And then, sir, when the General Government has set apart to us a fund for the purpose of general and equal education, and when we by our generosity have voted to tax ourselves for the purpose of raising an additional fund for this same purpose, is it right for us to be told that there is no constitutional security for us, and that our rights are to be disregarded? I hope, sir, that this Convention will act with that wisdom and foresight that have controlled the actions of nearly all the conventions which have met for the purpose of amending the different State Constitutions for the last ten or twenty years, and that we will, by a provision in our Constitution, place the school fund beyond the legislative control."

Mr. Wickliffe (whose position in regard to this subject of educations has, we think, been much misunderstood and misstated by the counsel for appellant), at the close of Mr. Proctor's speech, stated:

"I wish to secure the fund from legislative distraction or abstraction, and for that purpose, I offer the following substitute:

"All the funds which have been or which may be collected, and which have been set apart for common school purposes, shall be held sacred, subject to be regulated by the General Assembly and applied and disbursed as shall seem best to effect the object of general education."

Now Mr. Wickliffe (as will be clearly seen by reading the speeches) was in favor of making inviolable the funds raised, and to be raised, for the purposes of common school education, but he was earnestly opposed to the first section of the article on education, as reported by the committee, because it required the Legislature, within a certain number of years, to establish and forever thereafter to keep in existence an efficient system of common schools. Mr. Wickliffe wanted a constitutional provision making inviolate any funds which may have been, or might be collected for common school purposes, and wished them appropriated only in aid of those common schools for which they were intended; but he thought it unwise to force the Legislature, by a permanent and inflexible constitutional provision, to impose taxes, whether it would or no, in order to increase the common school fund. In short, Mr. Wickliffe proposed that all money actually in hand, or to be raised for common school purposes, should be sacredly devoted to those purposes; but he did not wish to require the Legislature, for all time to come, and notwithstanding all possible variations in the State's pecuniary ability to maintain an efficient system of common schools, to impose taxes for that purpose. He wanted to leave the subject of increasing the fund to the legislative discretion. It will be observed that, by this substitute, Mr. Wickliffe would apply the funds set apart for common school purposes to effect the object of "general education." The word "education" is used in connection with the words "common school purposes" in such a manner as clearly to show that "purposes of education" and "common school purposes" are used by him as convertible terms having precisely the same sense. That this is true Mr. Wickliffe in a subsequent speech explains:

"I barely desire to explain the amendment which I offered, and I return the gentlemen, who have so ably and so nobly advocated the cause of education, my thanks. . . . There is no substantial difference between the amendment I offer and

the second clause of the report. I go with the committee and every friend of education on this floor to set apart and dedicate the fund for educational purposes, which has either been accumulated by taxation, or which was originally set apart by the law of 1837.

"What does the amendment which I propose contemplate? It is that the fund which has been collected—the $850,000, the $73,000 of bank stock—and any and every other fund which may be collected for educational purposes, shall be devoted by the Legislature to that object and when so devoted it shall remain secure and be appropriated to no other purpose or object than the diffusion of a general system of education. When we have thus secured the fund, and provided, as in the latter clause of the committee's report, that the superintendent of the school system shall be elected by the people, I propose by my amendment to leave that fund to the Legislature, to be directed, regulated, and disbursed as may seem best to that body, for the purposes for which it was set apart. If I understand the report of the committee, it is that while they do the same thing which I propose, they make it *obligatory* upon the Legislature to establish and keep in existence this system throughout the Commonwealth.

"If that is complied with, taxation will be necessarily involved in it to an extent stated by my friend from Logan (Mr. Bowling), or nearly to that extent. I am unwilling to impose that upon the Legislature. I would leave that to the tax-paying power of the Commonwealth. The amount of this income is wholly inadequate to establish a system of common schools throughout the length and breadth of this Commonwealth, and the Legislature must adopt such a plan as will invite to the support and aid of the fund local contributions, by a system such as they have in New York and in some other Northern and Eastern States."

Now if the court will refer to the second section of the report of the committee, it will see that reference is there made, just as in Mr. Wickliffe's explanation, only to common school funds, common school purposes, and taxation in aid of common schools, and there is not a word up to this late point in the debates of the Convention about any contest between lower and higher education, or one word to indicate that any member of the Convention dreamed of making this constitutional provision relate to anything else than common schools, and funds raised or to be raised for them.

Mr. Wickliffe not only took a prominent part in the Convention in behalf of common schools, but he proposed the eleventh article of the Constitution as it was finally adopted. His explanations, therefore, of the reasons for not adopting the committee's report and adopting a substitute for it have a manifest significance. And his explanation is totally inconsistent with the idea advanced by Judge Lindsay in the court below, that the committee's original draft of the article on education having failed to satisfy the Convention, it was determined that no more money should be wasted on higher educational institutions like Transylvania, and therefore the substitute was proposed by Mr. Wickliffe to protect common school education against the encroachments of those who wanted State aid for higher education. Mr. Wickliffe says, "there is no substantial difference between the amendment I offer and the second clause of the report." As we have seen he then explains his substitute; and to facilitate comparison between the language of the substitute and its expianation, we here exhibit them in parallel columns, as follows:

SUBSTITUTE.	EXPLANATION.
All the funds which have been (collected),	It is, that the fund which has been collected—the $850,000, the
or which may be collected,	$73,000 of bank stock,
and which have been set apart	and any other and every other fund collected
FOR COMMON SCHOOL PURPOSES,	FOR EDUCATIONAL PURPOSES—
shall be held *sacred*,	shall be *devoted*
subject to be regulated by	by the
the GENERAL ASSEMBLY,	LEGISLATURE to that object; and
and *applied and disbursed*	*when so devoted it shall remain*
as shall seem best to effect	*secure and be appropriated to no*
the object	other purpose or object than
OF GENERAL	the DIFFUSION OF A GENERAL SYSTEM
EDUCATION.	OF EDUCATION.

If the phrase "shall . . . be appropriated" in the explanation means the same thing as "shall be applied and disbursed" in the substitute; if the phrase "shall be devoted" in the one means the same thing as "shall be held sacred" in the other; if the "Legislature" in the one means "General Assembly" in the other; then beyond question, "for educational pur-

poses" in the one means the same thing as "common school purposes" in the other. After this contemporaneous construction of Mr. Wickliffe, which affirms the absolute identity of his use of the phrases "educational purposes" and "common school purposes," further argument might seem superfluous.

We have gone to the fountain-head of contemporaneous construction, and we show that Mr. Wickliffe himself affirms the identity of the phrases used by him. What more could we be asked to do?

The morning after Mr. Wickliffe made his explanation, Mr. Williams objected to the form of Mr. Wickliffe's amendment in the following language:

"I do not think the proposition of the gentleman from Nelson (Mr. C. A. Wickliffe) is sufficiently specific. I desire that this Convention shall, by the Constitution, adopt such a provision as will clearly recognize the school fund which is in existence as a fund for common school purposes, and I wish it to do that in a way that shall definitely point out what it is. The proposition of the gentleman from Nelson does not embrace all the funds that belong to the Board of Education, and therefore I wish to offer a substitute, which I apprehend will meet the views of the gentleman from Nelson. My proposition will be a substitute for the whole bill of the committee, and if it should be adopted, and the three sums set forth in the first section of this article shall be definitely and clearly recognized by this Convention as a fund to be set apart for the purposes of education in Kentucky, I shall be willing to leave further action to the Legislature," [which was just what Mr. Wickliffe insisted upon in amending the committee's report].

Now here two things are shown: first, the question before the Convention was whether the Legislature should be required to keep up a system of common schools, and to that end be left no discretion as to whether it would impose additional taxation; and second, that the speaker used the expressions "common-school purposes" and "purposes of education" as precisely synonymous. One speech follows that of Mr. Williams, in which the speaker refers only to common-school education, and then Mr. Wickliffe withdrew his amendment and submitted in lieu of it the proposition which became the first section of the eleventh article of the Constitution. Surely no man can read these debates without seeing clearly that there was no contro-

versy at this time between these men—the very men who originated the constitutional provision in controversy—as to the relative claims of higher and lower education upon the taxing power of the State. Mr. Wickliffe's amendment was adopted; and in the address adopted by the Convention, which expressed the views of the Convention on the work which had been done, and sixty thousand copies of which were ordered to be printed for distribution among the people, this significant language was used:

"The promotion and diffusion of knowledge among our citizens has been secured by the dedication of the school fund to a system of public instruction in primary schools."

The pith of article XI of the Constitution is included in that sentence. To secure and render inviolate the school fund for instruction in primary schools was the whole aim of the article; nothing less and nothing more.

Here the action of the Convention ends. Without further argument, but again requesting of your Honors a careful perusal of the printed debates of the convention, we submit that according to the third method of construction above stated—namely a reference to contemporaneous construction—we find no controversy between higher and lower education, no reason for prohibiting the Legislature from exercising its otherwise general taxing power in aid of higher education, only a solicitous endeavor to guard against abstraction, for any other purpose, of the sums raised, or to be raised, by taxation or otherwise for the purposes of common school education.

4. Another method of ascertaining the real meaning of the language of a Constitution is by reference to the construction placed upon it by the executive, legislative and judicial departments of the Government *subsequently* to its adoption. Here again we shall find that no prohibition of State aid to higher education has been thought to be contained in article XI of the Constitution.

(a). That the legislative and executive departments of the Government have, since 1849, construed the Constitution as allowing such aid by taxation, is shown by a series of acts appropriating "sums raised in the State by taxation for purposes of

education" to purposes of education very different from common school education.

"The Kentucky Institution for the Education of the Blind" is such an educational institution. It was chartered in 1842 by an act whose title called it by that name and whose preamble recited that:

"Whereas, The system of common schools is intended for the benefit of all the children in the Commonwealth of Kentucky, and a fund has been set apart for that purpose; and whereas, it is the duty of the State to promote the education of the blind, and experience having demonstrated that this desirable object can be effected by a judicious and well-adapted course of education, therefore, section 1, be enacted," etc.

This act established an institution to be called "an Institution for the *Education* of the Blind," to be under the government of seven visitors to be appointed by the Board of Education. These visitors were given authority to receive donations, etc., to be used for "the education of the blind," "to appoint and remove professors," "to fix the course of education," to "establish rules for the government and discipline of the pupils, to regulate tuition fees, etc.; and to this corporation, thus created for these educational purposes, there was appropriated "out of the revenue of the common school fund" the sum of $1,000. (Sess. Acts of 1842, pp. 22–28).

From that day to this the State has appropriated large sums for the purchase of lands, erection of buildings, "for the purchasing of necessary books, charts, maps, globes, instruments, apparatus, etc., for the library and literary department of the institution," &c. (Sess. Acts 1849–50, p. 466; Sess. Acts 1851–2, p. 357; Public Acts 1855–6, p. 49; 1 Sess. Acts 1857–8, pp. 25–26).

On March 11th, 1860, the Board of Visitors was authorized to expend a portion of the school fund to extend the period of the school term "for such meritorious pupils as shall be recommended by the Superintendent as worthy of longer instruction in literature, music and mechanic arts." (1 Sess. Acts 1869–70, p. 41). And into this institution pupils from other States may be received. (General Statutes, pp. 933–936).

But it has been contended in behalf of the appellant that this "Institution for the Education of the Blind" is not an edu-

cational but a charitable institution. Quoting from Judge Cooley, the counsel for appellant contend that, because the blind are afflicted, therefore there cannot be an institution merely to educate them; that because the State *might* create a charitable institution for their custodial care, therefore their education must be incidental to the charitable care which the State might assume to give them. We do not understand Judge Cooley as laying down the absurd proposition that the charitable may not be made incidental to the educational feature of such institutions, or as saying that the Legislature of a State cannot make an educational institution instead of a charitable institution for the benefit of the blind. Now the Legislature of Kentucky saw fit to establish, not an asylum, not a charitable institution, but an "Institution for the *Education* of the Blind," and it did provide for an educational institution pure and simple. The only difference between this institution and other educational institutions of co-ordinate rank is that there is an additional criterion of admission: blindness. The fact that it is not a charitable institution is furthermore proved by the provision in the act that only children of certain ages, and who need charity least and instruction most, shall be admitted. Were the institution charitable in its nature, the very persons who are now excluded from its benefits—the very young and the very old—would be those for whom the institution would have been chiefly established.

On the oral argument in the court below we put the question to Judge Lindsay (and he said that he did not feel called upon to answer it), and we now repeat the question: If the Kentucky Institution for the Education of the Blind be merely a charitable, and not an educational institution, is the title to the act incorporating it appropriate? Is it consistent with the body of the act, and is the act constitutional?

In 1859–60 the Legislature established the "Institution for the Education and Training of Feeble-minded Children," which was re-established by an act approved February 23, 1874, entitled "An act to re-establish the Institution for the Education and Training of the Feeble-minded Children." (Gen. Stats.) This institution we presume counsel for appellant would also contend is merely charitable; but not only

does the title of the act distinctly call it an institution for the education and training of these children, but in the 17th section it says: "It is distinctly avowed, in this act, that said institution is not an asylum for the custodial care of unimprovable idiots, but a school for the education of feeble-minded children." From one act to the other it is made plain that the object of the institution is educational and not charitable, and that the 17th section means what it says. This educational institution—an institution not embraced within the system of common schools contemplated by the eleventh clause of the Constitution—is also supported by State taxation.

The 15th section of the act says:

"There shall be, and is hereby appropriated for the support, including board, instruction, etc., of each pupil, the sum of one hundred and fifty dollars per annum, payable quarterly, and the sum of seven thousand five hundred dollars, payable quarterly in advance, from the time of the passage of this act, for the general support of the institution, payment of salaries, purchase of books, maps, stationery, apparatus, contingent expenses, etc."

Now here is a law, appropriating in advance, out of any money that the State may raise by taxation, an annual sum of thousands of dollars for the support of this educational institution. The appropriation is under an established law of the land, and so long as that law remains unrepealed, it is as definite and fixed in its nature, and as much a charge upon funds to be produced by taxation as the constitutional salaries of the Governor and other officers of the State. Certain it is, therefore, that this institution is supported by taxation levied for such educational purposes as the institution was established to further. Precisely the same line of argument applies to the Deaf and Dumb Asylum and the American Printing House for the Blind. We maintain that all three institutions will inevitably fall if the construction of our opponents be sound. For, twist words as we will, it is evident enough that these institutions, by ascertained existing law, are entitled to a definite appropriation out of the moneys to be raised by the State by taxation; that the moneys thus raised by the State are raised for the purpose of paying existing charges against the State, of

which the appropriations to these educational institutions are a part. We have seen that counsel for the appellant claim that the acts of the Legislature creating all these institutions for the education of the blind, of the deaf and dumb, and of the feeble-minded, are primarily charitable, and for the care and medical treatment of those admitted. Just the contrary. The titles to the acts, the preambles to the acts, and the entire body of the acts prove the reverse. They are denominated "educational" in their methods, means and ends. Their inmates are "pupils" and "scholars." Their officers are "teachers," "instructors" and "professors." A term of instruction is provided for, means, in the shape of apparatus, etc., provided to make instruction effective, and at the end of the scholastic period the "pupils" return to their homes.

Judge Lindsay attempted to parry the force of this argument by alleging that the primary object in the establishment of such institutions is to make those who have been their pupils capable of earning a living and relieving the State from their support as paupers. This might all be true, and still the fact that they are mainly educational remains. One of the objects of all educational institutions is to make their pupils better able to earn subsistence and better citizens, and less likely to become burdens upon the public by training and developing their mental powers.

Again: the teacher's institutes in the various districts of the State will also fall by the arguments of appellant's counsel. They are not within their definitions of common schools; they are not local to particular counties; they are supported by State taxation; and since, according to their argument, no taxation for educational purposes other than common school purposes is possible, these institutes must likewise fall with the A. and M. College.

(b). Counsel for the appellant seem to lay great stress upon four decisions of this court concerning the common school fund, and maintain that they afford a judicial construction of the Constitution which is inconsistent with taxation in aid of any other than common school education. These cases are *Halbert* v. *Sparks*, 9 Bush, 259; *Marshall* v. *Donovan*, 10 Bush, 686; *Collins* v. *Henderson*, 11 Bush, 74; and *Auditor* v. *Holland*, 14 Bush, 148

These cases were first used to prove the invalidity of the A. & M. College tax in an article by one of the counsel for the appellant, Judge Humphrey, published in the Kentucky Law Journal, and they were there used to prove the negative of the question, "does this college form a part of a system of common schools, and is money paid over to it appropriated in aid of common schools?" But your Honors will observe that whether they do prove this or not is entirely immaterial; for in the whole argument of the case up to this point we have distinctly conceded that the college is *not* a part of the system of common schools and that moneys paid to it are not appropriated in aid of common schools. What we have maintained is that article XI refers only to common schools.

The A. & M. College either is one of these or it is not. If it is, then the tax is confessedly valid. If it is not, then article XI does not affect it. The real question, therefore, is not whether the college is or is not a common school (though if it were such the tax would be valid), but whether article XI refers to anything but common schools. This we think we have shown it does not. Nor do the four cases cited militate against this conclusion.

Halbert v. *Sparks* involved only the question whether an act which "devoted a portion of the school fund to the payment of teachers not acting under the control or supervision of officers of the common school, but who taught under contracts made with a private idividual," was constitutional.

The act directed the Auditor to draw his warrant on the State Treasurer to pay for Halbert's services, and they were paid for out of the common school fund. The case involved only the power of the Legislature over the disposition of the common school fund, which we have all along conceded must be strictly devoted to common school education. The case does not even remotely bear upon the question whether article XI of the Constitution relates to and prohibits State aid to higher education.

Marshall v. *Donovan* is not a whit more in point. The question there was, whether the common school laws of Kentucky, applicable by their terms alone to the white population, were in violation of the 14th amendment to the Constitution of the United States. How that case can possible have anything to

do with the question we are now discussing can not be readily perceived.

The court says (it does not decide) what a common school is according to the declaration of the Legislature which enacted the Revised Statutes; but even this dictum does not touch the question whether the eleventh article of the Constitution relates to higher education and prohibits aid to it.

Collins v. *Henderson*, while its language might be considered material in the discussion of the question, is the A. & M. College a common school? is also totally irrelevant to the question before us. The issue to be decided in that case was not whether article XI of the Constitution related to other educational institutions than common schools, but whether any part of the moneys which had been expressly raised for common school purposes—whether any part of the *common school fund*—could be taken away from the common schools and used to buy Collins' History of Kentucky; or, as the court itself says, "the sole question presented for decision . . . is whether the appropriation of a part of the money produced by that tax, and dedicated by the Constitution to the school fund, to buy a copy of the appellant's book for each school district which failed to vote against such purchase, is in aid of common schools within the meaning of the Constitution?"

The court, after arguing that question and only that, announced its conclusion in these words: "We concur with the circuit court in the opinion that so much of the act in question as directs payment for the books directed to be purchased of the appellant for the several school districts in this State to be made out of the proceeds of a *tax levied for common school purposes* (the italics are ours) is unconstitutional."

We see no attempt here to discuss or decide the question that we have been discussing; namely, whether the Constitution relates to and prohibits taxation in aid of higher education. Judge Cofer was not construing the Constitution to ascertain whether the phrase "purposes of education" meant "purposes of (common school) education," as we contend, or "purposes of (common school, academical, university and every other) education," as appellant contends, but he was considering the meaning of a different phrase (namely, "in aid of common

schools"), indisputably relating only to common schools, and with the sole view of ascertaining the exact comprehension of that phrase, and whether a purchase of Collins' History would be a purchase in aid of common schools within the meaning of the Constitution.

Upon the question now before us, therefore, we utterly fail to perceive any bearing of the case of *Collins* v. *Henderson.* Whether it affords a correct definition of a common school may be pertinent to the question, is the A. & M. College a common school? but it is wholly irrelevant to the question which we have been discussing, viz: does article XI prohibit taxation in aid of higher education? for in discussing this latter question we have all along conceded that the college is *not* a common school.

Auditor v. *Holland* is also irrelevant to the question we are discussing. The question there was as to the constitutionality of an act authorizing the commissioners of common schools to withdraw from the Treasury the unexpended surplus to the credit of the counties of Livingstone, Marshall, and McCracken, and pay out and dispose of it under the orders of the county courts of those counties. The court decided that the General Assembly had no power to abdicate its control over the common school fund, or any part thereof, and impose the responsibility thereof on the county court.

(5.) The *consequences* of the rival constructions of article XI contended for by appellant and appellee respectively, have been sufficiently indicated already, and afford another substantial reason for affirming the proposition that that article does not prohibit State aid to higher education. We shall not enter upon a lengthy discussion of these consequences, but content ourselves with the general remark that if this State is to keep in the line of progress with the other States of the Union it should further and not suppress higher education. The danger to the common school system apprehended by the learned counsel for appellant from the fostering of higher education is purely imaginary. Lower education is not destroyed but materially helped by higher education. Those States in which higher education has made most progress are precisely those

in which lower education has been most cared for and has flourished best.

Thus far we have been discussing the XIth article upon the assumption that, as contended by the counsel for appellant, the A. & M. College is not a common school. Literally, as we have said, it is a common school; but we are free to admit that, in view of the history of State aid to education in Kentucky, of the debates of the Constitutional Convention, of the legislation since the Constitution was framed and of the dicta of this court concerning the meaning of the words "common school," we cannot say that, within the real meaning of the Constitution, the A. & M. College is a common school. If it is *not* a common school we have seen that it is not within the scope of the XIth article, and taxation in aid of it is not prohibited by that article. If it *is* a common school then taxation in aid of it is not only not prohibited by that article, but sums realized by such taxation are to be held inviolate and their income from them appropriated for the purpose of aiding this college as being part of a system of common schools. This fact is recognized by counsel for appellant, and, therefore, they have labored hard to show that the college is not a part of a system of common schools.

Abbott defines "common schools" as "schools established by law, maintained at the expense of the State, county or other local organization, and open to the children of the inhabitants at large, free of individual charge for tuition: public schools. They are distinguished from schools established by private enterprise, in which pupils must be supported by private liberality, or by payment for the various pupils, each pupil being entitled to enter only by private contract." (Abbott's L. Dict.) And accordingly we find that under the broad designation of "public schools," "free schools" and "common schools" other states have organized systems of education higher than one consisting of mere district schools. A "system," too, embraces more than a number of co-ordinate and similar institutions. It is "an assemblage of objects arranged in regular subordination, or after some distinct method, usually logical or scien-

tific." (Web. Dict.) And it may be fairly contended, in the absence of historical and other extrinsic arguments, that the constitutional provision for a system of common schools embraces more than mere district schools. We say that we are disposed to concede that this college is not a common school; but we do not do this because that proposition has been affirmed by any *decision* of this court. For nothwithstanding Judge Humphrey's elaborate argument to the contrary, we confidently assert that not one of the four cases above mentioned affirms any principle inconsistent with the proposition that this college is a common school. Language indeed may be found in at least one of those cases indicating what common school is, but your honors will find, upon reading the cases, that the questions involved and decided in them are totally different from the question now before you.

For many of the facts concerning the history of common school education in Kentucky and for many points of our argument concerning the analysis of the XIth article of the Constitution, we are indebted to a free use of the able printed arguments of President Patterson, of the State A. & M. College, and Judge Simrall before the last Legislature when it was called upon to repeal the act now in question.

In conclusion, we submit that we have shown:

I. If, as contended by appellant, the State College is *not* a common school, then it is not embraced by article XI, which relates only to the common school system and to the existing capital and future increase, by taxation or otherwise, of a fund raised and to be sacredly held "for purposes of (common school) education." That the article does relate only to sums raised for purposes of common school education, and not those for higher education, is shown:

1a. By an analysis of the article itself. This analysis will show both the absurd results of appellant's literal construction and the reasonableness of that of the appellee.

1b. The literal construction that must necessarily be contended for by appellant is capable of reduction to an absurdity by these reasons.

1c. It would make the first sentence of article XI in effect say that sums raised for one purpose (higher education) must be sacredly held for another purpose (lower education).

2c. It would make the second sentence in effect say that, although sums of money raised for common shcool education may be appropriated by the Legislature in aid of common schools, the income of moneys raised for higher education cannot be appropriated at all.

3c. It would make the third sentence provide for the investment of moneys raised for common school education, but not for the investment of moneys raised for higher education.

4c. It would make the State seize and hold for common school purposes all moneys "raised in the State," even by private subscription for private education, or by local taxation for local education, as well as moneys raised for the institutions for the education of the blind, deaf, etc.

2b. The construction we contend for not only obviates all these difficulties, but is sustained by every analogy of the other parts of the article.

2a. By extrinsic illustrations also it is shown that article XI was intended for the benefit of common schools to protect only the existing principal and future increase of that fund raised or to be raised in aid of those common schools, and was not intended to prevent State aid to higher education.

1b. Prior to the Constitutional Convention of 1849 there had been no legislative or other public animosity shown towards higher education, which needed recognition in the Constitution.

2b. But prior to that convention there had been a perfidious diversion, in aid of internal improvements, of funds which had been raised for common schools, and a constitutional guarantee against such diversion to non-educational objects was demanded of the convention.

3b. In the elaborate debates of the Constitutional Convention no desire is manifested to protect common schools against other educational institutions or to seize moneys raised for the latter and apply them for the benefit of the former, but only a desire to secure for the common schools those moneys which had been raised or were to be afterwards raised for such common schools.

4b. All authoritative construction of article XI, subsequent to its adoption, shows that it has not been supposed to mean a prohibition of State aid to higher education.

1c. The legislative or executive departments have repeatedly since 1849 aided educational institutions other than common schools. e. g. The institutions for the education of the blind, deaf, feeble-minded, soldiers, and the Louisville Male High School (entitled, The University of Public Schools).

2c. This court has not decided or said, or had cases before it permitting it to decide, that article XI prohibits State aid to higher education.

5b. The disastrous consequences of the narrow construction contended for by appellant in crippling or destroying all existing educational institutions other than district schools, and in preventing such aid in the future as the public necessitities and progress may demand, affords strong reason against that construction.

II. If, however, the State College *is* part of "a system of common schools" then appellant will confess that any sum raised in aid of it by taxation or otherwise is lawfully raised. That it is part of the common schools is *literally* true. For

1a. A common school is one which a pupil has the right to enter by virtue of citizenship and without any private contract, and such a school the State College is.

2a. A "system" of common schools embraces more than mere co-ordinate schools and includes all classes of schools graded from a common school up to a university.

3a. The four Kentucky cases cited by counsel for appellant do not decide either in words or in principle that the common school system excludes higher educational institutions.

We respectfully and earnestly ask an affirmance of the chancellor's judgment.

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47-M-64