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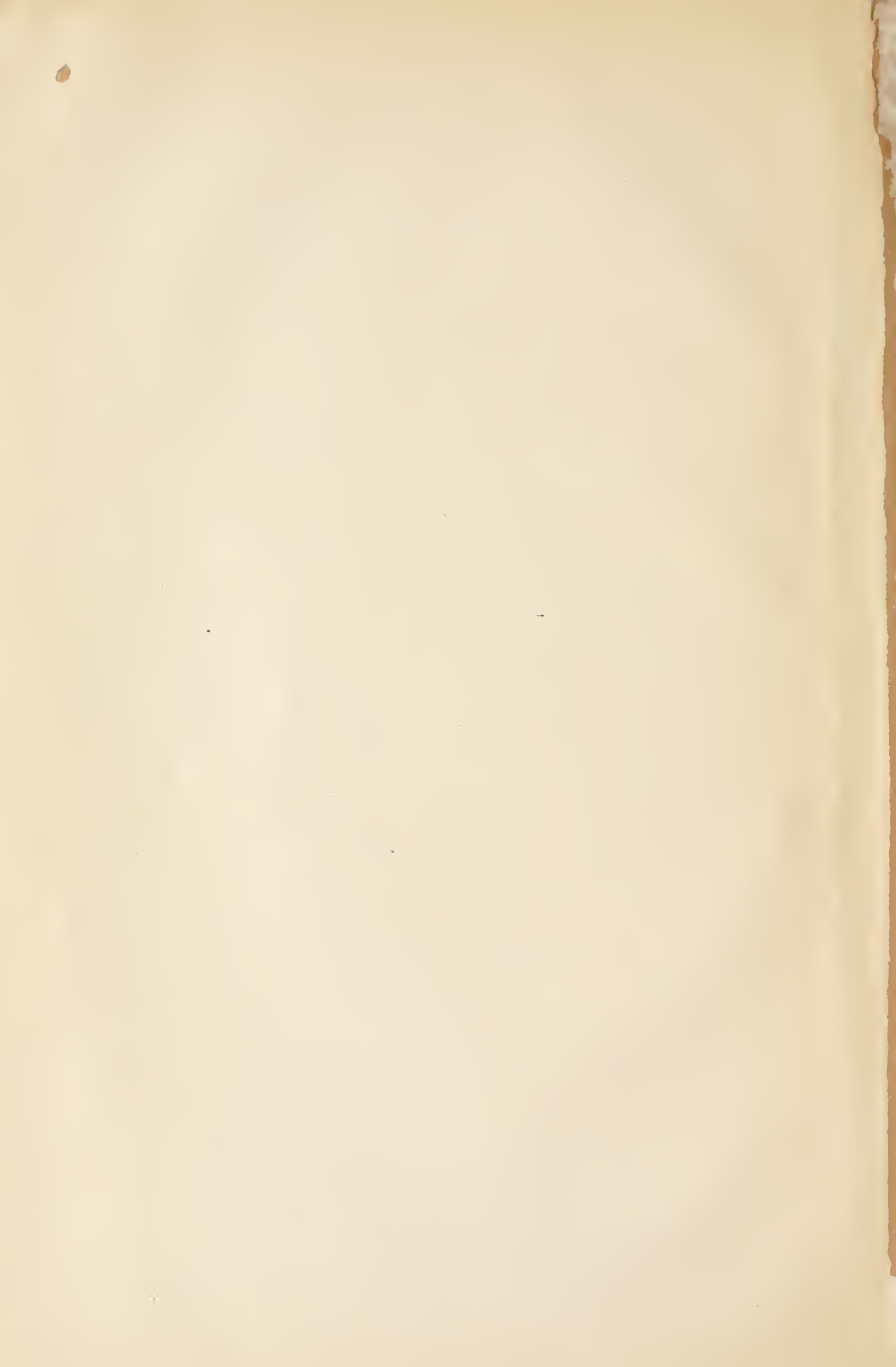
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ORIGIN, HISTORY AND PRESENT ORGANIZATION

BY

SIDNEY SHERWOOD, PH. D.

Associate in Political Economy, Johns Hopkins University

ACCEPTED BY THE JOHNS HOPKINS UNIVERSITY AS A THESIS FOR THE
DEGREE OF DOCTOR OF PHILOSOPHY, JUNE, 1891



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UNIVERSITY OF THE STATE OF NEW YORK

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INTRODUCTION

The system of higher education in New York is one of great interest to the students of state educational institutions. It has the interest of age and of historic incident, for it is closely connected with the whole development of the state. The distinguished men who aided in founding it, and their distinguished successors in its control, give to its history that interest which springs from association with conspicuous personality. But it is the greatness of the work achieved by this system in the development of the educational life of the state which chiefly entitles it to be studied. And yet the boundaries of the commonwealth do not bound the historic or the practical importance of the university. The American colonies were profoundly influenced during the latter half of the 18th century by the new educational ideas with which revolutionary France conquered the 19th century. The New York system shows abundant traces of this influence and itself has become a source of an influence which has spread to the Pacific on the one hand and back to Europe on the other.

New York a leader in innovation. New York has always been a leader among the states in the practical methods and organization of

ABBREVIATIONS

New York (state) — University. Regents' report.	Reg. rep't [followed by no. of rep't and year in curves; e. g. Reg. rep't, 102 (1889)].
New York (state) — University. Proceedings of the University convocation.	Conv. proc.
New York (state) — University. Historical and statistical record, by F. B. Hough.	Hist. record.
New York (state) — Public instruction, Sup't of. Annual reports.	Sup't's rep't [followed by no. of rep't and year in curves].
New York legislative papers.	N. Y. leg. papers.

progressive change, whether in politics, in finance, in commerce, in law or in education. The commercial adroitness and activity of the city were strongly marked even under the Dutch régime. The plan for securing paper money issues by national banks was carried to Washington by Secretary Chase, from New York, where it had been in operation for a quarter of a century. Nearly every movement toward the organization of a new political party in the United States has had its source and center in New York. From Aaron Burr to the present time, New York has been the pivot around which revolved the political destiny of aspirants to high office in the nation. Nowhere else has the spoils system in politics, this 19th century survival of the old Teutonic *comitatus*, received so splendid an illustration of its efficiency as a machine for party control, as in New York.

Not even to Massachusetts, does New York yield place in the number and value of her legal reforms, whether in substantive law or in procedure. In the abolition of feudal tenures, of the old cumbersome methods of conveyance of real property and in the simplification of pleadings and procedure, New York has led the way. But these are only instances. Within 20 years England has introduced two most beneficent innovations in her law, viz: the abolition of separate chancery courts and of the disabilities of married women in regard to the ownership of property and the conduct of business. New York anticipated England more than 20 years in these reforms. In the codification of law, also, New York has given the impulse which is gradually transforming the legal systems of this country.

"Innovation," says Henry Adams, speaking of the early years of this century, "was the most useful purpose which New York could serve in human interest, and never was a city better fitted for its work."¹

Plan and scope of the work. The commercial and political importance of the city tends to overshadow the achievements of the commonwealth in other fields of activity. The University of the State of New York is an innovation in educational organization which deserves to be better known. It is the aim of the writer to make this system better known. He has attempted, by a careful outline of the organization and work of this University, to show what this state is doing for the higher education of its people, and what has been the influence of its system and its activity upon the progress of higher education in other states and countries. The University of the State of New York, comprising as it does all the chartered colleges and secondary schools in the state, is an institution unique in its organization and in its methods of work. The writer believes that he has thrown new light upon the beginning of the University and has shown its international origin. It

¹Adams, Henry B. History of the United States of America, v. 1, p. 112.

was but one result of a great movement in educational reform, which in the latter part of the 18th century swept over continental Europe and America. He has, at the same time, pointed out the particular causes which led New York to work out her peculiar system, a system admirably adapted to the needs of the state, and a model which has suggested many reforms beyond the boundaries of the commonwealth. The Empire state has no prouder or juster claim to greatness than her imperial University.

The period from the organization of the University (1784-87) until the beginning of its later increased activity with the law of 1889, has been very hurriedly passed over. This period has been treated fully and ably in a publication prepared under the auspices of the regents of the University, at the time of their centennial celebration in 1884;¹ a work to which the writer is greatly indebted for its valuable collections of facts and the suggestiveness of its historical comments. The later activity of the University has been somewhat more fully treated in this monograph. The revision and codification of the laws relating to the University in 1889, and the extension of its powers thereunder, as well as the present plans and prospects of the University have been carefully studied by the writer, who has made some suggestions as to a further extension of the work of higher education by the University.

In April 1892, a new university law was enacted, just as this monograph was ready for the printer. The purpose of the law was to revise and consolidate the laws relating to the University. It has also revised the general legislation relating to the colleges. It thus covers a wider field than the law of 1889 and might well be called a "Code of higher education." It repeals the most of former laws relating to higher education. It stands thus as the compact embodiment of that historic evolution which the writer has attempted to trace in this narrative. As such, it has seemed best to print it in full, as an appendix. This volume thus serves as an historic introduction to the present law, which must be the starting point of all new developments. The structure, powers and methods of the University itself, remain substantially unaltered. The analysis of the law of 1889 which the writer has given, will therefore, be intelligible to the reader of the law of 1892 and will, in turn, help to make clear the scope and meaning of the latest law. There are two features in the law of 1892 which clearly show the newer spirit of progress in this old, historic University. One is the remarkable emphasis given to libraries as an agency in higher education. The other is the incorporation of university extension as a regular and permanent department of the University work.

¹ N. Y. (state) — University. Historical and statistical record, 1784-1884, by Franklin B. Hough; with an introductory sketch by David Murray, Ph. D., LL. D., sec'y of the regents, Albany, 1885.

CHAPTER I

OUTLINES OF THE PRESENT SYSTEM OF EDUCATION IN
NEW YORK

New York has a system of education which is complex and without theoretic unity, a system in fact without system. In its practical working, however, there is a real unity. Like the English constitution it is the result of historic growth, and the practical gifts of the people have made possible the harmonious, efficient management of what would seem like an ill contrived machine, were it the contrivance of a single mind or a single legislature.

Private schools. The state exercises no monopoly of education. While every college, academy and private school is in a very important sense a state institution, yet there has always existed complete freedom of instruction. Splendid work has been done by a multitude of unchartered institutions, unaided by public money, subject to no visitation or control by public authority. It is, however, a settled policy of the state, that all chartered institutions of learning shall be considered as parts of the state system, and while allowed virtually complete self-government in internal administration, shall yet be held accountable to the state for the proper performance of their duties. With the strictly private schools, the present inquiry has no concern.

State educational systems. There are two distinct, coordinated systems of public education in New York; occupying different fields, organized upon different plans; working in great part without reference to each other, and yet in a few points, vitally connected. It will be seen later on, how this anomalous dual system originated. At present a clear statement of the constitution and scope of each is needed, to render plain the lines of this historic inquiry.

I DEPARTMENT OF PUBLIC INSTRUCTION, OR COMMON SCHOOL SYSTEM

For purposes of primary instruction, the state is divided into 112¹ school commissioner districts. All cities, except Kingston, are excluded from this division. These districts are subdivided into school districts, the number varying according to the needs of each locality.

"The cities, with the above exception, and a few incorporated villages, have school organizations established by special statutes, under the supervision of local superintendents."²

School districts. The school district is the smallest territorial division of the state. The qualified voters of the school district, elect at district meetings, one or three trustees who are the "local executive

¹ In 1884.² Sup't's rep't, 30th (1884), p. 5.

officers empowered to carry out the mandates of the district meetings." They have to report annually to the district meeting and to the school commissioners. The district meeting elects a clerk, collector and a librarian. This system secures thus the most minute local self-government in the matter of the primary schools.

Union free school districts. Under a general law passed in 1853, school districts are authorized to combine into "union free school districts" and to establish graded schools, to be maintained by a general tax. These schools are under the management of elective boards of education with similar powers to those of district trustees. They report to the school commissioners. This plan has been generally adopted in villages, thereby securing a higher grade of education. These union free schools are important as being the main point of contact between the two systems of public instruction.

School commissioners. The electors of each school commissioner's district elect triennially at a general election, a school commissioner. This officer lays out and regulates the boundaries between school districts, apportions the public money allotted to his district by the state superintendent, and in general, exercises a constant and minute supervision over all matters relating to the school districts within his jurisdiction. School commissioners have advisory powers with school district trustees and in some few matters compulsory powers. They examine and license teachers within their districts, and examine and recommend candidates for appointment as students in the normal schools. They are required to make annual reports to the state superintendent "containing a complete abstract of all the material facts, statistical and financial, required and¹ contained in all the trustees' reports to the commissioners" as well as observations and suggestions on their own part or in response to special enquiries from the superintendent.

City public schools. "The city public schools, and those in some of the incorporated villages having a population of not less than 5,000, are managed by local boards of education under special statutes." In some cities and villages these schools are under the supervision, not of school commissioners, but of special local superintendents, who report both to the local boards and to the state superintendent.

State superintendent of public instruction. This educational division and organization of the state has no vital relation to the political system of the county and township subdivision. Territorially and personally this educational system is independent and complete in itself. The minute local self-government in the school districts is counterbalanced by the centralization of power in the state super-

¹ Sup't's rep't, 30th (1884), p. 8.

intendent of public instruction. This state officer is intrusted with powers of a character almost autocratic. He is elected by the joint ballots of the senate and assembly, and holds office for three years. This office has existed since 1854 when the department of public instruction was organized upon its present basis.¹ Besides appointing the working force in his own bureau, "he makes appointments of state pupils to the institution for the instruction of the deaf and dumb and the blind, upon the certificates of the proper local officers, . . . and has charge of all the Indian schools upon the several Indian reservations"² and appoints their superintendents. He apportions and distributes the public money appropriated by the legislature for the support of schools" amounting to more than \$4,000,000 annually. "He compiles the abstracts of the reports from all the school districts in the state, reported to him by the school commissioners, and the matters reported to him by city superintendents, boards of education of incorporated villages organized by special statutes providing for local supervision, and reports annually to the legislature."³

He has general supervision over all the agencies for the training of teachers. The system for the training of public school teachers is, in theory, a complete one. There are:

Uniform examinations	Academic teachers' classes
Teachers' institutes	Normal schools ³

Uniform examinations for teachers' certificates. While teachers' licenses are issued upon examination by school commissioners and other local officers, such licenses are valid only within the district of such examining officer. State certificates are issued only upon examinations conducted by examiners appointed by the state superintendent, who also "with the assistance of the regular corps of institute instructors, prepares the examination questions to be used in such examinations."⁴ He also regulates the grades of the certificates issued by school commissioners.

Teachers' institutes. These popular training classes are held annually in each school commission district and are attended by a total of about 20,000 teachers. The usual length of the session is one week. The state superintendent has the control of these institutes, appointing the regular and special instructors, and directing the work.

¹ Laws of 1854, ch. 97. Sup't's rep't, 30th (1884), p. 5-58. Sup't's rep't, 32d (1886), p. 5-72. These two reports taken together give a valuable account of the organization and working of the department of public instruction.

² Sup't's rep't, 30th (1884), p. 11.

³ There is also in New York city a "College for the training of teachers," but this is a part of the University and is connected only with higher education.

⁴ Sup't's rep't, 32d (1886), p. 9.

Teachers' classes in academies. The act above referred to, which authorized the consolidation of several school districts into "union free school districts," also authorized the establishment in these union schools of "academic departments." These academic departments were regarded as of equal grade with the academies which were under the supervision of the University and hence being a part of the system of secondary instruction were made subject to the visitation and control, not of the state superintendent, but of the regents of the University. In 1834 the regents were authorized to establish in the academies, classes for the training of teachers, which classes have been maintained ever since in academies, and also since 1877 in the academic departments of union schools. In 1888 there were 3,258 pupils in these classes who attended over 10 weeks and 2,676 who completed the full course of 16 weeks. They are regarded as "about the only instrumentality for training teachers for our ungraded schools."¹

By a law passed April 15, 1889,² "the powers and duties conferred and imposed upon the regents of the University by 'previous acts' relative to the instruction of classes in academies and union schools in the science and practice of common school teaching are hereby transferred to the superintendent of public instruction." This law was the result of some deliberation on the part of the regents and the association of academic principals, and was passed upon being recommended by the regents in their report to the legislature.³ Its object was to bring under a single management all the instrumentalities for the preparation of common school teachers. This transfer included the management of the annual appropriation of \$30,000 for maintaining the teachers' classes. In 1890, the annual appropriation was increased to \$60,000.⁴

Normal schools. There are now 11 of these state schools. The oldest of these, the Albany state normal school, was founded in 1844, and placed under the joint management of the superintendent of common schools (since 1854, the superintendent of public instruction) and the regents of the University. "The local management of the latter school (the Albany state normal school) is vested in an executive committee consisting of five members, of whom the state superintendent is one, and the other four are appointed by the joint action of the state superintendent and the regents of the University."⁵ On March 13, 1890, the regents made this school "the New York state normal college," and its work has been reorganized upon a higher basis, instructing only ad-

¹ Reg. rep't, 102 (1889), p. 821.

² Laws of 1889, ch. 137.

³ Reg. rep't, 103 (1889), p. 27, 268.

⁴ Laws of 1890, ch. 170.

⁵ Sup't's rep't, 32d (1886), p. 7.

vanced pupils and being exclusively a normal training school,¹ whose graduates receive the degree of bachelor of pedagogy.

The other 10 state normal schools are entirely under the direction of the state superintendent. They are governed by local boards, appointed by him; and he also appoints the teachers in these schools upon nomination by the local boards. The normal schools, besides the normal departments in which the technical training of teachers is carried on, undertake also a general instruction of an academic character, which has been rather a hindrance than a benefit to the development of the normal training. The state superintendent "appoints on the recommendation of school commissioners and city superintendents of schools, the pupils in the normal department of the several state normal schools, subject to a preliminary entrance examination by the faculties of such schools."²

These schools report to the state superintendent, and each local board is "subject to his general supervision and direction in all things pertaining to the school."

This hurried sketch of the chief powers of the superintendent of public instruction shows a remarkable centralization in the hands of the single head of the state department of public instruction. While school trustees, school commissioners, and city superintendents, and boards of education are elective and local taxation is voted in the various districts, yet all these local officers are under the supervision of the state superintendent and the state money is distributed by him. To these executive powers are added an extraordinary judicial power which makes the centralizing tendency effective and complete.

Judicial powers of the state superintendent of public instruction. The state superintendent is the final arbiter in all disputes concerning school matters. Not only has he an advisory power which is systematically and laboriously exercised "through the medium of correspondence by mail, or through oral conferences between the superintendent or his deputy and school officers, teachers, parents, and others, coming to the department from various parts of the state,"³ but he acts as a court of final appeal with power to enforce his decision. "Any person feeling himself aggrieved in consequence of any decision made" by school district meetings, school commissioners, supervisors, district trustees, and other officers in regard to any matter under the school laws "may appeal to the superintendent of public instruction." Thus the very sanctum of local self-government, the district meeting,

¹ Draper, Andrew S. Origin and development of the New York common school system.—An address delivered before the New York state teachers' association at Saratoga Springs, July 8, 1890.

² Sup't's rep't, 32d (1886), p. 7.

³ Sup't's rep't, 32d (1886), p. 12-13.

is invaded by the central authority of the state. The superintendent in this capacity, establishes rules of practice, issues injunctions and makes all necessary orders. Councils are heard before him. The questions involved on their appeals touch all branches of the civil law, of the state constitutional law, real estate law, the law of contracts, the law of wills and the like. Hence, there is conferred upon the superintendent, an appellate judicial authority coordinate with that of the court of appeals in some respects, for the law declares that "his decision shall be final and conclusive, and not subject to question or review in any place or court whatever."¹

And this despotic judicial authority has the amplest means of enforcing its decisions. The superintendent has —

"First, the power to compel the assessment and collection of taxes in a school district to pay proper demands against the district. Second, the power to remove from office any school trustee, or member of a board of education of a union free school district, or other school officer, for any wilful violation or neglect of duty under the school statutes, or for wilfully disobeying any decision, order or regulation of the superintendent."² This extreme centralization in the system of primary instruction has worked undeniably well. However democratic in her political philosophy New York may be, the history of her common schools as well as of her University shows that she has imperialist instincts. The Empire state is not a mere fancy name.³

Superintendent of public instruction and the University.

It has already been seen how in the control of the "New York state normal college," and of the academic departments of union free schools, the department of public instruction and the University are brought into direct and organic cooperation. There are other points of contact between the systems of higher and of primary instruction. The state superintendent is, *ex officio*, a regent of the University, a trustee of Cornell university and of Syracuse university.

¹ Laws of 1864, ch. .

² Sup't's rep't, 32d (1886), p. 13.

³ The policy of state support and state control of the common school system has been on the whole very efficient. The address of Superintendent Draper, above referred to, contains an admirable statement of what has been done by New York in these matters. In the year 1889-90 over \$17,000,000 were raised by state and local taxation for the common schools. Local authorities can exercise the right of eminent domain in the acquisition of school sites. State supervision began in 1812, when the office of "State superintendent of common schools" was created. From 1821 to 1854 the secretary of state performed the duties of this office. Supervision by district or county officers has existed from 1841 to the present time, excepting the years between 1847 and 1856. From 1795 till 1856 there was also supervision by township officers.

2 THE UNIVERSITY OF THE STATE OF NEW YORK, OR THE SYSTEM OF HIGHER EDUCATION

University act of 1889. In the year 1889¹ the legislature of New York passed a law entitled "An act to revise and consolidate the laws relating to the University of the State of New York."

This act in the words of the regents² "consolidates 50 pages of laws which have grown up during the past century pertaining to the regents' department, into a single clear law of only seven pages. Besides codifying the old laws, the new act has defined and enlarged the powers of the University, and has put new safeguards and restrictions on the exercise of those powers." An analysis of this law will give the best understanding of the organization and work of the University. It is difficult to place this University in any known category of institutions. In its origin it had the form of an English educational corporation; but upon it were ingrafted the powers and functions of a modern state department of education. It was the first successful realization, in practical form, of the plans of the French parliamentarians and encyclopedists for a system of education, unified and harmonized under state control. It was not a full realization. It was at first a rude machine. But it worked, and a century of use and improvement has perfected it. Its original character it still retains. It is in form a private corporation; but with no private privileges. Its private activities are for public ends. Its duties and responsibilities are chiefly those of a bureau of state administration. It is a state department of higher education, organized under the form of a private corporation.

The University in form a private corporation. "The University shall consist of all the institutions of academic and higher education which are now or may hereafter be incorporated in this state, together with the state library and state museum, and such other libraries, museums or other institutions for higher education as may, in conformity with the ordinances of the regents, after official inspection, be admitted to the University."³

From this section of the University act it might seem that the University was simply a system of federated colleges like Oxford or Cambridge; with the colleges, however, scattered throughout the state instead of being collected in the same town. It is the relation of the system to the state which makes the vital difference. The whole vast system is constituted an arm of state government. Besides the state library and state museum, there are in the University 476 institutions. These are 390 academies and high schools, and 86 colleges and professional schools, viz: 21 colleges of arts and science for men, eight for women,

¹ Laws of 1889, ch. 529.

² Reg. rep't, 103 (1889), p. 30.

³ Laws 1889, ch. 529.

and five for men and women, seven law schools, 19 medical schools, three schools of pharmacy, 12 theological schools, one polytechnic and 10 special institutions. Of these, one medical college, four theological schools, two law schools and one special school are not authorized to confer degrees. Cooper Union, Chautauqua university and Pratt Institute are ranked as special institutions.

The term "college" is defined in the act to "include all institutions of higher education which are authorized to confer degrees," and the term "academy" to "include high schools, academic departments of union schools, and all other schools for higher education which are not authorized to confer degrees." The University therefore embraces all incorporated institutions for higher and secondary instruction in the state. The department of public instruction, on the other hand, embraces in its system all schools for primary instruction and for the technical training of primary school teachers.

The original corporate name of the University was "The Regents of the University of the State of New York." The act of 1889 changed this name to "University of the State of New York" and conferred upon the University the usual general powers of a corporation.

The government of the University is vested in 19 elective regents, and the governor, lieutenant-governor, secretary of state, and superintendent of public instruction who are regents, *ex officio*. The regents elect their own officers, a chancellor, a vice-chancellor, who serve without salary, and a secretary, who is also the "financial officer of the University." The colleges and academies composing the University have no representation in the governing board. Indeed it is provided that — "No person shall be at the same time a regent of the university and a trustee, president, principal, or any other officer of any institution belonging to the University."¹

The government of the University is imperial not federative. This differentiates it at once and completely from the English universities. A truer English analogy would be in the government which England exercises over her colonies. They are parts of the empire. They govern themselves. But they have no voice in the government of the whole.

The University has many of the powers of an ordinary educational corporation. The regents are authorized to confer honorary degrees,

¹ This provision is violated by the fact that the governor and lieutenant-governor of the state and the superintendent of public instruction are made *ex officio* members at once of the board of regents and of the board of trustees of Cornell university, although the old law is not so stringent in its wording as the above. The real intent of the law is not violated, which was to exclude private influence of particular colleges. A state officer might well be expected to look at matters from the state and not the college standpoint.

to establish examinations and grant diplomas and degrees thereon, and "to maintain lectures connected with higher education." They "have power to adopt all needed resolutions, rules, by-laws and ordinances for the accomplishment of the trusts reposed in them." They may hold and buy, or sell, both lands and chattels. All their corporate powers are, however, public trusts.

The University in fact a state bureau of higher education.

The object of the University is declared to be "to encourage and promote academic and higher education by means of the several institutions composing the University, to visit and inspect the same, to distribute to them such funds as the state may appropriate for their use, and to perform such other duties as may be intrusted to it."

The regents have entire control of the state library and the state museum; they are charged with the "preparation, publication and distribution" of various state publications and with the apportionment of public money to the academies. They are required "to establish in the academies of the University, examinations in such studies as the regents shall prescribe as furnishing a suitable standard of graduation from the academies, and of admission to the colleges of the state," and they have organized among the academies a far more extensive system of examinations than they are required to maintain.

Medical students, unless college graduates, must take a regents' examination before beginning study at a medical school.¹ The same rule holds in case of law students. The regents are further required to appoint boards of examiners in medicine, to examine candidates for a state license to practise medicine.

It is specially in the field of academic examinations that the regents have advanced the interests of higher education during the last 30 years.

The supervisory powers of the University are vast and stringent.

"The regents shall, by themselves or their committees or officers, have full power to examine into the condition and operations of every institution in the University, and shall inspect the same, and require of each an annual report verified by the oath of its presiding officer and including such particulars as may be prescribed by the regents who shall annually report to the legislature, on all departments of the University." Thus while the various colleges and academies have no voice in the management of the University, the University has absolute power, in the name of the state, to inspect and to report to the legislature on all the affairs of these institutions.

It is, however, in regard to the incorporation of colleges and academies that the public character of the University is most clearly

¹Laws of 1889, ch. 468.

seen. The regents have power to "incorporate any college, academy, library, museum, or other educational institution under such name, with such number of trustees or other managers, and with such powers and privileges and subject to such limitations and restrictions, in all respects, as may be prescribed by the said regents in conformity to the laws of this state." The regents may also suspend the charter of any institution for failure to report or other violation of law. Further, "the said regents may, at any time, for sufficient cause, and by an instrument under their common seal, to be recorded in their office, alter, amend, or repeal the charter of any college, academy or other institution subject to their visitation."

The University is thus made coordinate with the legislature itself. It would seem that the state had so far abdicated its sovereignty, were the University not in fact a part of the state government.

State control of the University. The constitution of the board of regents secures its control by the state. The life which vitalizes the corporation is the power of the people in their legislature. It has been seen that the governor of the state, the lieutenant-governor, the secretary of state and the superintendent of public instruction are regents *ex officio*. The remaining 19 regents are elective, but there is no co-optative perpetuation in the University. "In the case of the death, resignation or removal from the state of any elective regent, his successor shall be chosen by the legislature in the manner provided by law for the election of senators in congress, except that the election may take place at any time during the session of the legislature as it may determine."

State control is further insured by the fact, that while the officers of the board of regents are elected by the regents, yet "each officer so elected shall, before entering on his duties, take and file with the secretary of state the oath required of state officers."

It is also provided that if any regent absent himself from the meetings for a year without satisfactory excuse the fact shall be reported to the legislature and a new regent elected in his place. The annual report which the regents are obliged to make, is another important feature in state control.

It is a master stroke in the policy of state control that the regents are to serve without pay. A regular state department with its salaried officers would have been more easily brought under the control of a political party. It was keen political insight which led the authors of this scheme thus to compel into this high service of the state, the worthiest talent in the state. None but a citizen of worth and public spirit would accept a position of grave responsibility and important duty, when only honor was to be gained. And honor was not certain, for they hold their position at the pleasure of the legislature.

The policy is not a democratic one ; but it has proved entirely successful ; the legislature has uniformly chosen men of high character and wide reputation. They could have no motive to do otherwise when there were no "spoils" in the office. No suspicion of political corruption has ever touched the activity of the board of regents. They have been men chosen from among the foremost citizens of the state. It is interesting to note that Prussia is adopting in municipal administration this policy of gratuitous service by the citizens, but with this difference, characteristic of the Prussian state, that such service is there compulsory.

It is one great merit of this peculiar constitution of the University, that to each separate college and academy is left its own charter, with all the stimulus of private gain and ambition, no mean stimulus in a social régime where individualism is still the dominant principle of activity, while the great work of harmonizing this multitude of virtually independent institutions, of inspecting their action, of promoting plans of improvement and of bringing the whole into organic relation to the state, is performed by a few men whose very acceptance of the office proves their breadth of mind and zeal for the common good.

SUMMARY

State educational policy. From the foregoing sketch it has become apparent that in New York, the activity of the state is vital in every department and branch of educational enterprise. The points in the state system which are most noteworthy, are these :

1 The state system is not a monopoly. There exists perfect freedom for private educational enterprise, individual or associate, lay or clerical.

2 A public school system for primary instruction, supported entirely by local or general taxation and state funds, and designed for the free use of all children under compulsory attendance laws. This system is organized upon a special territorial sub-division of the state, distinct in the main from the political sub-division, and all its parts are subordinated to the authority of a single head elected by the legislature, — the state superintendent of public instruction. The extraordinary judicial power

of final decision upon appeal, conferred upon this officer, makes the central authority of the state supreme in the regulation of even the smallest affairs and in the remotest home of local self-government. An extensive system of agencies for the training of teachers for the primary schools is also maintained under the control of this department.

3 A system of secondary and higher education, in which all colleges and academies having state charters are made parts of a vast corporation, called the "University of the State of New York," in the government of which, however, they have no voice. Although for the most part these institutions are private foundations and are maintained by

private funds, they are subject absolutely to the visitation of the University, which has the power of life and death over these bodies corporate. The University, in spite of its form as a private corporation is in fact a state bureau of administration, exercising the sovereign authority of the state over the colleges and academies, while leaving to them the largest liberty for self-government in their internal affairs.

4 In both systems the policy is to secure the largest possible benefit, consistent with state control, from individual initiative and local pride. Of the \$17,000,000 paid for common schools in the year 1889-90, \$13,000,000 were raised by local taxation, and \$4,000,000 only were the product of state taxation and state funds. The highest educational service rendered in the state, viz: the work of the regents, is a service rendered gratuitously. New York is imperial in her educational methods, but the imperialism is half-feudal in its type, voluntary service by the people in return for the paternal supremacy of the state.

CHAPTER 2

THE FOUNDING OF THE UNIVERSITY

HIGHER EDUCATION IN COLONIAL TIMES

Little was done for the advancement of higher education in the New Netherlands. The policy of the Dutch in the matter of popular schools for elementary instruction was carried to the new world, and from the very beginning the Dutch settlers took care to provide public primary schools. In 1638 it was proposed, in certain articles for the colonization and trade of the New Netherlands, that "Each householder and inhabitant shall bear such tax and public charge as shall hereafter be considered proper for the maintenance of clergymen, comforters for the sick, school-masters and such like necessary officers."¹ There had been schools even before this. And later, in 1659, "Alexander Carolus Curtius, before a professor in Lithuania," was engaged by the directors of the West India company and sent out to open a Latin school.² The English occupation in 1664 however put an end to this school, which appears to have been the only academy in New Amsterdam.

Under the English régime Latin schools were encouraged. As during the Dutch rule, licenses from both civil and ecclesiastical authorities were necessary for the establishment of private schools. In 1702 the legislature framed "An act for encouragement of a grammar free school in the city of New York,"³ but no permanent foundation was

¹ Pratt's Annals (*see* Conv. proc. 1868, p. 160).

² Pratt's Annals (*see* Conv. proc. 1869, p. 141).

³ Pratt's Annals (*see* Conv. proc. 1868, p. 177).

made under this act. The act contemplated the establishment of a public school supported by taxation, "for the education and instruction of youth and male children of such parents as are of French and Dutch extraction, as well as of the English." The school-master was to be chosen by the common council of the city, and "licensed and approved by the Right Hon. the bishop of London, or the governor or commander in chief" of the province. Lord Cornbury, then governor, urged the matter and the "English society for the propagation of the gospel in foreign parts" became interested in the plan. This society was formed in 1701, and adopted a vigorous missionary policy in the colonies, spurred on by antagonism to the efforts of the Jesuits. Under Governor Dongan the Jesuits had actually established a Latin school in New York in 1688. In educational affairs the aim of this society was to strengthen and extend the influence of the English church, and the schools of the colony fell virtually under the control of this propagandist corporation. They sent out missionaries and school-masters and organized schools throughout the province which they in part supported. In their attempts to convert the Iroquois, likewise, they showed great zeal.

"The maintenance of a learned and orthodox clergy abroad," was declared to be, "the principal," although "not the only intent of this corporation" and their standing orders in regard to school-masters show that they believed firmly in the dominance of the established church in education. The ecclesiastical bias, thus intensified in the schools of the colony, is important as helping to explain the controversies of the latter half of the century.

In 1732 another attempt was made to establish a school under public authority. "An act to encourage a public school in the city of New York for teaching Latin, Greek and mathematics"¹ passed in that year, provided for an institution thoroughly civil in its scope and government. The education sought was secular rather than religious. The public good, not the advantage of the church, was the object in view. The school was to be under the visitation of the "justices of the supreme court, the rector of Trinity church and the mayor, recorder and alderman of the city of New York," who could remove the school-master for cause and appoint a successor. This board of visitation is probably the prototype of the *ex officio* membership of the board of governors of King's college and of the board of regents. Provision was made for partial public support of the school and for the instruction, free of tuition, of 20 young men recommended from the different counties by certain public officers in those counties. This last provision shows a remarkable grasp, for that time, of the meaning and functions of a state

¹ Pratt's Annals (see Conv. proc. 1869, p. 186).

school. It was the beginning of the policy, consummated in the establishment of the University, of an educational institution which should be identified in its operation with the whole life of the state.

King's college. The idea of a college seems to have lurked in both these schemes for a public grammar school, namely, the acts of 1702 and of 1732. But it was not till 1746 that public action was really taken in regard to the founding of a college.

In that year the legislature passed "An act for raising the sum of £2,250 by a public lottery, for this colony, for the advancement of learning and towards the founding a college within the same." This was the beginning of King's, afterwards Columbia college. It is not necessary here to tell the story of the founding of King's college. It has been often told and there is nothing new to add. There was a fierce controversy over the charter. One party desired a royal charter; the other a charter from the colonial legislature. The royalist party prevailed and the charter was granted by King George 2 in 1754. In this controversy is seen that revolt against absolutism in church and state which was gathering strength both in America and in France at this time. The principles or tendencies of the conservative party were, a church foundation aided by the state; an education in which the church standards should be the gauge of truth; the maintenance of the authority of the English king; a corporate organization in which the Church of England should control. It was a party of English sympathies, of aristocratic tendencies, of intuitional and scholastic knowledge, of ecclesiastical supremacy. The other party were learning a new philosophy. They favored knowledge, positive and practical. They wanted freedom and self-government in the church and in the state; and separation of church from state. They wanted an education that fitted men for service in the state, that was identified with state life and controlled by the people in their civil capacity. It was the party that later had French sympathies, the popular party moved by the spirit of the American revolution.

William Livingston, whose influence we shall notice later on, was the life of this popular opposition to the royal charter. The American or popular party won some advantages. Several public officials of the colony were made *ex officio* members of the board of governors. The *ex officio* governors of the college were the archbishop of Canterbury, the first lord commissioner for trade and plantations, the governor and lieutenant-governor of the province, the eldest councillor, the judges of the supreme court of judicature, the secretary and the attorney-general, the speaker of the general assembly, the treasurer, the mayor of New York, the rector of Trinity church and one minister of the reformed protestant Dutch church, of the Lutheran church, of the French church, and of the presbyterian church respectively; and the president of the

college. The charter was, in a measure, a compromise. William Livingston was put on the board of governors. Trinity church offered land for the site of the college on condition that the president should belong to the Church of England. Livingston and his party opposed this measure and opposed also the giving of public funds to an institution dominated by the church. The opposition succeeded so far that in 1756 the lottery money was divided equally between the college and the city.¹ Work was immediately organized by the Rev. Dr Samuel Johnson, who came from Connecticut and who had refused the presidency of Franklin's new academy at Philadelphia, which afterwards developed into the University of Pennsylvania. The college was aided financially by the king and "many of the nobility and gentry in the parent country," by the Society for the Propagation of the Gospel in Foreign Parts, and by "several public spirited gentlemen in America and elsewhere," to quote from an account of the college attributed to its second president, Dr Myles Cooper.² This account continues: "By means of these and other benefactions, the governors of the college have been able to extend their plan of education almost as diffusely as any college in Europe."³ There was also a grammar school annexed to the college. It is thus seen that the European universities had an influence on the development of the curriculum, and the training given by this college fitted some of the ablest men in the colonies for their work in the revolution and the subsequent political development of the country. The scientific spirit was early awakened, and a medical school was established as early as 1767. The college was broken up by the revolution and the occupation of New York by the British.

New York at the close of the revolution. On the 25th day of November, 1783, the British evacuated the city of New York, and the state constitution, adopted in 1777 at Kingston, pushed its jurisdiction to the sea. The population of the state at this time was about a quarter of a million, of whom perhaps one tenth counted their residence in New York city, while Long Island numbered some 30,000 inhabitants. The rest of the inhabitants were scattered along the whole course of the valley of the Hudson, although from Albany to the Champlain region the settlements were sparse. Westward from Albany, Schenectady was the last important town. No substantial effort had yet been made to people the vast stretch of forest westward and northward from this narrow fringe of the Hudson river valley. But the expedition of Sullivan had broken the power of the Six nations, and the state began a liberal policy of land grants which soon started a great wave of white settlement through the fertile Mohawk plain, which had become famous as the

¹ Ms. history of Columbia college by Frank R. Hathaway.

² President 1763-75.

³ Quoted in Hist. record, p. 119.

"long house" of the imperial Iroquois. But this meant future greatness only. New York was but a middle state in importance, as in position, at the close of the war. New York and Albany were the only large cities. The territory of the state was a wilderness possessed by Indians.

There were no efficient educational institutions. A few private and parish schools, a few academies, King's college defunct, such was the condition of education in 1783. The state had an aristocracy, but an aristocracy without caste. Cosmopolitan in origin, this aristocracy could not be homogeneous in sentiment. It rested upon birth, upon wealth, upon talent. Dutch and English, Huguenot and German, Welsh and Irish and Scotch were the national strains of blood in the first families. Alexander Hamilton, the Scotch Huguenot from the West Indies, parvenu though he was, had ennobled himself through his genius and conspicuous services. He married into one of the old Dutch families, the Schuylers, and became a leader in society as he was in politics. Intellectually, the chief distinction of New York was in her jurists. The bar of New York, containing as it did, Hamilton, John Jay, Chancellor Livingston, James Duane, Aaron Burr, Richard Morris, Egbert Benson, and many others little less famous in that day, would yield to no other state its claim to precedence. And these men were trained, by the experience of the revolution, to deal with all the questions of political organization and government. They established constitutions, framed laws, adapted the old order to new exigencies, were quick in expedients of policy. They were at once, lawyers and judges, politicians and statesmen. The lawyers of New York were the leaders in the state, and as a body, aristocratic in their preferences.

Legislation of 1784. It was natural that under such circumstances there should be an effort on the part of the leading men to revive the college, and thus provide means of higher education for the young men of the upper classes. But the general policy of the colony had been like that of England, to leave educational matters to private enterprise. It is surprising, therefore, to find that the very first movement was for the establishment of a state university and a state system of education.

In January 1784, two months after the British left New York, Governor George Clinton sent his message to the legislature, in which is found the first public expression of the need of better educational institutions. His words are these: "Neglect of the education of youth is among the evils consequent on war. Perhaps there is scarce any thing more worthy your attention than the revival and encouragement of seminaries of learning."¹

¹ Senate journal, 1784, p. 6.

This recommendation received prompt attention in both senate and assembly. The assembly appointed Robert Harpur, formerly a professor in King's college, and two other members, a committee, directed to prepare and bring in a bill "for the establishment of seminaries of learning, and schools for the education of youth."¹ In the senate James Duane was made chairman of a "committee for seminaries of learning." Nearly a month later, on February 19, Mr Duane presented a bill entitled "An act for establishing a University within this state." It is much to be regretted that nothing can be found throwing light upon the origin of this idea of a University. Nor is it known what were the provisions of this bill. Both the governor, George Clinton, and James Duane, had been governors of King's college.

After this bill was brought in, it seems to have occurred to the friends of the college that here was a good chance to revive that institution. A petition to the legislature was presented in the senate on March 30, which shows clearly that there was a strong attempt, not only to revive the college, but to make it paramount in the new system which the bill of Mr Duane had provided for. The petition recited the charter of the college, the death or departure of the majority of the governors, and "that many parts of the said charter are inconsistent with that liberality and that civil and religious freedom which our present happy constitution points out" and urges "that an alteration of that charter in such points as well as an extension of the privileges of the said college so as to render it the mother of an University to be established within this state would tend to diffuse knowledge and extend literature throughout this state." Here is the germ of the whole subsequent policy. The new idea of civil and religious freedom as expressed in the constitution should be inwrought in the new educational system. The victories of the revolution should be secured. And here emerges that consciousness of greatness, that dream of future empire, which characterized the great minds of the revolution. What Washington and Jefferson thought in national outline, George Clinton, the uncompromising champion of his state, thought in the narrower outline of his state. There must be a system of education that would meet the demands of the future growth of the state. But these men who had the interests of the state at heart were guardians also of the old college. Naturally, therefore, they sought to render their alma mater "the mother of an University," which was to "diffuse knowledge and extend literature throughout the state." It was a great plan for the extension of university teaching and it has made possible the vaster movement for the new university extension of to-day. The act lately passed by the

¹ Nothing further appears to have been done in the assembly. The senate carried the matter through.

New York legislature to appropriate funds to enable this same University to establish a system of university extension throughout the state is the lineal offspring of the work of these patriotic friends of education in the last century. George Clinton, the first chancellor, and George William Curtis, the present¹ chancellor, are thus champions together of the same great cause. This petition was dated March 24, 1784, and signed by the following "governors of the college commonly called King's college"—George Clinton, Richard Morris, James Duane, Gerard Bancker, Egbert Benson, J. H. Livingston, Samuel Provoost, John Rodgers, John Morin Scott, Leonard Lispenard, John Livingston, William Walton and Samuel Bayard, jr.²

This petition was referred by the senate to the committee of the whole "to be taken into consideration with the bill for establishing a University within this state." This prompt strong action on the part of the friends of the college captured the movement which had been started to establish a University, as appears from an entry in the *Senate journal* April 16, 1784, to the effect that Mr Williams from the committee of the whole reported, "that they had gone through the bill, made several amendments and altered the title in words following, viz: "An act for granting certain privileges to the college heretofore called King's college, for altering the name and charter thereof, and erecting an University within this state."

Three days later this amended bill with altered title was passed by the senate. April 21, the assembly concurred; May 1, the council of revision approved it, and it became law. The chief justice who sent down the message of approval from the council of revision was Richard Morris, whose name appears second in the list of the petitioners above. Thus George Clinton, the governor, Richard Morris, chief justice, and James Duane, chairman of the senate committee on the bill, were all governors of King's college and signed the petition. Robert Harpur, chairman of the assembly committee, had been a professor in King's college. Besides this, the secretary of state was John Morin Scott, the state treasurer was Gerard Bancker, and the attorney-general was Egbert Benson, all signers of the petition.

No bill could have been passed, probably, under such circumstances which did not strongly recognize the claims of King's college. If there was to be a state system of education the college would naturally wish to control in that system. The places of influence in the legislature and the chief state offices were held by friends of the old college. Any movement to set up a state university which might destroy the influence of this corporation would have been useless. The above petition to

¹ Revised June 1892. Chancellor Curtis died 31 August 1892.

² Conv. proc. (1875), p. 199.

the legislature was virtually a petition by the governors of the college to themselves. These men, filled with the spirit of English conservatism, would have no faith in radical innovation such as that proposed in France at this time. But, as keen lawyers and politicians, they saw that the benefit of the new ideas of state education could be secured by an adaptation of the old corporate organization, in which the power of their college could still be dominant. The scope of the new University should be coextensive with the boundaries of the state; its structure expansive to meet the future expansion of the state. It should be secured from all danger of clerical control; it should be the child of the state, and under the control of the state, while yet depending mainly on private funds for its support. While the college should not comprise all the new University, yet the old property of that institution should be preserved to it, and its influence, for all that they could see, would continue dominant in the new régime. It was a splendid instance of that constructive revolution in which New York has proved herself a worthy daughter of England. Revolution by destruction was never suited to English character, and the prevailing character of the influential men in New York was English.

But the law of May 1, 1784 was a compromise. The opposition, which began as far back as 1702, against the domination of the church in education, which showed more strongly in the academy scheme of 1732, with its free students from the counties, and which had grown into an aggressive and threatening spirit of secularization in the controversy over King's college charter, had been vastly strengthened and extended by the revolution. The idea of state education, with civil, not ecclesiastical, ends in view, had become widespread. It is hard to draw the party lines in the struggle which evidently took place over this legislation. The information to be had is very meager. There were several elements of antagonism but in all the spirit was the same. It was the warfare between the principle of authority and the principle of freedom. The new state idea opposed the old church idea. The country districts opposed a monopoly by the city of educational advantages. The power of British sympathy was strong, and met by the growing sympathy with France. Against the innovation of a state system which might diminish the importance of the old college, that corporation, strongly entrenched in the places of power, raised a determined front. But the contention was not crystalized. A man like Governor Clinton or Mayor Duane would be in sympathy both with the state movement and the college movement. Alexander Hamilton would protest vigorously against religious tests and church domination, yet he would rather have centralization in the hands of the old corporation than a new state university governed by the counties; and his sympathies were English and aristocratic rather than French and

democratic. In the main, of course, the tendency would be to a fusion of the church party, the college party and the aristocratic or English party on the one hand; and of the state party, the equal rights or popular party and the French party on the other. And the conservative elements were largely successful in the legislation of 1784. As the University was constituted by the act of May 1, 1784, and the amendment of November 26, 1784, a body of men who were virtually trustees of Columbia college were made autocrats in the whole educational system of the state, while the funds that had belonged to the old college were restricted to the needs of the new college, and not of the University as a whole. The very title of the act shows the predominance of Columbia. The *personnel* of the board points the same way. The desire of Columbia college to become the "mother of a university" was thus gratified by a legislative license.

Act of May 1, 1784.¹ 1 "All the rights, privileges and immunities" of the old corporation of King's college were vested in "The regents of the University of the State of New York."

2 The regents are divided into five classes:

a Perpetual regents or regents *ex officio*, namely, the governor, lieutenant-governor, president of the senate, speaker of the assembly, mayor of New York, mayor of Albany, attorney-general, and secretary of state.

b County regents. There were 12 counties in the state, and two regents from each county were appointed.

c Clerical regents. "The clergy of the respective religious denominations in this state" were to choose "one of their body to be a regent in the said University; and in case of death or resignation, to choose and appoint another in the same manner." This language leaving it doubtful whether each denomination was to have a representative upon the board of regents, or all the denominations collectively were to have but one, the amendatory act of November 26, 1784, provided that "the clergy of each respective religious denomination" should "elect one of each of their respective bodies."

d Founder's regents. Provision was made for the admission into the University, upon the application of the founder, of any college or school "founded by" any person or persons, or any body politic or corporate," and by them endowed "with an estate real or personal, of the yearly value of 1000 bushels of wheat." Upon admission, the endowment was to be vested in the regents and "applied according to the intention of the donor," and the founders and their heirs or successors were to be entitled forever to send a representative, "who, together with the president, (if the estate is applied to the use of the college)," should be regents.

¹ Laws, 7th session, ch. 51; Pratt's Annals (*see* Conv. proc. 1875, p. 203).

c College representative regents. The fellows, professors and tutors of the respective colleges were made "regents of the said University, *ex officio*, and capable of voting in every case relative only to the respective college to which they shall belong, excepting in such cases wherein they shall respectively be personally concerned or interested."

3 The succession of regents was to be kept up by appointment "by the governor, by and with the advice and consent of the council of appointment," in such manner as to keep up the representation of counties. This applied only to the county regents. The manner of succession in the other classes has been already given.

4 The regents were to elect their own officers, namely: chancellor, vice-chancellor, treasurer and secretary.

5 "The regents of the said University, or a majority of them," were empowered "to make ordinances and by-laws for the government of the several colleges which may or shall compose the said University." This power included the appointment and removal of presidents, professors, tutors, fellows, pupils and servants of the colleges, the fixing of salaries of officers and servants, and the management of the estates of the colleges. There were some limitations upon the exercise of these powers:

a "No professor shall be in any wise whatsoever accounted ineligible, for or by reason of any religious tenet or tenets, that he may or shall profess, or be compelled by any by-law or otherwise to take any religious test-oath whatsoever."

b The property vested in the regents which had belonged to King's college, was to be "applied solely to the use of the said college," now first called Columbia college. All property vested in the regents subject to a particular use was to be applied strictly according to such use.

6 The regents were empowered to hold "estates real and personal to the annual amount of 40,000 bushels of wheat" to use for the general objects of the University, namely, "the further promotion of learning and the extension of literature."

7 The regents were "empowered to found schools and colleges in any part of this state," and to endow them, "every such school or college being at all times to be deemed a part of the University and as such subject to the control and direction of the said regents," and to their visitation.

8 The degree of "Bachelor of arts" was to be granted by the presidents of the respective colleges, but to the regents was given the power "to grant to any of the students of the said University, or to any person or persons thought worthy thereof, all such degrees as well in divinity, philosophy, civil and municipal laws, as in every other art, science and faculty whatsoever, as are or may be conferred by all or any of the universities in Europe."

9 "Any religious body or society of men" was allowed to endow a professorship in divinity in the University.

10 "Nothing in this act contained, shall be construed to deprive any person or persons of the right to erect such schools or colleges as to him or them may seem proper, independent of the said University."

Amendatory act of November 26, 1784.¹ The act of May 1 was evidently not satisfactory to the Columbia men. The board of regents were powerful, but that power was dangerous unless it could be controlled by Columbia influence. As the board was constituted, the college had secured a meager representation. Of the eight "perpetual regents," four, namely, Governor Clinton, Mayor Duane, Attorney-general Benson and Secretary Scott were former governors of the college and signers of the petition. The provision for college representation in the board of regents by the presidents, fellows, professors and tutors would secure control to Columbia only so long as Columbia men outnumbered the others, and these college representatives could vote only in matters pertaining to the college.

Of the 24 county regents, two only, Henry B. Livingston and Robert Harpur, representatives of New York city and county were to be relied on as Columbia men. It took a majority of the regents to make a quorum. Upon such a basis Columbia had small chance to rule even in the conduct of her own affairs. The very appointment of her own professors would be in the hands largely of the county members of the board, and the records of the regents show that few professors were elected till, by the amendment in the act of November 26, 1784, Columbia had packed the board with her own men. The clergy too were dissatisfied with the ambiguity of the law as to their representation. A movement for a change in the law was soon begun.

The regents immediately organized. Almost their only task was the care of Columbia college. They arranged for courses of instruction, took charge of the finances of the college, made some attempts to procure professors and admitted a few students, first among whom was De Witt Clinton, nephew of Governor Clinton, and afterward himself governor of the state. The regents captured young Clinton as he was on his way to enter Princeton.

But the business dragged. It was hard to get a quorum, so many of the members lived in the country counties. Governor Clinton, in his message to the legislature which convened in October, recommended an amendment. The matter was immediately taken up by the assembly and a bill reported by a committee of three, who were regents. They were all from outside counties however, and from the fact that the bill never went beyond the committee of the whole, it seems probable

¹ Laws of 1784; Pratt's Annals (see Conv. proc. 1875, p. 221).

that it was not satisfactory to the Columbia men. This conjecture is further supported by the fact that Mr Duane in the senate, as he had done in case of the original act, brought in a bill to amend this act, which bill was supported by a "representation for the present condition of Columbia college."

In the debate upon this bill it was proposed that 2552 pounds should be advanced by the state to the regents for the use of Columbia college. This was opposed by Mr Yates, a country member, who proposed 1000 pounds instead, and upon the failure of Mr Yates' proposition, another country member moved that an advance of funds be made by the state to "trustees of different congregations on the frontiers of the state, to enable them to rebuild their churches and for the establishment of schools among them." It was clear that Columbia grasped too much to suit the country members. The assembly concurred in the bill with some amendments. The bill finally passed November 26, 1784.

This amendatory act has its chief significance in the *personnel* of the new regents appointed by it. Thirty three additional regents were appointed. Of these, 20 were from New York city. The remaining 13 were scattered throughout the other counties. The draft of this bill, which was moved by Mr Duane, had proposed only the 20 New York members. Doubtless the 13 country members were put in to quiet the opposition of the popular party. These 20 men from New York were John Jay, Samuel Prevost, John H. Livingston, John Rodgers, John Mason, John Ganoë, John Daniel Gros, Johann Ch. Kunze, Joseph De la Plain, Gershom Seixas, Alexander Hamilton, John Lawrence, John Rutherford, Morgan Lewis, Leonard Lisperard, John Cochran, Charles McKnight, Thomas Jones, Malachi Treat and Nicholas Romain.

They were all good Columbia men. Four of them had signed the petition spoken of above, as governors of King's college. John Jay was a graduate of Columbia, and Alexander Hamilton had been a student there. Six or more of them were shortly afterwards elected professors in the college, and when the act of 1787 gave Columbia a separate board of trustees, all of these 20 men were made such trustees, except John Jay and John Rodgers, who remained regents. This amendment, therefore, destroyed the former equality of county representation, in the board of regents. There were henceforth 57 county regents instead of 24. Of these 57, New York had 22, Albany had five, and each of the 10 other counties had three.

The amendment further provided that the chancellor, vice-chancellor, or senior regent in appointment, could call a meeting with only eight other members. Nine members were thus made a quorum instead of the majority formerly required. The popular party, however, suc-

¹ Sen. jour. Nov. 19, 1874; Pratt's Annals (*see* Conv. proc. 1875, p. 218).

ceeded in getting in a proviso that a meeting to be legal must be announced in a newspaper for at least two weeks previously.

The amendment in regard to the representation of the clergy has been already noticed.

It was provided that the regents should meet annually at the same time and place with the legislature, and "that at every such meeting the acts and proceedings of the regents of the said University shall be reported and examined." This language is somewhat ambiguous, but it does not seem to have been intended that the regents should report to the legislature. The first report to the legislature, of which any evidence appears, is after the new law of 1787.

The legislation a compromise of parties. 1 The college or corporation party accomplished the following results in this legislation of 1784:

a "An act for establishing an University within this state" became "An act for granting certain privileges to the college heretofore called King's college for altering the name and charter thereof, and erecting an University within this state."

The arrangement of the provisions of the act as well as the provisions themselves show that, as indicated by the change of title, the college party made this act, as amended, a measure primarily for the benefit of the college and secondarily only for the benefit of the state as a whole. The college was to be the source of learning for the whole state. It is even made to appear, by the following extract from the preamble to the bill, that the movement for a University was started by the college. These are the words: "And whereas the remaining governors of the said college, desirous to render the same extensively useful, have prayed, that the said college may be erected into a University, and that such other alterations may be made in the charter, or letter of incorporation above recited, as may render them more conformable to the liberal principles of the constitution of this state; be it therefore enacted, etc." The fact, however, was that the movement for a University began before any action by the college.

b The form of a corporation similar to that of King's college was retained, with added powers. In the charter of King's college the chief state officers were governors, *ex officio*, of the corporation, as by this law they were made "perpetual regents."

This single board of regents were virtually trustees of all the colleges in the state; charged with the whole administration and discipline of these colleges. This would give Columbia autocratic control of the whole state system, if they could secure control of the board of regents.

c By the amendatory act of November, Columbia succeeded in obtaining this control of the board. Columbia had at least 22 men on the

board, all residents of New York city, and therefore easily convened, while only nine members were necessary for a quorum.

Further, the provision that new county regents were to be appointed by the governor and council of appointment was an aristocratic measure that might easily be of aid to Columbia, especially since the seat of the state government was at New York, and the college could always hope to exercise a strong social influence there.

d The property which had belonged to King's college was still kept for the use of that institution, and the sum of 2552 pounds was advanced by the state to the regents for the use of the college.

2 The church influence was greatly weakened.

a The churches lost the *ex officio* regents which, in the original draft,¹ it was proposed to give them, following the analogy of the *ex officio* clerical representation in the board of governors of King's college. They gained a full equivalent for this loss however, in the provision for an elective clerical representation. This was a liberal advance inasmuch as any sect could now be represented.

b In the provision against test-oaths for professors a great blow was struck at clerical domination.

c The full freedom to all denominations to establish professorships in divinity marks the triumph of liberal principles.

3 The party which might be called the state University party or the popular party secured some considerable gains.

a They added the mayor of Albany to the *ex officio* regents and secured increased county representation on the board.

b The succession of the county members was put indirectly in the hands of the people, and was made a state matter.

c They abolished religious tests.

d They had given form, however imperfectly, to the new idea of state control in education. They had created an organization, which in some measure was vitalized by the life of the state, and which brought the power of the people in their political capacity to bear upon the instruction of the young. Conservatism and the power of corporate interests were still too great to allow thoroughgoing change; but the change was radical so far as it went. Further change was inevitable and not long delayed.

LEGISLATION OF 1787

Predominance of Columbia college. Columbia had captured the board of regents and for three years controlled their action. In the amendment of November, 1784, it was provided that the next meeting of the regents should follow directly upon the rising of the legis-

¹ N. Y. leg. papers, (ms) no. 274; Pratt's Annals (*see* Conv. proc. 1875, p. 204).

lature, without the necessity of a published notice. It resulted from this, that four days after the passing of the bill there was a meeting at which only Columbia men were present. Before the amendment of November, it was very hard to get a quorum for any purpose. There was only one regular meeting of the board from May to November, 1784. At this meeting, officers were elected and committees appointed and these carried on the work of the regents.¹ The organization of work in the college was naturally the most urgent business of the board and the friends of Columbia felt especially hampered. It was not surprising that they sought a reorganization of the board. It is chiefly the fact of their packing the board with Columbia men which shows the partisan animus of the change. In reading the minutes of the meetings of the regents and their committees, both before and after the amendatory law of November, 1784, one can not escape the conviction that the activity of the board was narrow and directed almost exclusively to the interests of the college. The only action taken before November looking toward a broader conception of their duty was the sending of one of the regents, Col. Clarkson of King's county, to France and the Netherlands, "in order to solicit and receive benefactions for the use of the said University."² And Col. Clarkson was also engaged with the mission of purchasing "such a philosophical apparatus for Columbia college as Dr Franklin, Mr Adams and Mr Jefferson, ministers of the United States, will advise, and his collections will admit." This last clause gives away the whole scheme. The money was to be raised "for the use of said University," but that use was to get a working plant for Columbia. They also attempted to get up a correspondence with certain gentlemen in Ireland with a view to raise subscriptions there, "for the use of the University of this state." It is not recorded that any Irish money found its way to New York. Perhaps even at that time the current of subscriptions flowed the other way.

After the amendment of November, few of the non-Columbia men attended, and they but rarely. Until the next annual meeting, no notice of meetings was necessary, and the outside members were evidently discouraged. Nearly half the board were Columbia men. They lived at New York and it was almost impossible for enough state men to attend, to show much strength against the college influence. The great state system of education which had been projected, threatened to become only a revival of the metropolitan college. The work, narrow as it was, was vigorously pushed. The finances of the college were investigated, professors were elected, largely from among the new members

¹ Minutes of the regents from 1784 to 1787. These are kept among the records of Columbia college. They were printed in Pratt's Annals (*see* Conv. proc. 1875, p. 209-62).

² Regents' minutes, June 4, 1784 (*see* Conv. proc. 1875, p. 214).

of the board, and an elaborate plan of education was prepared by an able committee, two members of which were Mr Duane and Alexander Hamilton.¹ Every thing possible was done to put the college upon a firm foundation and make it a strong and worthy institution. But for a long time nothing was done looking to the establishment of a broader system. The state was ignored, except as Columbia might furnish the higher education needed in the state. The aristocratic feeling was still dominant, as might have been expected in a body containing such men as Hamilton, Duane and Jay, of avowed British sympathies, and many others interested chiefly in the maintenance of the prestige of the old corporation. With the meeting of the legislature, however, early in 1785, many country members of the board came in. Their presence was recognized at the meeting on February 15, 1785, by the appointment of Ezra L'Hommedieu upon a committee "directed to inquire for a fit person to fill the offices of president, professor of moral philosophy and mathematics in Columbia college." Hamilton and Duane, together with four others besides L'Hommedieu, were members of this committee who were also to devise means of raising a salary for the president.² Mr L'Hommedieu was a member of the original board of regents from Suffolk county, and was to all appearance the leader of the popular party. There has arisen a controversy as to whether Hamilton or L'Hommedieu was the author of the act of 1787. This matter will be discussed later on.

The board did not meet again until the 4th of April. The above committee reported. Neither Hamilton nor L'Hommedieu was present. The report recommended an address to the public, to solicit voluntary subscriptions to enable the college to carry out its plans, and "that proper persons in each county throughout the state be applied to and requested personally to solicit subscriptions for this purpose and that an application be made to the legislature to grant them an aid by a tax on marriage licenses or any other mode they may think proper."³ The thought of the Columbia men may have been right, that the revival of the college was the one thing needful at that time for the state, but there was a different feeling elsewhere.

Opposition to the Columbia monopoly. We have already seen the opposition, from the country members of the legislature, to an advance of state funds to the college. There are other indications of dissatisfaction. On February 25, 1785, Aaron Burr in the assembly brought in a bill entitled, "An act for the encouragement of literature."⁴ Although this bill never got beyond the second reading, it goes to show

¹ Regents' minutes, Dec. 9 and 14, 1784 (see Conv. proc. 1875, p. 225).

² Regents' minutes, Feb. 15, 1785 (see Conv. proc. 1875, p. 233).

³ Regents' minutes, Apr. 4, 1785 (see Conv. proc. 1875, p. 236).

⁴ Assembly jour. 1785, p. 52.

that the need of further effort for the advancement of learning was recognized. It was expressly admitted by a committee of the regents themselves, which we shall presently notice more fully, that the act of November, 1784, "placing the rights of every college in the hands of a few individuals," "excited jealousy and dissatisfaction when the interests of literature require that all should be united."¹ At the next annual meeting,² when several country members were present, an important step was taken. A committee was appointed, "To consider of ways and means of promoting literature throughout the state." The members of the committee were Dr Livingston, Dr Rogers, Mr Mason, Gen. Schuyler,³ Mr Peter W. Yates, Brockholst Livingston, Gen. Morris, Mr Wisner, Mr Haring, James Livingston, Mr John, Mr Dongan, Mr Clarkson, Mr Townsend, Mr L'Hommedieu and Mr Williams.

The committee represented in its membership the different districts of the state. It was appointed upon motion of Dr Livingston, himself a professor in Columbia. It can not be determined whether this move was made to quiet the popular party with a show of activity in the interest of the state at large, or whether it was a genuine endeavor to broaden the scope of the work done by the regents. Whatever the motive, nothing seems to have been done by the committee. The non-Columbia men were greatly in the majority in this committee, and their failure to see this opportunity, at least to propose some plan to make the University a reality, can not be well explained. Lack of unity among so large a committee would be a plausible suggestion. At any rate they accomplished nothing, and the board went on in its old way regulating the affairs of the college.

Another matter merits notice, before taking up the work accomplished in 1787. In the senate on March 15, 1786, "A memorial of Andrew Law of the city of New York, praying for an exclusive right of printing sundry new tunes of psalmody, was read and committed to Mr Stoutenburgh, Mr Williams and Mr L'Hommedieu."⁴ They brought in a bill, entitled "An act granting to authors of literary performances the exclusive right of printing and vending their works." This bill, after various amendments in senate and assembly,⁵ was finally passed under the title "An act to promote literature."⁶

It is in effect a copyright law, but has a "rider," permitting the Reformed protestant Dutch church of Flatbush, King's county, to sell

¹ Regents' minutes, Feb. 16, 1787 (see Conv. proc. 1875, p. 253).

² Regents' minutes, Feb. 28, 1786 (see Conv. proc. 1875, p. 243).

³ Gen. Schuyler was not appointed regent until 1787. In what capacity he acted here is not known.

⁴ Senate jour. 1786, Mar. 15.

⁵ Assembly jour. 1786, p. 132-67; Senate jour. 1786, p. 77.

⁶ Laws 1786, ch. 54.

certain lands "for the express purpose of erecting an academy in the said county." This was the beginning of Erasmus hall, the first academy incorporated by the regents. It is important as showing how, outside of the board of regents, independent efforts were being made to promote education. It also identifies Mr L'Hommedieu with the academy movement. It was this activity for academies outside of New York city that first made head against the predominance of Columbia, and from the beginning Mr L'Hommedieu was the foremost champion of these academies.

Struggle over the new law. From April 24, 1786, until January 31, 1787, the regents did not meet. It is evident from the facts recited above that, outside of the circle of the friends of Columbia college, there was dissatisfaction with the neglect by the regents of the general educational interests of the state. The annual meeting, which was always held during the session of the legislature, was near and at this meeting many of the country members of the regents might be expected to attend. Columbia men seem either to have become dissatisfied with the present arrangements for the government of their college, or to have feared a legislative attempt at reconstruction in the interests of the state at large which might work injury to the college. This meeting of January 31, was of Columbia men, almost exclusively. A committee was appointed which shows that they recognized that the objects of the University had not been attained, and that there was need of prompt action to guard the interests of the college in any change which might be made. The record runs:—"Resolved, That a committee be appointed to take into consideration the present state of the University and to report as soon as possible the measures necessary to be adopted to carry into effect the views of the legislature with respect to the same and particularly with respect to Columbia college, and that Mr Mayor,¹ Mr Jay, Dr Rogers, Dr Mason, Dr Livingston, Gen. Clarkson, Mr Gros, and Mr Hamilton be a committee for that purpose."²

In the evening of February 8, there was another meeting at which the only action taken was to hear the report of this committee. Dr Rogers reported progress and asked leave to sit again. This was granted and they adjourned to meet on the evening of February 15. On this very day, February 8, another movement for the establishment of an academy was begun in the senate. It was a petition of Samuel Buell, who was a regent, Nathaniel Gardiner, and David Mulford "in behalf of themselves and others, founders of an academy at East

¹ Mr Duane.

² Regents' minutes, Jan. 31, 1787 (see Conv. proc. 1875, p. 250-51, Pratt's Annals).

Hampton, in Suffolk county."¹ This was in L'Hommedieu's own county, and the matter was referred to him with three other senators from the southern district, Tredwell, Stoutenburgh and Vanderbilt. Vanderbilt was also a regent. L'Hommedieu and Stoutenburgh had been instrumental in passing the "Act to promote literature" described above, which also provided for the establishment of an academy at Flatbush in King's county, likewise in the southern district. Mr Williams, who was a regent, had also been associated with L'Hommedieu and Stoutenburgh in the matter of the Flatbush academy, and he becomes prominent afterwards in association with L'Hommedieu in the struggle over the reorganization of the University. The East Hampton academy spoken of in the above petition was the second academy incorporated by the regents after their reorganization, and was called Clinton academy.

Attempt of Columbia to reorganize the University. The lines of opposing parties in the struggle can now be indicated with some certainty. At the convening of the legislature in 1787, the friends of Columbia in the board of regents appointed a committee, upon which were James Duane, John Jay and Alexander Hamilton, to devise means to make effectual the intention of the legislature in the acts of 1784, "particularly with respect to Columbia college." There were no greater names in the state than these three names. Duane and Jay, particularly the latter, had been the formers of the state constitution of 1777. In this constitution and in their earlier work in the continental congress they had shown themselves slow to break with Great Britain, conservative in temper, and aristocratic in sentiment. With Hamilton they were at this time stemming the tide of popular indignation against the tories. They were all, by nature and legal training, conservative and aristocratic. They were Columbia men and would be apt to think first of the college in any system of instruction. But they were also public-spirited and broad-minded men and had the interests of the people at heart. They were admirably fitted for the work of constructive statesmanship, and the revolution had given them more liberal and progressive ideas. However, they were not truly democratic in spirit. A system of education in which the power should move from the college center at New York, outward to the state, would be more congenial to them than a system in which the power should move directly from the people. Hamilton was a member of the assembly, where, during these very months he led a gallant fight against Governor Clinton upon the subject of granting the federal congress a permanent revenue. Hamilton exerted every power to induce this concession to the central government; but failed. He succeeded however in securing the appointment of delegates from New York to the constitutional convention

¹ Senate jour. Feb. 8, 1787.

which met in May, 1787. Robert Yates and John Lansing, jr were Hamilton's colleagues upon this delegation.

These men were strong partisans of the governor, and Lansing, also a member of the assembly, opposed Hamilton upon educational as well as political matters. The opposition of Clinton, Yates and Lansing to Hamilton in regard to the ratification of the federal constitution need not be recounted here. In that famous struggle, Duane and Jay and Hamilton acted as a unit. But Hamilton's views were known to favor a far greater degree of centralization than that in the constitution, while Duane and Jay were not so extreme in their distrust of popular power. Hamilton had been earnest in his attention to the interests of Columbia since his appointment as a regent, serving on very many of the important committees and frequently attending meetings of the regents.

February 15, 1787, the regents met. The date is wrongly given as Thursday, February 16, in the records. Thursday was the 15th, and this date is supported by a subsequent reference in the records. The legislature was already in session. There was quite a large attendance of the regents at this meeting. Richard Varick, speaker of the assembly, presided. Duane, Rogers, Livingston, and Mason of the committee upon the "state of the University" were present. Hamilton, Jay and the remaining members were absent. Fortunately, the report of the committee is spread upon the minutes. It is presented "By order of the committee, Jas. Duane, chairman." An analysis of this remarkable report is necessary in order to appreciate some of the provisions of the subsequent legislation. Three subjects are considered: the University, academies and public elementary schools.

1 The University. They recommend amendment of the former acts in the following particulars:

a Changes in "point of form" are needed in regard to filling vacancies in the offices of chancellor and vice-chancellor, in the manner of calling and adjourning meetings, in regard to the annual meetings and the presiding regents, in the absence of official regents.

b Changes "in the substance of its constitution" are necessary in order "to render the University beneficial according to the liberal views of the legislature." They recommend "that each respective college ought to be intrusted to a district corporation with competent powers and privileges, under such subordination to the regents as shall be thought wise and salutary." The reasons are, that:

1 While "The regents are the only body corporate," in whom "not only the funds, but the government and direction of every college are exclusively vested," due care can not be given to each institution, owing to the "dispersed situation" of the regents.

2 The "remedy adopted by the second act was to reduce the quorum to a small number, but thus placing the rights of every college in the

hands of a few individuals, your committee have reason to believe, excited jealousy and dissatisfaction when the interests of literature require that all should be united."

2 "Academies for the instruction of youth in the languages and useful knowledge." These should receive "liberal protection and encouragement."

a By incorporation, which would secure their property and remove the disadvantages arising from their "establishment by private benevolences."

b By a "permanent superintendence" which "would greatly contribute to the introduction of able teachers, and the preservation of the morals of the students as well as their progress in learning."

3 Public elementary schools. "But before your committee conclude they feel themselves bound in faithfulness to add that the erecting public schools for teaching reading, writing, and arithmetic is an object of very great importance, which ought not to be left to the discretion of private men, but be promoted by public authority. Of so much knowledge no citizen ought to be destitute, and yet it is a reflection as true as it is painful, that but too many of our youth are brought up in utter ignorance."

A draft of a bill was presented which appears to have applied only to the University and the academies. It is a great misfortune that this draft can not be found. It would throw a great light upon the question of the authorship of the act of 1787. The committee recommended laying the matter before the legislature and their report and the proposed bill were put into the hands of Mr Varick to present to the legislature. Mr Varick, being speaker of the assembly, evidently turned the matter over to Hamilton, for the next morning, February 16, Hamilton presented a bill in the assembly entitled "An act to render more effectual an act, entitled, An act for granting certain privileges to the college, heretofore called King's college, for altering the name and charter thereof and erecting an University within this state."¹ The next day this bill was read the second time and committed to committee of the whole.² Hamilton seems never to have been able to push his bill further. It may be that the Clintonian opposition to Hamilton was making itself felt even in the matter of educational reform, and that the Columbia men thought their plan more likely to succeed by attempting to capture the independent movement for a new University law now in

¹ Assembly jour. 1787, p. 53.

² It is surprising that Pratt's Annals which purport to give accurate transcripts of the minutes of the legislative journals touching this legislation, and which the writer, by a careful reading of the journals, has failed to find defective in any other material point, should have omitted altogether this entry concerning Hamilton's bill.

progress in the senate under the leadership of Ezra L'Hommedieu. It can not be discovered what was Clinton's position in this matter. Shortly after the board had been packed by Columbia men by the amendatory law, Clinton had resigned the chancellorship. This was in April, 1785, and he seems to have attended only two of the meetings of the board until its reorganization after the law of April, 1787. An examination of the *Clinton papers* (ms) at the state library at Albany fails to give any clue to his views upon the University. From the catholic tone of his first message to the legislature, from his known democratic opinions, from his magnifying the importance of the state, from his political opposition to Hamilton, from his refusal to mix in the affairs of the University while it was under the domination of the Columbia party, and from the fact that he was again made chancellor upon the reorganization in 1787 upon a truly state basis, it may well be supposed that he represented the state or popular side in this struggle, at least after the antagonism became pronounced.

Popular attempt at reorganization. It has already been seen that two attempts were made to erect academies on Long Island, one at Flatbush, the other at East Hampton. The *Assembly journal* shows that a petition of Jesse Woodhull and others, was presented in 1785, for a law enabling them to raise 200 pounds by lottery to finish an academy at Goshen, Orange county.¹ During this time also a plan was formed of founding a college at Schenectady, in which Dr John H. Livingston was interested. He was the regent who had moved for a committee to devise means for promoting literature throughout the state, and although a professor in Columbia, was not a narrow partisan of that institution. He became the principal of Erasmus hall shortly after it was incorporated. Every thing goes to show that there was a call for new educational institutions in every part of the state. As early as 1779 an application was made to the assembly for an act, enabling "The trustees of the freeholders and commonalty of the town of Kingston, to erect a college or university in the said town." The matter was referred to a committee consisting of Mr Schoonmaker, Mr L'Hommedieu and Mr Palmer, to which four other members were added, James Gordon of Albany county, Thomas Treadwell of Suffolk county, Egbert Benson of Dutchess county and Robert Harpur of New York county.² This committee had also in charge a petition from John Cuyler and 542 inhabitants of Albany and Tryon counties, and from Thomas Clark and 131 others of Charlotte county, for a college at Schenectady. A bill was prepared and also a charter for this college at Schenectady, which was to be called Clinton college. This charter is preserved

¹ Assembly jour. Jan. 31, 1785, p. 7.

² Hist. record. p. 357.

among the *Clinton papers* (no. 3,467).¹ These petitions were presented in August, 1779, but nothing further came of them at that time. They show the local need of schools in different parts of the state and the membership of the committee is important in this inquiry. Ezra L'Hommedieu is seen to have been thus early interested in the educational affairs of the state. Egbert Benson and Robert Harpur were regents, and Thomas Treadwell was a member with L'Hommedieu of the senate committee appointed February 8, 1787, upon the petition in behalf of an academy at East Hampton. While the committee of the regents were preparing the bill which was, in all probability, the bill presented by Hamilton to the assembly on February 16, Ezra L'Hommedieu and his colleagues, Treadwell, Stoutenburgh and Vanderbilt, were laboring upon a bill for the same end. Hamilton's bill was swamped in committee of the whole on February 17. On February 27, the *Senate journal* contains the following entry: "Mr L'Hommedieu from the committee to whom was referred the petition of Samuel Buell, Nathaniel Gardiner and David Mulford, for the incorporation of an academy at East Hampton, and for other purposes reported, that in the opinion of the committee it will be proper that a bill should be ordered to be brought in, for erecting an University and for granting privileges to colleges and academies within this state, and for repealing the acts therein mentioned, which report he read in his place and delivered the same in at the table where it was again read, and agreed to by the senate. Whereupon, Ordered, that Mr L'Hommedieu prepare and bring in a bill for that purpose. Mr L'Hommedieu, according to order, brought in the said bill which was read the first time and ordered a second reading." Samuel Buell was a regent, and knew that the University was intended to found and govern academies. Why should these petitioners come to the legislature for a separate charter when they might have the benefits of becoming a part of the University? It seems plain that they were afraid of the board of regents. They preferred incorporation in which they could control their own funds, to placing their property in the hands of this board of omnibus trustees, controlled heretofore by a set of men working chiefly in the interests of one institution. The report of the committee of the regents quoted above shows the prick of a guilty conscience on the part of the Columbia ring of control. And from the recommendations of that committee, and the independent movement now started for the separate incorporation of academies, it becomes evident that regents and non-regents alike recognized the need of reform, and agreed upon the direction that reform should take. L'Hommedieu seized the opportunity, offered by this petition, to prepare a measure reorganizing the University upon a broader basis. He



became the champion of the interests of the state as a whole, of the popular and anti-monopoly spirit, of a widely spread education that should serve local interests, while unified in a state system of the academies against Columbia college.

It is proper here to say a word about this man. He was a descendant of Benjamin L'Hommedieu, a Huguenot, who came to New York from Rochelle after the revocation of the edict of Nantes, and settled at Southhold, Long Island. Ezra L'Hommedieu was born at this place in 1734. He was a graduate of Yale in the class of 1754, after which he traveled in France and continued his studies there. He practised law in New York city after his return, and during the revolution became prominent. From 1775-78 he was a member of the New York provincial congress and took part in the formation of the state constitution. He was then a member of the New York assembly until 1784, when he became state senator, which office he held, with the exception of the year 1793, from 1781 till 1809. For seven years, between 1779 and 1788, he was a delegate to the continental congress. He was also a member of the council of revision in New York state for several years, and for one year of the council of appointment. A federalist at first, he finally went over to the republicans in 1797. When, on the presentation of the Virginia and Kentucky resolutions in the senate, Mr King moved a resolution to the effect that the constitutionality of acts of congress was a question for the judiciary and not for the legislature, L'Hommedieu opposed the resolution.¹ He was a regent from the founding of the University until he died in 1811. The *Clinton papers* for 1783 contain many interesting letters which passed between Governor Clinton and L'Hommedieu, at that time a delegate to the continental congress. The following letter from Clinton to L'Hommedieu gives a good glimpse of several of the persons connected with this inquiry. On July 6, 1783, L'Hommedieu writes from Middletown, N. Y., to Governor Clinton at Poughkeepsie asking him as to the attendance of Gen. John Morin Scott and James Duane at the congress in Philadelphia, and stating the great disadvantages in his being away from home at that time.

Governor Clinton replies from Poughkeepsie, July 10, 1783. "Dear sir: I am favored with yours of the 6th instant. Mr Duane left this place for congress yesterday morning. Gen. Scott is indisposed and there is no hope of his attending. He informs me he has written you so. Hamilton is all impatience to be released. His lady hourly expects him home. She is young and ought not to be disappointed. Congress have passed, and the prest. forwarded me a second resolu-

¹ Hammond, J. B. History of political parties in the state of New York, v. 1, p. 125.

tion pressing an immediate representation of the different states as a matter at this juncture of the utmost importance and a representation of this state depends altogether upon your attendance. The sooner the better. It is as uncertain as ever when the British will leave New York," etc., etc.¹

It is refreshing to see the governor's solicitude about Hamilton and his lady in view of the bitter antagonism that developed later. This letter shows something of the esteem in which L'Hommedieu was held. An engraving at the state library, which has been printed in the documentary history of New York, shows L'Hommedieu to have had a head of classic shape, with clear-cut features, and vivacious, intelligent expression. He looks like an able and resolute man. L'Hommedieu families still live on Long Island. The pronunciation of their name has degenerated into "Lommidoo."

L'Hommedieu's bill on the next day, February 28, was sent to the committee of the whole. On March 1, Mr Stoutenburgh reported progress and leave to sit again was granted. This performance was repeated on March 6, 7 and 8. Evidently there was a struggle in progress on the bill.

The regents meanwhile, after the failure of Hamilton's bill in the assembly, were quiet. There is no record of any meeting on February 22, the day to which an adjournment was taken. On the meeting of March 1, no action was taken upon the reorganization of the University. In the evening of March 8, the day on which leave to sit again was granted in the senate upon L'Hommedieu's bill, a meeting of the regents was held with a comparatively large attendance. Hamilton, Duane and Jay were there. With a few exceptions all who attended were Columbia men. This meeting was the turning point in the history of that legislation. The Columbia men had seen the need of compromise. Their policy was shrewd and effective. They determined to capture the independent movement in the person of Mr L'Hommedieu himself. They "Resolved, that a committee of six members of the regency be appointed to consider of the most proper means for procuring an act of the legislature for amending the charter of the University, either in conformity to the bill directed to be presented by the resolution of the board of the 15th of February last or with such alterations as may be found necessary, and that they report to the regency at the next meeting, and that the speaker of the assembly, the mayor of New York, Col. Hamilton, Mr Williams, Mr L'Hommedieu and Mr Jay, be a committee for that purpose." Neither the speaker of the assembly, (Richard Varick) nor L'Hommedieu was present at that meeting. The Columbia attempt at reorganization had failed in a committee of the whole in the

¹ Clinton papers, no. 5119.

assembly, in spite of the leadership of Hamilton. The attempt of the academy or state party to reconstruct the University, under the leadership of L'Hommedieu was threatened with defeat in a committee of the whole in the senate. It is probable that both parties were willing to compromise. It is certain that the keen political tact and quick energy of the Columbia men made compromise and consolidation a fact accomplished. L'Hommedieu attended the next meeting of the regents, held only four days afterward, the first time that he had attended since April 10, 1786. The speaker of the assembly was also present. The committee reported progress and asked leave to sit again.

L'Hommedieu's bill and Hamilton's bill not the same. It will be remembered that on February 15, the committee of the regents reported a draft of a bill, and that on February 16, Hamilton presented a bill to the assembly. L'Hommedieu's bill was not presented to the senate until February 27. The question naturally arises: was L'Hommedieu's bill after all the same bill which the regents' committee had prepared and which Hamilton had laid before the assembly? It appears upon the clearest evidence that these bills were not the same.

1 The facts already detailed show an antagonism between the Columbia men in control of the board on the one hand, and the non-Columbia regents and non-regents on the other.

2 L'Hommedieu had not attended the meetings of the regents for nearly a year. He was a Yale man and would naturally have no special interest in Columbia. He was a countryman and would be inclined to attach more importance to the academies and the general needs of the state education than to the management of Columbia college.

3 The titles of the acts indicate a difference.

a The original University bill proposed in 1784, was entitled, before it was captured by the King's college interest, "An act for establishing a University within this state."

b After its capture, and as passed May 1, 1784, this bill was entitled, "An act for granting certain privileges to the college heretofore called King's college, for altering the name and charter thereof, and erecting a university within this state."

c The amendatory act of November 26, 1784, simply amended by the above title.

d The *Assembly journal*, date of April 13, 1785, shows that John Lawrence, (a regent) brought in a bill entitled "An act to amend and explain two certain acts therein mentioned relative to the University within this state." Nothing is known of this bill, which never went beyond its first reading, and it is introduced here only for the sake of completeness.

e Hamilton's bill was introduced in the assembly, February 16, 1787. The movement in the board of regents, with which Hamilton was con-

cerned, and which resulted in the presentation in the assembly of Hamilton's bill, confessedly had for its primary object the bettering of the condition of Columbia college. It was not until after L'Hommedieu's activity began, upon the petition of the East Hampton academy, that Hamilton's committee appeared to have considered the academies and schools. The title of Hamilton's bill as introduced into the assembly indicates well the spirit in which it was conceived. "An act to render more effectual an act, entitled an act for granting certain privileges to the college heretofore called King's college; for altering the name and charter thereof and erecting a University within this state."¹

f L'Hommedieu's bill was proposed in senate February 27, 1787. The title of this bill shows at once the reversion to the earlier anti-Columbian idea of a truly state university, and the catholic scope of the system proposed. The title runs, "An act for erecting an university and for granting privileges to colleges and academies within this state and for repealing the acts therein mentioned." L'Hommedieu was for repealing and building anew upon a broader foundation. Hamilton would render more effectual the existing acts.

4 The manuscript drafts of L'Hommedieu's bill show the plainest evidence of his independent action.

Among a collection of manuscripts in the state library, called *New York legislative papers* are several drafts of the bill which finally became the law of April 13, 1787, establishing the University. No. 382 in this collection is the draft of the bill introduced in the senate February 27. It is in two parts which fit together, but there are breaks in it. The first half is indorsed with the title, as given above, in the same handwriting as the body of the draft. Below the title it is indorsed "In senate 27th Feb., 1787, read 1st time." This handwriting appears also in the indorsement of the subsequent drafts, and seems to be that of the clerk of the senate. The second part is indorsed with the title, and the following words "In senate 27th Feb., 1787, read 1st time, 28th, read second time and committed." This whole indorsement is in the same handwriting. No. 383 of this collection is a complete draft of this bill, and is indorsed, still in the handwriting of the clerk of the senate, with the title and these words: "In senate 27th Feb., 1787, read 1st time; 28th, read second time and committed." These indorsements correspond with the entries in the *Senate journal* for February 27 and 28. No. 388 is the engrossed draft of this bill referred to in the *Senate journal* of the dates March 19 and 20, and need not be considered here.

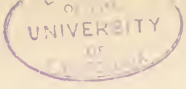
The handwriting of the drafts no. 382 and 383 is the same throughout. A careful comparison of this handwriting with that of Mr L'Homme-

¹ Assembly jour. 1787, p. 53

dieu, as appearing in many letters from him to Governor Clinton in 1783, contained in the collection of *Clinton papers* above referred to,¹ establishes beyond doubt that these drafts are in L'Hommedieu's handwriting. The bill, then introduced into the senate on February 27, and read the second time on February 28, was the work of L'Hommedieu's committee, and was in the handwriting of L'Hommedieu. It is not necessary to go into great detail to show that this bill was not the bill of the regents' committee proposed 11 days earlier in the assembly by Hamilton. If the draft of the assembly bill could be found, the matter would be much easier, but this draft can not be unearthed. Not only are the senate drafts in L'Hommedieu's handwriting, but they are not fair copies, as they would be if taken from the Hamilton bill. They are filled with erasures, interlineations, verbal changes, transpositions and marginal additions and suggestions. They show tentative and gradual construction. And then, to make the matter more certain, at one place in the margin appears this note, like every thing else, in L'Hommedieu's handwriting. "Take this clause from the other bill." At one other place appears a similar note, "Take in the clause of the assembly bill." These facts are enough to show that while L'Hommedieu had the assembly bill in mind and used it in the recasting of his own bill, yet his work was independent and different. If further evidence is needed it is ready at hand in the character of L'Hommedieu's scheme.

The first draft does not seem complete, but coincides in the main with the second which is, however, fuller. A complete state system is proposed, consisting of the University corporation over all; colleges, with which Columbia is coordinated, having each a separate charter; incorporated academies; and schools. With the exception of schools, which are only mentioned, provisions are made with considerable minuteness for the government of these different institutions, all of which are made parts of the University. The language of the law of May 1, 1784, is followed wherever practicable. It must be granted that upon this statement the bill resembles the scheme outlined in the report of the regents' committee. But even upon this showing it might be urged, that it was quite as likely that the regents' committee took their ideas of furthering the academies from L'Hommedieu, who had been considering the matter a week before the report of the committee, as that L'Hommedieu took his bill from that of the regents' committee. And since reform had become necessary, it might well be that there was no difference of opinion as to the general character of the reform. But a few of the provisions of L'Hommedieu's proposed law show most positively that he was urging the reform from a standpoint entirely different from that of the Hamilton committee.

¹ See Clinton papers 5157, 5165, 5166, 5193, 5205, 5214, 5223.



1 L'Hommedieu's bill provides "And no president or professor of the said Columbia college or any other college or academy recognized by this act shall be a trustee or governor of such college or academy nor shall any such governor or president or professor be a regent of the University."¹ In the second draft (no. 383) "tutor" is added to this prescribed list. At the meeting of the regents on February 15, when the report of their committee was "approved and confirmed" and the draft of the bill was directed to be laid before the legislature, there were present 21 members. Of these, seven at least were actual professors in Columbia at that time. Eight others were made trustees of Columbia under the new law and among those eight were Mr Duane, himself, Robert Harpur, a former professor of Columbia, and Dr Cochran, who had been proffered a professorship and declined. There were only five of the 21 present who were not strong friends of Columbia. Many of these 15 had been made regents when the board was packed in the interest of Columbia by the amendment of November, 1784. It is not reasonable to suppose that at such a meeting a law would be recommended containing a provision so destructive of Columbia rule in the board of Columbia trustees. This influence of the faculty of Columbia in the board of regents seems to have excited the special hostility of the non-Columbia men.

2 L'Hommedieu's bill provides for an annual visitation of the academies by a committee of regents, "to inquire into the state and progress of literature therein and to confer the degree of bachelor of arts on such students of such academies as they shall judge deserving of the same, or to direct that such degrees be conferred on such students by the president of any college subject to their visitation."¹ It can not be supposed that the Columbia men would propose such compulsion upon their power to confer degrees.

3 The first draft of L'Hommedieu's bill proposes, that the "said Columbia college shall be subject to the visitation of the regents of the University, or a committee from them, who may as often as the regents shall judge necessary, examine into the funds of the said college, the mode of education, and the progress in literature made by the students as well as of the learning, abilities, and conduct of the different professors and tutors."²

This is the clause which is marked in the margin: "Take this clause from the other bill." In the second draft, which was read the following day in the senate, this clause is somewhat toned down. It reads "It shall and may be lawful to and for such visitors to inspect and examine into the state of literature and the progress of the students

¹ N. Y. leg. papers, no. 382.

² N. Y. leg. papers. no. 383.

in any of the said colleges and into the discipline, government, management, laws and statutes thereof, and the execution of the same, and into the University funds, securities, receipts, expenditures, books of accounts, and vouchers appertaining thereto; in order that a just report thereof may be made to the regents of the said University and by them be laid before the legislature when it shall be found necessary.¹ Again, it can not be supposed that the Columbia men would have proposed such subordination on the part of their college to the regents. It looks as if L'Hommedieu had softened the rigor of his first proposal to better suit the temper of the assembly bill.

4 L'Hommedieu's first draft gives the regents a veto upon the "ordinances and by-laws" made by the governors of Columbia, "for the government of Columbia college and for the management of (its) estate." In L'Hommedieu's second draft the same power is given the regents. This is then erased and the following is interlined (after the powers of the trustees of the various colleges to make ordinances and by-laws is stated), "provided also that the trustees of the colleges above mentioned respectively lay before the regents of the said University from time to time the plan or system proposed to be adopted for the education of the pupils and students in each of the said colleges respectively, in order that the same may be revised and examined by the said regents and by them be altered and confirmed as they shall judge proper."

These powers in the regents do not seem like suggestions from Columbia. The milder veto power in the second draft may well have been a politic concession by L'Hommedieu to the Columbia influence.

5 L'Hommedieu's bill provides that the succession of trustees for Columbia shall be kept up by legislative appointment. This it is impossible to think of as emanating from the Columbia men. In his first draft he proposed for Columbia trustees the same plan as that provided in the law of May 1, 1784, for the succession of regents, namely, appointment by the governor and council of appointment. This was then erased and a blank left for the manner of appointment. In the second draft he proposed at first the filling of vacancies by election "by a majority of the said trustees." This was erased and appointment by the legislature substituted. This provision for the government appointment of trustees is applied in L'Hommedieu's bill to other colleges in the state. All colleges were thus to be state institutions. This is the more remarkable since he proposes to put the academies upon a different footing, succession of academic trustees to be by cooptation. He was the champion of the academies, and wanted them self-governing, subject only to such supervision as would be for their benefit and encouragement. The power of colleges he proposed to

¹ N. Y. leg. papers, no. 383.

restrain through more rigid control by the regents and through legislative renewal of trustees.

A comparison of L'Hommedieu's drafts with the bill actually passed shows that his provisions for academies were substantially incorporated in the law, while in the part of his plan which touched Columbia and the colleges generally he was not nearly so successful.

The conclusion based upon the foregoing considerations, as to the separate character of these two bills, is strengthened and confirmed by the history of this legislation, subsequent to the appointment of the committee of regents March 8, 1787, with a view to consolidate the opposing forces and push through a compromise measure. If the L'Hommedieu bill were the same bill as that proposed by the regents' committee, the resolution by the regents on March 8 would not have spoken of, "procuring an act of the legislature for amending the charter of the University, either in conformity to the bill directed to be presented by the resolution of the board of the 15th of February last, or with such alterations as may be found necessary." They would have said "in conformity to the bill now before the senate," or used some equivalent phrase. The difference and the controversy are everywhere apparent. The compromise effected between the two parties remains to be considered.

Consolidation and compromise. The regents made a strong and politic move in the appointment of their committee on March 8. They made the speaker of the assembly, chairman of the committee. They secured the attendance of John Jay at that meeting, a rare advantage. He had attended only three meetings before this since his appointment on February 28, 1786. He accepted a place upon the committee. It would seem from his being appointed regent under the new law, when nearly all of his coappointees of 1784 were made trustees of Columbia, as if he finally had come to act rather against than in favor of Columbia. L'Hommedieu, the leader of the opposition to Columbia, in the senate, accepted a place upon the committee, and attended the subsequent meetings. This committee was one of great ability. It contained Duane, Hamilton and Jay. L'Hommedieu was a man of ability and prominence, as is shown by his constant activity on important committees in the senate, as well as by the various offices held by him. Of Varick and Williams, not so much is known. The meeting of March 12, has already been noticed. On March 15, the regents met again. The committee were all there, except Jay. The other members present were mainly Columbia men. "Col. Hamilton" from this committee, "reported a bill to be laid before the legislature." It was debated paragraph by paragraph. L'Hommedieu moved to strike out the name of George Clinton from the list of Columbia trustees. The motion was lost, Hamilton and L'Hommedieu, however, both voting in

the affirmative. It was also proposed to leave out of the regency the governor and lieutenant-governor, but this was lost. In the final law Clinton is not the trustee of Columbia. The draft of the engrossed bill shows that, as introduced, it contained Clinton's name, which was afterward erased. It was probably struck out in the legislature. The bill and amendments were then adopted by the regents. The effect of this consolidation of opposing ideas upon the course of legislation appears instantly. Since March 8, L'Hommedieu's bill had lain in committee of the whole. Four days after this agreement between the Columbia party and the academy party, on March 19, in the senate "Mr Stoutenburgh, from the committee of the whole," reported that they had gone through the bill, made amendments thereto, altered the title in the words following, viz: "An act to institute a University within this state and for other purposes therein mentioned, and agreed to the same." The senate agreed to the bill and amendments and ordered the amended bill to be engrossed. The next day, March 20, the bill was passed by the senate. It is the draft of this engrossed bill which is preserved in the *N. Y. legislative papers* as no. 388. The agreement between L'Hommedieu and the Columbia party seems to have quieted all opposition in the senate. The compromise bill was now not the measure of a party, but the regents' bill. The assembly made some amendments in committee of the whole which were immediately concurred in by the assembly and the amendments ordered to be engrossed.² The bill encountered opposition now from Hamilton's political opponent, Mr Lansing, a partisan of Clinton. On March 24, the *Journal* shows that Lansing moved to recommit the bill to committee of the whole. Hamilton opposed this motion. "Col. Hamilton hoped that the house would not recommit the bill. There was no doubt, he said, but the legislature possessed the right to give this power. There were frequent examples of the kind in Great Britain, where this power had been granted. No disadvantage, he said, could arise from it; on the contrary, many would be the benefits. He therefore wished the bill might be finished as no doubt existed with him of the power and the propriety of the legislature granting those privileges which were mentioned in the bill."³ It is not known what were the powers and the privileges thus defended by Hamilton. They may have been the power of incorporating colleges which encountered opposition later. Lansing's motion was carried and the bill recommitted. A week later two clauses of the bill were reported for consideration by the house. In 1786 a law had been passed appropriating one lot in every township of land "to be applied by the legislature for promoting literature in this state." A clause in the Univer-

¹ N. Y. leg. papers, no. 388.

² Assembly jour., March 20, 21, 22 and 23.

³ Hamilton, Alexander. Works; ed. by H: C. Lodge, v. 6, p. 575.

sity bill proposed that letters patent for such lots should be granted to the regents. On Lansing's motion this clause was rejected. The other clause was the one empowering the regents, on application, to incorporate colleges upon certain conditions. Lansing moved to reject this clause. His motion was carried, Hamilton voting in the negative.¹

On April 6, it was reported to the house that in the committee, the speaker of the assembly had moved to reconsider this last rejected clause, and the committee of the whole had voted for the clause on reconsideration, Hamilton supporting. The regents' committee thus stood firm in the assembly. Hamilton gave the bill his steady support. The bill as amended in committee was agreed to by the assembly on April 6, and the amendments engrossed. On April 10, the *Assembly journal* has an entry which shows a neat stroke of diplomacy on the part of Columbia and the regents. It was moved that the house "adjourn until the afternoon; that the members may have an opportunity to attend the commencement of the students in Columbia college, agreeable to a request of the regents of the University to the legislature." The motion called forth debate, but adjournment was voted, 34 to 17. This may have been mere courtesy. The regents met in the assembly chamber. But coming just at this time when the success of the bill was not assured, the courtesy may have had another motive. The next day the assembly passed the bill and amendments. The senate concurred in the amendments April 12, and on April 13, the council of revision sent down its approval by message of Chief Justice Richard Morris, and the bill became law. The timely concessions of Columbia had assured the safety of the measure. The consolidation of both parties, making the regents a unit, had enabled them to secure a law far more satisfactory upon the whole than the old one, and one which in its essential features has remained unchanged. Until 1889 there was no thoroughgoing reconstruction of the system, and this law of 1889 was more a codification of the old law than a change in the constitution of the University. From the meager facts reported it seems that the popular house had some jealousy of the University, and feared to put such large powers into the hands of a corporation. But the animus of Lansing's opposition may have been only the Clintonian hostility to Hamilton, for the burning question in the New York legislature, now was not reform of the constitution of the state University, but the larger question of a reform in the constitution of the United States. Governor Clinton was mighty in the assembly and stood strongly for his state against any greater control by the federal government. Hamilton, on the other hand, believed heartily in the centralization of power in the hands of a strong and capable few. And as he strove for the subordination of the states to the rule of the central federal government, so in the state sys-

¹ Assembly jour., March 31, 1787.

tem of education he seems to have striven for the strong mastery of the cultured and able coterie of Columbia men over the undeveloped and self-asserting institutions throughout the state. And as the disintegrating power of state rights showed such irrepressible life that he was compelled to compromise his ideal in the national constitution, and consent to far greater local power in the states than he believed in; so in the University, to preserve the union he was obliged to compromise, to yield up the paramount influence of the capable institution at New York, then the political as well as the intellectual center of the state, and to allow the local academies a measure of self-government which was opposed to his political ideas. But, once committed to the compromise, he was the staunch champion of the new University as of the new federal constitution. It was not the least mark of Hamilton's greatness, that, imperious and ambitious as he was, he was yet capable of forgetting egoism in the presence of the supreme need of society. The founding of the University of the State of New York becomes thus a little part of that vaster movement which consolidated the union of the states in the federal constitution.

Act of April 13, 1787. This act is far superior to L'Hommedieu's drafts in point of form. There is a definiteness, a precision of compact utterance, and a simplicity which are wanting in his drafts. The topical order is substantially the same. That the changes were the result of the conferences of parties in the regents there can be no doubt. In the act as well as in the draft of the engrossed bill (no. 388), the preamble alone makes this clear. In L'Hommedieu's drafts there was no preamble, and nowhere any reference to any desire for change on the part of the regents. He began abruptly, after the title "Be it enacted," etc., "that there shall be and hereby is instituted a University within this state." The act as well as the draft (no. 388), begins with a recital of the two laws of 1784 instituting the University, and proceeds: "And whereas, from the representations of the regents of the said University, it appears that there are defects in the constitution of said University," etc. Elsewhere similar reference is made to the initiative of the regents. They must appear as united in desiring reform. And that the reform was not alone the earlier measure of Hamilton, appears from the title as well as the preamble. Hamilton's bill was entitled "An act to render more effectual an act," etc. giving the title of the law of 1784. The preamble of this act reads, that whereas several amendatory acts of a law lead to confusion, "Wherefore, to the end that the constitution of one the said University may be properly amended, and appear entire in law, it will be expedient to delineate and establish the same in this, and repeal all former acts relative thereto — Be it enacted," etc. This was precisely the program of L'Hommedieu. The language is largely that of L'Hommedieu and the

provisions respecting academies are in the main the same as L'Hommedieu's. The greatest difference between this act and L'Hommedieu's drafts are in regard to Columbia and the colleges. A short analysis of this act will be useful.

1 Instead of the prolix title of Hamilton's bill and the clumsy title of L'Hommedieu's bill, the act has the concise title: "An act to institute a University within this state, and for other purposes therein mentioned."

2 The preamble, as indicated, shows its compromise character.

3 The University.

a Its corporate name is "The Regents of the University of the State of New York."

b There are 21 regents, of whom two only, the governor and lieutenant-governor are regents, *ex officio*.

The regents appointed are John Rodgers, Egbert Benson, Philip Schuyler, Ezra L'Hommedieu, Nathan Carr, Peter Sylvester, John Jay, Dirck Romeyn, James Livingston, Ebenezer Russell, Lewis Morris, Matthew Clarkson, Benjamin Moore, Eliardus Westerlo, Andrew King, William Lynn, Jonathan G. Tomkins, John M'Donald, and Frederick William De Steuben.

c Vacancies are to be filled by the legislature in the manner in which delegates to congress are appointed. It will be remembered that this was in the days of the continental congress. The regents therefore stood as the representatives of the state as a whole, and not of any particular section. The same idea is now maintained, in their election in the same manner as senators of the United States. This provision does not appear in L'Hommedieu's draft and may well have been a centralizing amendment of Hamilton.

d Various provisions are made as to the election of officers, calling and conduct of meetings, etc.

e The general powers of the corporation as to holding of property, etc. are substantially those under the former law.

f The regents are "authorized and required to visit and inspect all the colleges, academies and schools, which are or may be established in this state," to make ordinances and by-laws, and to appoint presidents of colleges and principals of academies if the respective institutions fail to do this for an entire year.

g They are empowered to confer all degrees above bachelor or master of arts, which are "usually granted by any university or college in Europe."

h They may apply their funds at their own discretion, except in case of grants made to them charged with an express use.

4 Colleges.

a The regents are authorized to incorporate colleges upon application by citizens or bodies corporate wishing to found colleges under

such conditions as they approve; but such corporations are to have the same corporate rights as Columbia college.

b Columbia college.

1 The original charter of 1754 is confirmed with certain changes — “No persons shall be trustees of the same in virtue of any offices, character and descriptions whatsoever.” L’Hommedieu had proposed the mayor and recorder of New York as *ex officio* trustees.

2 The present trustees are James Duane, Samuel Provost, John H. Livingston, Richard Varick, Alexander Hamilton, John Mason, James Wilson, John Gano, Brockholst Livingston, Robert Harpur, John Daniel Gross, Johann Christoff Kunze, Walter Livingston, Lewis A. Scott, Joseph Delaplaine, Leonard Lisenard, Abraham Beach, John Lawrence, John Rutherford, Morgan Lewis, John Cochran, Gershom Seixas, Charles McKnight, Thomas Jones, Malachi Treat, Samuel Bard, Nicholas Romein, Benjamin Kissam and Ebenezer Crossby. Thus all the faithful Columbia men who had come to her rescue in November, 1784, and had stood by her in the board of regents, attending faithfully the meetings, were rewarded. To make room for the new friends they had gained, they appointed 29 on the first board. It was to be reduced to 24, and kept at that figure.

3 The property and other rights of King’s college under the old charter are to be retained.

5 Academies.

a Upon application by founders or benefactors of academies in any cities or counties of the state, the regents are empowered upon certain conditions to incorporate such academies. In fact they are compelled to grant such charters, if the conditions are complied with, and “they conceive such academy calculated for the promotion of literature.”

b Such incorporated academies are granted the usual corporate powers, their annual income, however, being restricted to the “value of 4000 bushels of wheat.”

c The trustees of the academies are empowered at lawful meetings according to detailed regulations, to appoint and remove officers, teachers, etc., fix their salaries, and make by-laws for the government of the academies.

d Vacancies in the boards of trustees are to be filled by cooptation.

e The regents are to be visitors of such academies.

f Scholars of academies, upon due examination by the president and professors of any college under the visitation of the regents, who shall be found competent are to be admitted to such college. But this privilege is granted only upon condition that the plan of education in such academies is approved by the regents.

g Academies that are sufficiently advanced may be erected into colleges by the regents.

6 General provisions.

a There shall be no religious tests for presidents or professors.

b No professor or tutor in any college or academy shall be a trustee of that institution, and no president or principal, being a trustee, shall have a vote as to his own salary.

c No "trustee, president, principal, tutor, fellow, or other officer of any college or academy, (shall) be a regent of the University." Columbia men had packed the board too much.

The regent of the New York University is thus seen to be absolutely different in character to the regent in English universities. As a corollary to this prohibition the law provides that if any college or academy trustee is elected a regent, or *vice versa*, such person shall make election which position he wishes to occupy.

7 The two former acts are repealed.

The result of this law was two-fold. Theoretically, it lessened the rigor of state control of the system, by emancipating the colleges from the actual government of the regents. Practically, it widened the scope of this state control, by emancipating the regents from the monopolizing control of Columbia. The University immediately began a wide-reaching activity in the incorporation of academies and colleges.

L'Hommedieu's plan of having all the colleges directly dependent upon the state by having their trustees appointed by the legislature was defeated. It was a bold plan and a grand one. But the love of self-government was too strong to allow so radical an innovation. And L'Hommedieu, himself, seems to have been vindictive rather than magnanimous in the proposal, for his same plan left to trustees of academies the right of filling vacancies in their boards. He was the champion of the academies. His proposals concerning these institutions were mainly enacted into law. He was apparently a champion in general of local interests. As first proposed, his scheme would have had a judge of the court of common pleas in every county, and the mayor of every city in the lists of regents *ex officio*. And in the matter of higher education he was the champion of direct political control. Colleges should have on their boards of trustees the mayors of the cities, or the first judge of the counties where these colleges were situated; the rest of the board to be made up by governmental appointment. As the price of carrying through his measures in regard to the academies, he had to concede almost complete autonomy to Columbia, except in the matter of an official inspection by the regents.

The regulations in regard to Columbia must necessarily be the model for future colleges. The idea then of a system of colleges in direct organic connection with the political system of the state was lost, through the narrow zeal of the Columbia men for their college on the one hand, and the equally narrow zeal of the academy men on the

other. But the compromise was a distinct gain, and after a century of quiet, and if desultory, still efficient activity, this great organization stands to-day stronger and more active than ever before, and seemingly upon the eve of wider and more splendid achievements.

The law of 1787 constituted the University upon substantially the same basis as that on which it rests to-day. One effect of the change should be noticed. The idea of county representation upon the board of regents was entirely lost. The regents became the agent of the state, an organ of centralized administration. But this was in a measure offset by the change in the manner of appointment. Instead of appointment by the governor and his council of appointment, the regents were now appointed by the legislature, thus giving a far more popular character to their election. This was probably a concession to the assembly, for there existed in that body, as evinced by Mr Lansing's opposition, a jealousy of a corporation endowed with such high prerogatives as the board of regents.

The personnel of the new board of regents should also be remarked. The old Columbia men, including Hamilton and Duane, were made trustees of Columbia, and ended their connection with this state establishment. When it is remembered that this scheme was arranged in the compromise committee of the regents, it will serve as strong evidence of the party preference of these men in this struggle. While Hamilton and Duane thus remained with the college, Jay and Rodgers, of the Columbia appointees of November, 1784, went over to the new board of regents. There is no surprise at seeing L'Hommedieu still among the regents. The most notable accessions to the board of regents were Philip Schuyler, Hamilton's father-in law, and De Steuben, the sturdy German baron of revolutionary fame.

Hamilton or L'Hommedieu ? For a century it has been assumed that Alexander Hamilton was the founder of the University. The shadow of his great name has lent a cherished dignity to the corporation. J. C. Hamilton calls it, "a bold effort of his genius,"—in his life of Alexander Hamilton. The regents themselves have ever loved to give currency to the tradition. If not Hamilton, who? So great an institution must have had a great father, and hence this corporate *filia nullius* has claimed descent from the prolific brain of Hamilton. What is the source of this tradition? The published works of Hamilton give no clue. They contain nothing of importance touching the University or educational matters in general. Mr Lodge, printing the title of this act in a list of writings attributed formerly to Hamilton, comments thus: "Mr Proctor, the editor of the forthcoming edition of Hammond's political history of New York," has I think shown conclusively that this act was the work of Ezra L'Hommedieu."¹ It was the writer's

¹ Hamilton, Alexander. Works; ed. by H: C. Lodge, v. 9, p. 582.

good fortune to meet Mr Proctor, who is the secretary of the New York state bar association, at Albany, and whose courtesies and valuable suggestions are here gratefully acknowledged. Mr Proctor stated his arguments to the writer, who also read what had been printed by Mr Proctor upon the matter. From the work already done by the writer, he was inclined to be more skeptical than Mr Lodge as to the conclusiveness of Mr Proctor's proof. The matter seemed to demand a more extended and minute research than had been yet given to it. From the facts already detailed, but one conclusion can be reached. The University is not the work of any one man. Whether the whole course of legislation be considered, or only the act of 1787, still it can not be said that any one man has even conceived the whole idea. There is only one man, whose activity from first to last was constant in the construction and reconstruction of the University, and that man is neither Hamilton nor L'Hommedieu, but James Duane, the mayor of New York. He introduced the original bill into the senate in 1784, which was afterward altered in the interest of Columbia. He was an influential regent from the start, and unceasing in his activity. He introduced in the senate the amendatory bill of November, 1784. He was chairman of the committee which, on February 15, 1787, reported a plan of amendment, and he was a member of the final compromise committee of the regents of March 8, 1787. It is not, however, intended here to claim for Duane the whole honor of founding the University. These facts render it impossible, likewise, to attribute this honor chiefly either to Hamilton, or to L'Hommedieu, neither of whom had any connection with the earliest founding, and who have been shown to be merely coworkers with Duane and Jay, and others, in the final reconstruction. At the same time it seems only just to say that upon the final reorganization, the man who stands out most conspicuously for the broader educational ideas which have become dominant in this century, is not Alexander Hamilton, but Ezra L'Hommedieu. Hamilton has been half deified, but we are not bidden to render even unto God the things that are Cæsar's. The University of 1787 was a structure reared by many hands.¹

¹ There is an interesting memoir of James Duane in the documentary history of New York, v. 4, p. 1061. It can not be supposed that a man of Duane's ability would have been a tool in the hands of others in all his activity regarding the University. There may very probably exist among the papers of Duane, if they have been preserved, evidence of the writer's conjecture that to him a large measure of credit is due for the establishment of the University.

CHAPTER 3

AN ERA OF EDUCATIONAL REVOLUTION

The University of the State of New York a revolution.

This survey of the period from the close of the war in 1783, until the definitive establishment of the system of education in New York by the act of 1787, has made very evident the presence of a new spirit and new ideas in the matter of education. The old college had been, in its form and in its activity, an English educational corporation, serving private interests, controlled by private parties, distinctly under ecclesiastical influence, looking to the state only as a means of obtaining occasional pecuniary aid, or extension of privilege, with no consciousness of identification with the political life of the state, or of duties toward the state. For the rest, private academies, elementary parish schools, or chance schools conducted by private masters, professional training acquired on the old plan of educational master and apprentice: such was the condition. New York in 1784 would well exemplify the ideal of Herbert Spencer and his *laissez-faire* disciples. Individual initiative had no rival as a principle of educational enterprise. The state did not venture to usurp private "rights."

Between 1783 and 1787 there was a revolution. An attempt on the part of King's college to capture a movement for the establishment of a University, and thus to revive the old corporation with greater immunities and franchises than before, was met by a popular opposition to corporate encroachment, which ended in leading to Columbia only its own charter, with its government thereunder subject to the inspection and partial control of the state. While the acts of 1784 were primarily in the interest of Columbia, and only secondarily in the interest of the state, yet the movement toward the wider idea steadily grew until, in the act of 1787, the order of procedure was reversed. The University henceforth overshadowed the college and the system became a truly state system, of which Columbia was merely a part.

The policy of the ecclesiasts, to emasculate freedom of thought and to retain direction of education by test-oaths and regulations as to the creed of professors and teachers, was likewise defeated by positive legislative provision.

Not only in these special practical matters had the new idea of popular political rights and duties in education become strong and aggressive, but an idea had impressed itself upon the imagination of the people, of a great educational system, coextensive with the political organization of the state, energized and controlled by the state, to be used for the good of the state. And this idea had taken form in an

organization, which, while it was nominally a private corporation, had yet no private interests to serve, which was so constituted that its controlling members must always be among the foremost men in the state, and whose "franchises, immunities and privileges" were simply the most important functions of a state department of education, and these it was obliged to perform by being made accountable to the legislature which created it. With all this radical innovation, the state claimed no monopoly of education. Complete freedom was left to private individuals to establish schools and colleges independent of the state system. Chairs of divinity of any sect could be freely established in the colleges subject to state control.

The principles of state education in New York were, that there should be a state system; that all who asked the benefits of the state system must submit to state control, and that the state regulations should be such as to permit and to secure the highest possible freedom to individual enterprise, both within and without the state system. Conservative as the founders of the University were by instinct and by tradition, they had yet grasped firmly the principle of the right and duty of state control in educational affairs. While to their conservatism is due the corporate form of the institution, and the fact that it actually included in its scope only the higher and secondary schools, yet it was not many years before the more democratic idea of primary schools for the whole people developed into a fixed policy of the state, and became realized in the state department of public instruction already described.

The Revolutionary idea not English. To one who recognizes continuity in the institutional life of a people, the question naturally suggests itself, "Whence came these new ideas?"

It is plain that they were not English in origin. The corporate form of the system, many details of its government, the leaning to clerical influence — these characteristics may well be considered English. But the adaptation of the machinery to its un-English uses, the new motive power and directive energy and, above all, the idea of a symmetrical state system, freed from ecclesiastical influence — these were all foreign to the English character. The conservatism in the change was English. The progressive elements came from other sources. If any proof of this proposition is needed it is readily furnished by the

Contrast between the University and the English universities. It is commonly said that Oxford and Cambridge furnished the models for the University of the State of New York. Oxford and Cambridge were groups of colleges associated in one great whole, called the University. Such it is true was also the University of the State of New York, and there can be little doubt that the English university organization was the structural idea at the basis of the New York plan. But beyond this there is no real analogy. All the colleges of the Eng-

lish university were situated in one town. The natural application of the English idea to New York at that time would have been to establish a university at New York city, where alone there was much demand for colleges, leaving to the future the development of similar institutions in other parts of the state. Again, the English university was a great self-governing institution with jurisdiction and legislative control over territory; it was a corporation such as a chartered town, it had feudal immunities, it was a *regnum in regno*. The New York University, although a corporation with chartered rights, was yet a branch of the state government, created by the legislature, its membership maintained by the legislature, accountable to the legislature. If some special administrative committee of the privy council in England had been granted a corporate form, its duties and responsibilities remaining the same as before — this would have furnished an analogy to the University in New York. "It had duties, not rights, in relation to the state."¹ And this unique state department was adapted with such prophetic skill to the future growth of the state, that, from 1787 until the present day, it has expanded naturally, without essential change, to meet every need of the state, and has become the inspiration of somewhat similar systems in other states and countries. In this character of practical adjustment to new needs, it may be granted, the English spirit is indeed apparent.

Again, federation is the principle of union in the English university system. Mr Bryce, in an appendix to his work on the *American commonwealth*, draws a remarkable parallel between the federative system of English university government before their late reconstruction, and the government of the federal union of the United States. But federation did not describe at all the government of the New York colleges in the University. They were not represented in the board of regents. They governed themselves except for the supervision of the University, and this supervision was the authority of the state proceeding outward from its center. The mild government which is exercised by the regents is imperial in its character.

New York created a new personage under the name of "regent." This term seems to have been first used in the old University of Paris. It signified a master, who by his very character of master was qualified to teach. The name passed over to the English universities. A rule grew up that only those masters actually teaching, the "regents" as distinguished from the non-regents, should have a right to vote in certain university assemblies. In the Oxford convocation and the Cambridge senate both regents and non-regents voted. The regent then combined the functions of teaching and governing. At Oxford by the *Laudian*

¹ Buisson, M. L'enseignement supérieur aux États-unis. (Revue internationale de l'enseignement, Oct. 15, 1886).

statutes of 1636, the government was practically put into the hands of the heads of colleges, and the colleges likewise in Cambridge acquired a larger control. New York seized the old officer and name and put them to a new use. The regents became the governing and not the teaching body. The teaching and governing functions became entirely distinct. This use of "regents" has been copied by Michigan, and generally by the state universities in the west.

Revolutionary idea in New York before 1784. If the new revolutionary ideas wrought out in the founding of the University are not of direct English origin, they were at least partly indigenous to New York soil, and indirectly English. We have seen the idea of state education struggling to the light in the laws of 1702 and 1732 for the establishment of grammar schools. But it is specially in connection with the founding of King's college that the new idea came most strongly into view. The many nationalities and religious sects in the colony tended to produce jealousy of any domination by a particular national or sectional element.

"An act for vesting in trustees, the sum of £3443, 18s, raised by way of lottery, for erecting a college within this colony,"¹ passed November 25, 1751, appointed 10 trustees for the fund. The members of the church of England predominated however, and Trinity church proposed to grant the college the use of land for its buildings. William Livingston, a presbyterian and a graduate of Yale, a cultured and able lawyer, a writer of sprightly verse and vigorous prose, afterwards governor of New Jersey, led a determined crusade against the plan of procuring a royal charter for the college. He was afraid of the influence of the English church, since that church so largely controlled the movement. His articles, published in the *Independent reflector*² in 1753, speak, with all the fervor and passion of the French writers of that period, about the divinity of "reason" and the curse of ecclesiasticism. This William Livingston was spoken of by President Timothy Dwight as a man of most versatile ability. He was nicknamed the "Don Quixote of the Jerseys." He was delegate from New Jersey to the constitutional convention of 1787. Henry Brockholst Livingston, one of the regents, was his son, and John Jay married his eldest daughter. He was a cousin of Chancellor Robert R. Livingston.

The germ of the whole modern reform in education is contained in his arguments. This brilliant man represents at once the movement for positive knowledge of practical value, and for civil as against ecclesiastical control in education. "This, therefore, I will venture to lay down for a capital maxim, that unless the education we propose, be calculated to render our youth better members of society, and useful to the public

¹ Pratt's Annals (see Conv. proc. 1873, p. 191).

² These articles are printed in Pratt's Annals (see Conv. proc. 1873, p. 194-234).

in proportion to its expense, we had better be without it." Education, he claims, "is to improve their (the youth) hearts and understandings, to infuse a public spirit and love of their country; to inspire them with the principles of honor and probity, with a fervent zeal for liberty, and a diffusive benevolence for mankind; and in a word, to make them the more extensively serviceable to the commonwealth."¹ He refers to Plato, Aristotle and Lycurgus as making "the education of youth the principal and most essential duty of the magistrate." It is thus to the old Hellenistic spirit that the modern world is ultimately indebted for the new education, an education which strives to be free from traditional bondage of every sort, which is organized upon state rather than church foundations, and which seeks a knowledge practical rather than scholastic.

It is interesting to compare Livingston's words with what Montesquieu has said: "Political virtue, or virtue proper in a republic," writes Montesquieu, "is the love of country and of equality. It is in a republican government, that the whole power of education is needed, for all depends upon the establishment of this political virtue, this love of the laws and of the country, this love which demands an habitual preferment of the public weal to one's own interest and which is the source of all special virtues, for they are all nothing but this preferment."² And the Frenchman, like the American, mounts to Greek sources for his doctrine.

Livingston has harsh words for the old colleges. "Freedom of thought rarely penetrates those contracted mansions of systematical learning." They are the source of "those voluminous compositions, and that learned lumber of gloomy pedants, which has so long infested and corrupted the world."³ The proposed college, he claims, is to be a "public academy," and "a public academy is, or ought to be a mere civil institution, and can not with any tolerable propriety be monopolized by any religious sect." His plan for the charter and government of the proposed college contains several provisions which, while ignored in King's college as established, were triumphant in the organization of the University. Several features of his plan resemble strongly the French schemes of the next decade which we shall presently notice.

1 He argues against a royal charter as being subject to the caprice of one man's will to change or repeal.

2 "Societies have an indisputable right to direct the education of their youthful members." He bases this proposition upon the social nature of man, and the obligations of civil government. "Sensible of this," says he, "was the Spartan lawgiver, who claimed the education

¹ Independent reflector, no. 13, March 23, 1753.

² *Esprit des lois*, v. 4, ch. 5.

³ Independent reflector, no. 17.

of the Lacedæmonian youth, as the inalienable right of the commonwealth."

3 He claims that, therefore, the "legislatures are the lawful guardians" of the college, and that it should be incorporated by "act of assembly," and "be under the inspection of the civil authority." He urges that private contributions will be inadequate to erect a University which would "arrive at any considerable degree of grandeur or utility. The expense attending the first erection, and continual support of so great a work, requires the united aid of the public." If thus supported by the public, it ought to be created and superintended by the legislature.

4 The advantages from such an institution are general and for the public good, and should be the public care. He asks: "Are the rise of arts, the improvement of husbandry, the increase of trade, the advancement of knowledge in law, physic, morality, policy and the rules of justice and civil government subjects beneath the attention of our legislature?"

5 He claims that the public control would prevent both domination by any sect or party and corruption in the officials, and that larger private donations may be expected than if the college were under royal control.

6 He would have no establishment of any particular religious profession in the college. No protestant was to be disqualified on account of his religious persuasion, from sustaining any office in the college. There was to be no chair of divinity.

7 "All the trustees are to be nominated, appointed and incorporated by the act and, whenever an avoidance among them shall happen, the same (shall) be reported by the corporation to the next sessions of assembly, and such vacancy supplied by legislative act." The governor, the council and the general assembly are all to concur in these elections.

8 The election and deposition of the president by the trustees are to require legislative confirmation to be valid. "By this means, the president, who will have the supreme superintendency of the education of our youth, will be kept in a continual and ultimate dependence upon the public."

9 The by-laws made by the president and trustees are also to require legislative approval to be valid.

10 He would have the "Act of incorporation contain as many rules and directions for the government of the college as can be foreseen to be necessary." The object of this is to preserve the "guardianship of the legislature," and prevent "arbitrary domination in the college." He would give inferior officers and students an action at law for every injury against their rights.

Here is seen the spirit of the American revolution, the resistance to arbitrary power; the passion for self-government.

11 He proposes the establishing by act of legislature of "two government schools in every county," their "guardians" to be annually elected by the people of the county, and the expense of their maintenance to be a county charge. This is one of the most remarkable features of his scheme. He conceives it to be necessary in order to secure the success of the college. They would be accessible to the young men in every part of the colony and would become feeding schools for the college. But it is their public character which most draws our attention. He was a century in advance of the legislature of his state, in his ideas, nor have we indeed yet advanced so far as his plan.

Unless his plan for the college is carried out he fears it may "prove a perpetual spring of public misery—a cage, as the Scripture speaks, of every unclean bird—the nursery of bigotry and superstition—an engine of persecution, slavery and oppression—a fountain whose putrid and infectious streams will overflow the land, and poison all our enjoyments."

After developing his plan he issued, in number 22 of the *Independent reflector*, an address to the "inhabitants of the province," full of grandiose invocation to the "Genius of liberty," the "Awful name of reason" and the "Spirit of patriotism." "When shall we have one interest" he exclaims, "and that interest the common good." He is fearful lest "this precious and never-to-be surrendered equality will be destroyed." He pleads: "let us, therefore, strive to have the college founded on an ample, a generous, an universal plan. Let not the seat of literature, the abode of the muses, and the nurse of science, be transformed into a cloister of bigots, an habitation of superstition, a nursery of ghostly tyranny, a school of rabbinical jargon." "The legislature alone should have the direction of so important an establishment," he continues, "in their hands it is safer, incomparably safer, than in those of a party, who will instantly discern a thirst for dominion and lord it over the rest." His proposals and his address were in vain. The college received the royal charter. But the history which we have traced of the attempt to found the University 30 years later, was a fulfilment of his prophecy. It was the "thirst for dominion" of this same corporation which nearly succeeded in wrecking the movement for a University upon a broad civil foundation. The fervid language of Livingston grates upon our ears to-day, but the chief practical features of his plan, won a triumph in the final establishment of the University. The controversy over the founding of King's college foreshadowed the later controversy over the founding of the University. It is impossible not to conjecture that the founders of the University studied the plans of Governor Livingston.

Era of educational revolution in America, 1776-89. But the current of revolution in education which produced the University in New York had wider sources than the broadsides of the versatile governor of New Jersey. It needs but a glance at the history of the United States, from the declaration of independence till the organization of the federal government, to show as complete a revolution in educational ideas and plans as in political institutions. Everywhere throughout the new states, even during the turmoil and struggle of the war and the equally momentous turmoil and struggle of the reconstruction period, we see the new consciousness of political freedom and self-government expressing itself in efforts toward a system of education, free from the domination of old traditions, political and ecclesiastical. Nowhere is this tendency more apparent than in the provisions of some of the new state constitutions.

Georgia. The constitution of Georgia adopted in 1777, provides that "schools shall be erected in each county and supported at the general expense of the state, as the legislature shall hereafter point out." This was followed up by the legislature, which passed in 1783 an act, authorizing the governor to grant 1,000 acres of vacant land for the establishment of free county schools.¹

The message of the governor of Georgia to the legislature in July 1783, urging the establishment of seminaries of learning, suggests a doubt as to the originality of Governor Clinton in his similar message of January 1784. The University of Georgia, founded in 1785, with its general supervision over the literary interests of the state, and including within its organization all the public schools of the state,² may well have been suggested by the plan of the New York University. The same liberal spirit in religious matters is evident here.

North Carolina. The constitution of North Carolina, adopted in 1776, renders all clergymen incapable of sitting in any branch of the state legislature, and forbids any established church. It provides: "That a school or schools shall be established by the legislature for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices; and all useful learning shall be duly encouraged or promoted in one or more universities."³ In 1789, the University of North Carolina was established. Its trustees are appointees of the government. In its incorporation the duty of the state to provide for the education of the young is

¹ Poore's charters, 1: 383.

² Jones, C: E. Education in Georgia (*see* Bureau of education, circular of information, no. 4, 1888).

³ Jones. Education in Georgia, p. 40-43.

⁴ Poore's charter, 2: 1413-14.

recognized. North Carolina had made many attempts to establish semi-public schools before the revolution.¹

Pennsylvania. The Pennsylvania constitution of 1776,² adopted a few months earlier than that of North Carolina, contains, verbatim, the same provision in regard to the establishment of schools and universities, except that a more direct political idea is seen in the fact that these schools are to be "in each county." Pennsylvania from the beginning has recognized to some extent the state idea in education. This idea is contained in Penn's charter. Penn himself displayed some activity in this direction, and his grammar school founded in 1689 was a quasi-public institution. Benjamin Franklin in 1749 propounded a scheme for an academy, with a system of elementary schools. This led to the establishment, a few years later, of an academy, which soon became a college, and grew eventually into the University of Pennsylvania. This institution was founded in 1779, in the very midst of the war.³ After the war the state activity in education vastly increased.

Massachusetts. Massachusetts was begun in revolt against the domination of the church. The Plymouth colony brought ideas of public schools from Holland. The board of overseers of Harvard college was practically a public board of control. In fact it had some resemblance to the first board of regents in New York, except that it had control only over the single foundation, whereas the New York idea contemplated an organized system of educational institutions throughout the entire state. The educational revolution in Massachusetts may be said to have begun with the very founding of the colonies.

Virginia. The most notable of all these plans for an educational revolution was that of Thomas Jefferson. In 1776, as he tells in his autobiography, he conceived the idea that the whole code of Virginia must be reviewed and adapted "to our republican form of government." He proposed a bill to revise the laws and was appointed on a committee with four others, charged with this duty. In 1779 they presented their plan to the general assembly. Four bills especially were regarded by Jefferson, "as forming a system by which every fiber would be eradicated of ancient or future aristocracy; and a foundation laid for a government truly republican." These four bills were: for the repeal of the laws of entail; for the abolition of primogeniture; for establishing religious freedom; and for a general system of education. This last measure was the work of Jefferson himself. His "systematical plan of general education" is described by him as being proposed in three bills.

¹ Smith, C. L. History of education in North Carolina (see Bureau of education, circular of information, no. 2, 1888).

² Poore's charters, 2: 1547.

³ Blackmar, F. W. History of federal and state aid to higher education (see Bureau of education, circular of information, no. 1, 1890).

“(1) Elementary schools for all children generally, rich and poor. (2) Colleges for a middle degree of instruction, calculated for the common purposes of life, and such as would be desirable for all who were in easy circumstances, and (3) an ultimate grade for teaching the sciences generally, and in their highest degree.” There was to be a subdivision of the state into “hundreds or wards” in each of which should be an elementary school. He provided also for another subdivision into 24 districts, with a college in each. William and Mary college was to be enlarged in its scope, and made into a university. The schools were to be supported by tax.

Popular opposition to William and Mary college, which was a Church of England institution, defeated Jefferson's whole plan, and thus delayed the educational progress of the state several generations. But the plan stands as one of the greatest ideas of this philosophical statesman. It bears comparison with the plans of Turgot and his predecessors, with those of Mirabeau, Talleyrand, Condorcet and Napoleon, and with the great system of New York which Jefferson himself pointed to in 1820 as putting to shame his tardy state.¹ Jefferson, likewise, dreamed, as did Washington, of a national university, which should stand for the united people, and represent the national life.

Political revolution and educational revolution. It is significant that the same man who strove to disestablish the English church in Virginia, proposed also this great plan for public education. There is a real connection between these facts. Enough has been said to show how general among the colonies was the new idea of state education, accompanying the political revolution. In the colonies, as in Europe, education had been regarded as the peculiar care of the church. It was the concern of the state only as the church was allied to the state. Nothing shows more clearly than the early educational enterprises in Virginia, how the whole spring and scope of education was religious, ecclesiastical. It was such motives as the “training of the youth in piety and virtue,” the providing of a “seminary of ministers of the Gospel,” the “educating of infidel children in the true knowledge of God,” which led the colonists generally to establish schools. Before the middle of the 18th century, few and feeble were the steps taken in America toward that fair old Platonic ideal, of an education by the state and for the

¹ An exhaustive account of Jefferson's activity in the development of state education is given by Dr H. B. Adams in two of the monographs published by the Bureau of Education: “The College of William and Mary,” circular no. 1, 1887; and “Thomas Jefferson and the University of Virginia,” circular no. 1, 1888. A collection of documents relating to public education in Virginia was published at Richmond in 1817. This book contains Jefferson's first bill of 1779, which provided for elementary schools and colleges or grammar schools. It also has a letter from Jefferson to Peter Carr, written in 1814, detailing a similar plan. The volume has various other important documents relating to this subject.

state. It was the revival in the latter half of the last century of the Greek state-idea, as against the Romish church-idea, which has led to the educational systems of our day. Against the idea of authority is opposed the idea of liberty. But the Americans did not discover or invent liberty. While in the essay of John Locke on education, he does not advocate state activity, yet there is latent, in the sensational psychology which he represents, the spirit of freedom of thought, and hence the spirit of war against ecclesiastical control. A church may perhaps dictate a man's intuitions; but no church can dictate the impressions which things make upon sense. Revolt against ecclesiasticism would naturally lead, in educational matters, to a substitution of the state for the church.

There is another reason why upon acquiring independence, the American states founded public schools. Colonial governments founded on charters were in the nature of corporations. Some of these charters provide for the establishment of schools and churches. With the growth of colonial independence, with the transition from the consciousness of a corporate existence and activity to the consciousness of a political sovereignty, the idea of state education would be a natural one. The care of education, which had been a duty imposed upon the corporation of the royal charter, became with the growth of self-government, a right, no less than a duty, in the state. This explains the appearance, in some of the colonies, of institutions partly supported and partly controlled by the colony. With complete independence would come the thought of complete state education. And here again it is necessary to pay tribute to John Locke. The English philosophy of political freedom, so well represented in him, had taken deep root in all the colonies. His second essay on government, in which he defended the revolution of 1688, contains much of the very language of the declaration of independence and of other political writings in the colonies, assertive of their civil and religious rights. Locke indeed went further than they. His attempted defense of private property, as resting on the rights of labor, is the very basis of the socialistic philosophy of this century.

Educational revolution in Europe. But the direct influence upon the colonists of the philosophy of Locke can not account for the whole revolt, for its depth and its intensity, and especially for the idealistic element; the dream of empire, the symmetry of plan, the centralizing tendency. The educational development, in New York and generally throughout the states, has been toward centralization, not federation, as a principle of union. If we turn our eyes to continental Europe during this period, we shall see that the educational revolution was not merely American, but international. Frederick the Great was planning a systematic and centralized organization of education for the Prussian state, which he had been laboriously building up during his long reign

from 1740 to 1786. Even Catherine of Russia was devising a new university for her realm. In Austria, Maria Theresa had well nigh wrested the schools from the control of the church, and had expelled the Jesuits. She began the reforms, which her son Joseph 2 wrought out during that very decade which saw the establishment of the University of the State of New York. This idealistic and revolutionary ruler established, between 1780 and 1790, an ideal organization of education — a gradation of state institutions, rising from elementary schools in the smallest districts, through gymnasia and lyceums to the University. There were, besides, normal and industrial schools, and a thorough system of state inspection.¹

France, the nursery of the educational revolution. It is not, however, to Prussia or to Austria that we must look for the inspiration of the new educational ideas; but to France, to idealistic France, to the France of the encyclopedia and the revolution. The three essential ideas in 19th century education are: freedom of thought, state control and a centralized form of organization. It is Athens and Sparta and Rome brought back. It is to the French philosophers of the last century that we owe this Greek revival, and it is to French administration that we owe the revival of the imperial organization of old Rome. It was the methods of French absolutism which taught the early Prussian rulers the philosophy of centralization, and perhaps the highest justification of Frederick's title of "Great" was his capacity to appropriate and assimilate French ideas and French culture. Stein was a disciple of Turgot. Joseph of Austria was an ardent follower of the French encyclopedists. His adviser in educational matters, Gottfried von Swieten, by whose aid his reforms were planned, was steeped in the new French philosophy. Catherine of Russia applied to Diderot, the creator of the encyclopedia, for a plan for her proposed university. This plan, written in 1774, contains in outline the features of the reformed education.²

The medieval University of Paris was the model and parent of the chief universities in Germany and Great Britain. From the beginning, this university was undemocratic, with a tendency to centralization. But this spirit of centralization grew more rapidly in Paris than in Germany, England or Scotland.³ The edict of Blois in 1579 proposed an organization, into one system, of all the universities of France — an idea which became realized in Napoleon's University of France in 1808. In England, on the contrary, the colleges grew to govern the university.⁴

¹ Schmid. *Encyclopædie des Erziehungswesens*, *art.* Maria Theresa, Joseph 2, Oesterreich.

² Diderot. *Oeuvres completes* (Tourneaux, 1876-77), vol. 2 and 3.

³ *Encyclopædia Britannica*, *art.* University (Mullinger).

⁴ Hamilton, Sir William. *Essays. University and colleges*. Printed in part in Barnard's *American journal of education*, v. 21, p. 409.

Before the colonization of America, the government of the English university was largely decentralized. But France strove to apply to education, as to all parts of the social organization, the imperial idea of Rome. It is, however, in the secularization of learning and the revival of state education, that France has achieved the most signal triumph.

In 1762, the Jesuits, who had previously controlled education were expelled. From this time, until Napoleon established his new university in 1808, it was a period of ferment and revolution in educational matters. The educational revolution in France preceded the political revolution.

La Chalotais was one of the chief promoters of the expulsion of the Jesuits. The following year he addressed to the parliament a memorial, entitled, "Essay on national education or a plan of study for youth." It was translated into Dutch, Russian and German, and gained a wide popularity. The system he urged was one of thorough, all round training for practical ends. The state ought to give to each person that education which was best suited to him. Men would be trained to become able servants of the state. "The children of the state ought to be taught by the state." A civil education should be substituted for the ecclesiastical education they had abolished. He goes back to Greece and Rome for his ideas.¹

Rolland d'Erceville was president of the parliament which expelled the Jesuits. He was a persistent enemy of the order and earnest in his efforts to build up a new national system. His report to the parliament of Paris in 1768 contains a memorable plan for a national system of education. His great idea was to have the teaching bodies, the colleges, subject to the visitation and control, not of the bishops and clergy as heretofore, but of a "Bureau of correspondence," which was to be a branch of the secular government. The idea was precisely that which found practical form in the organization of the University of the State of New York. Both these men were followers of Rousseau, who exalted nature as the great teacher. "Natural liberty," "natural rights," were the watchwords of the party. Diderot and the encyclopedists, generally, were of the same school of thought. It was a great revolt of the human mind against the principle of arbitrary authority — a revolt that extended to every department of man's activity. The natural sciences, positive knowledge, were exalted as against scholastic dogmatism. It was the theory of freedom and equality in the state, of religious tolerance, of sense as the source of knowledge. Again we turn to Locke as the immediate source of this movement. It was Locke who inspired Rousseau. But France was more priest-ridden than England

¹ The writer regrets that he has not been able to see this work, nor the report of Rolland to be next mentioned. He has relied on Buisson's *Dictionnaire de pédagogie*, and other accounts of these two writers.

and carried the doctrines to a feverish culmination. Conspicuous amid the crowd of writers who tried to bring order out of the chaos into which education in France had been thrown, stands Turgot, the great minister of state, who, while true to the new ideas, yet tried to revolutionize without destruction. It is interesting to contrast the educational theories of Adam Smith and Turgot, personal friends, and alike in much of their economic theory. Smith in 1776 published his *Wealth of Nations*, in which he advocates private enterprise as the one principle of education, except that he would have governmental activity to some extent in the primary schools. In 1775, Turgot addressed to the king a *Memorial on the government of nations*.¹ In this work Turgot sought to show a way of rescue from the disasters that were threatening the nation. He finds the cause of the evil in the lack of order and of union in the social organization. The feeling of a common interest must be made evident. "Individuals must be attached to their families, families to their villages or cities, the cities or villages to their arrondissements, the arrondissements to the provinces and the provinces to the state." The means by which he proposes to bring about this social harmony, is a national system of education. There should be a "Council of national instruction," which should have control over all the "academies, the universities, the colleges and the primary schools." It is a plan as socialistic in its character as that of Adam Smith is individualistic. These two men represent well the national differences in educational theory at that time. We can not here pursue this subject further. When the revolution came, the question of education was one of the most prominent in the legislative bodies. Mirabeau, Talleyrand and Condorcet and others presented reports and plans upon the subject of a national education. Ever since 1762 France had been flooded with writings upon the organization of education. The attempt by the civil authority to manage the schools failed for want of competent instructors, and the clergy partially regained control.

In the drastic demolition of the revolution, the old university and existing schools were swept away. There was chaos until the administrative genius of Napoleon created the University of France, the resurrection of the old imperial methods; but more symmetrical and scientific. The plans, multitudinous as they were from 1762 to 1808, were substantially of one type, a centralized organization, a graded system of instruction, primary schools in every commune for all children, lyceums in the larger divisions, colleges in the departments, a great university at Paris, a hierarchy of secular teachers to replace the hierarchy of the teaching orders. The state was to be the "all in all" of

¹ Turgot. *Mémoire au Roi, sur les municipalités, sur la hiérarchie qu'on pourrait établir entre elles, et sur les services que le gouvernement en pourrait tirer* (see his *Oeuvres*. Paris, 1884. vol. 2, p. 502).

the system. Education was to be universal, compulsory and gratuitous. This educational despotism was taught with fervor by the revolutionists.

Nothing is more striking in this great mass of writings, than the revival of Greek ideas of education. The education is to be complete, physical, mental and in the political virtues. It is an education for the state. In the reaction against clericalism, the state is enthroned. Society takes the place of the church; nature, the place of God. It is Greek, through and through. Rousseau and others consciously follow Plato. In one plan it is even proposed to revive the Spartan training. We have seen how Franklin and William Livingston and Jefferson had planned in the same way. It was a period of general emancipation. No doubt it was partly spontaneous in Germany, in Austria and in America as well as in France. But new ideas fly far and fast. They do not respect national boundaries. The educational revolution of the last century was but a part of the same awakening to new life, which found expression in political revolution and in the growth of science. It was the dawning of the new age, the second and the greater renaissance, the return of the 19th century to classic Greece. And while the spirit was at work elsewhere, it was in the France of the latter half of the 18th century, that we find the real nursery of the new educational ideas and systems. Thence they were transplanted into Prussia and Austria, and, in this generation, into England. If Italy was the home of the earlier revival of learning, this later stream of humanism flowed from France.

In Italy, where the renaissance began, the organization of universities was democratic and the learning was secular. The University of Paris, centralized in its government and theological in its teaching, became conservative and obstructive to progress. And in the 18th century, it was a democratic and secular impulse which wrought the later renaissance in France. But this new movement was a revolt, not against organization, but against the controlling forces. The French republican dreamers constructed systems of centralized education. The 19th century thus learns from France a new doctrine in government—an imperial organization, energized by popular freedom; a centralized administration, exercised by the people themselves; an imperial democracy; a democratic socialism. University and state alike are learning this doctrine. An organization truly democratic is anarchy. An imperial organization, with the imperium in the hands of the people, makes democracy a reality.¹

It is popular to-day to attribute the new education to Prussia; since but yesterday, Prussia has humiliated France. But Prussia did not establish her state system till 1794, after the French plans had been

¹ Some of the western states are carrying this doctrine further than New York, and the regents of the university are elected directly by the people.

spread throughout Europe and America, and after state systems of education had been actually established in America. There is scarcely a feature in the educational reforms of this century which was not planned and proposed in revolutionary France. It must be frankly admitted that Germany has built and consolidated her systems upon such firm foundations that they are now models for the world. But it is France whose ideas are here wrought into German life. This second Greece has led her captives captive, like the first. The German Empire, like a second Rome, has despoiled her intellectual benefactor. Upon cultured France has been laid the vicarious punishment for the barbaric dullness of Teutonic Europe. It is the French intellect which in art, in the scientific spirit, in political philosophy, in progressive thought, has saved European civilization to the world.

Debt of New York to France. The two great Americans most conspicuously in sympathy with the French philosophy of their day, Franklin and Jefferson, both had planned systems of education quite after the French pattern. The constitution of New York, promulgated in 1777, solemn and formal document that it is, in the language with which it forbids to priests and clergy civil and military office and declares for freedom of thought in religious matters, shows the mixture of French Jacobinism in the thought of the new state. The first regents turn instinctively to France for aid. French sympathy and French alliance brought to America more than soldiers and money. Against absolutist, Jesuitical France, spreading from Canada, the colonies fought side by side with England in the seven years war. But the defeat of absolutist, Jesuitical France by external foes, was followed by the defeat of the absolutist, Jesuitical element within France by the rising spirit of democracy. And this spirit, the new world shared with France. It was the gift of the English revolution of 1688 to them both. And from the close of the seven years war there was a growing interchange of thought and fraternal feeling between France and America. From the similarity between the French plans for national education, and the plans and systems of the states after our rebellion against England, there can be no doubt that the French schemes had been studied in America. The war had brought into close contact the leading men of every state. There was quick exchange of ideas upon questions of public policy. Franklin and Cadwallader Colden, the colonial governor of New York, corresponded upon educational matters. John Jay returned from Paris to New York in the summer of 1784. He and Franklin had been close companions at Passy. Jay wrote from Paris that he thought his countrymen had too high an estimate of institutions in France, and advised the education of American youth in America. After his return he took a conspicuous part in the reorganization of the University, and eventually went over to the more demo-

cratic party in that struggle. The new University was undeniably broader, more dominated by the new spirit, more truly a state institution than had been the University of 1784. In the constitutional convention of 1787 plans for a national university were mooted. These facts are but instances of those phenomena, occurring at the same time both in France and in America, which by their evident similarity create the strongest presumption of a reciprocal influence of the two countries upon each other in the progress of educational reform. And the weight of evidence goes to show that before the formation of our national government in 1789, the source of the new ideas was French, rather than American; while, after the outbreak of the French revolution in 1789, the current runs from America to France. But that New York is greatly indebted to France for the idealistic element in her University, there is one point of evidence which comes near to definite proof. The chevalier Quesnay de Beaurepaire, a grandson of the great French economist Quesnay, after a year of service in the American army, left the army in 1778 on account of ill health and took up the occupation of teaching. He became acquainted with the chief men in America. He was a true Frenchman, filled with the large revolutionary ideals of that age, and conceived a plan for a great academy at Richmond, which should overstep the national boundaries and make science and learning international. Dr Adams, in his monograph on *Thomas Jefferson and the University of Virginia*, has described this project so vividly and so fully that it is not necessary here to enlarge upon it. It was called "The Academy of Science and Letters of the United States of America," and was to be at Richmond. The "academy" consisted of the president, six councillors, a treasurer, secretary and assistant secretary, a vice-president agent for European shareholders, the professors, teachers, and chief artists, 25 resident associates and 75 foreign associates. The academy at Richmond was to found similar academies at Baltimore, Philadelphia and New York, the members of these academies to be members likewise of the academy at Richmond. The president, officers and councillors formed the "council of administration," which had charge of the actual working of the schools. A "committee of correspondence" was formed at Paris, which was charged with the international work of the academy, such as correspondence with foreign societies. The corner stone of the academy building was laid at Richmond, June 24, 1786. Previously to this the founder had visited nearly every part of the country, endeavoring to interest the most prominent men of the different states in his scheme. A letter written by Mrs Bache, the daughter of Franklin, to her father, then in Paris, showed the spirit in which the project was regarded. The letter is dated at Philadelphia, February 27, 1783. Mrs Bache says: "With this letter you will receive a project for a French academy which is go-

ing to be erected here. The plan is a very extensive one and will be a great honor both to its projector and to America. If it can be carried out, it will not interfere in the least with the work of the colleges, but will be designed to complete the education of young men after they have left the college." She urges Dr Franklin to secure pecuniary aid, if possible, for "money alone is wanting."¹

Between this date and the founding of the academy in 1786, Quesnay visited New York. Whether his visit occurred before or after the University acts of 1784 can not be determined. The probability is, that it was after that date, so short was the time between the evacuation of New York by the British and this legislation.

He gives in the volume just quoted from, the history of which is told by Dr Adams, the list of the men at New York whose approval and support he gained. They are Governor Clinton, Mayor Duane, General Baron de Steuben ("the first in this state to adopt my project"), General Cortland, (a son of the lieutenant-governor, regent *ex officio*) Colonel Bland, Dr Cochran, the families Livingston, Hoffinan, Hallet and some others. The men whom this Frenchman impressed with his great scheme — his "Universal academy" — as he thinks it might be called, are the very men who were then considering and debating the problem of a great system of education for the state. It is no longer a wonder that these reformers of education in New York form large ideals. The quickening influences of the French imagination, which always over-leaps its power of accomplishment, had only a beneficent and fruitful action upon the conservative and practical leaders in New York. It is significant that among the regents of the University, as reorganized in 1787 upon its broader and truly state basis, the name of Baron de Steuben appears. Unfortunately it seems impossible to trace what influence this man, the first in New York to approve the plan of Quesnay, had upon the legislation of 1787. Quesnay's project was not a cracked-brain scheme. It was indorsed by the Royal Academy of sciences at Paris. The Royal Academy of painting and sculpture used these words of approval: "We admire the active constancy of M. le Chevalier Quesnay for this establishment. And no less do we admire the zeal of the United States of America in forming the project. This zeal is a eulogy upon the intellect, the character and the great views of that republic, which since its birth, has shown itself so interesting in all respects."² Among the councillors of the committee of correspondence is found the name of Fourcroy, who became the adviser of Napoleon in the establishment of his university. Condorcet, whose plan for a national system of educa-

¹ Quesnay de Beaurepaire, chevalier. Mémoire, statuts et prospectus, concernant L'Académie des sciences et beaux-arts des États-Unis de l'Amérique, établie à Richemond. Paris, 1788.

² Mémoire, p. 14.



tion contains nearly every measure of reform which the world has since adopted, was one of the foreign associates; as were likewise Lafayette, Jefferson (then minister at Paris), and Luzerne, the French minister at New York to whom the regents had applied for aid. Quesnay does not seem to have been able to secure Hamilton's approval. But many American names of the highest eminence honor his plan. And this close relation between the thinkers of France and America bore fruit in the influence which American institutions have exercised upon France. The similarity which Napoleon's university of 1808 bore to the New York University of 1787, may not be a mere coincidence when it is seen that Condorcet and Fourcroy were thus early aware of what was being done in America for education. And Talleyrand's intimacy with Hamilton on his visit to America may not have been without effect upon the reconstruction of French education. If France may claim to have given to New York the ideal of a symmetrical state system of secular learning, New York may claim to have given to France the practical form of such a system, in its great all-inclusive university corporation.

The American state university. The survey of the historical origin of the New York University is now complete. It was the work of no one man, of no one tendency. The whole of the colonial history of New York is a history of the growth of ideas and institutions which led to the establishment of the University. The Dutch brought the idea of free public schools for elementary teaching, but it was the idea of joint clerical and civil control. The higher learning was fostered after the English gained control. The French Huguenot refugees brought a spirit which readily united with the democratic elements among the Dutch and English. By the beginning of the 18th century the secular spirit was already opposing the spirit of the propagandist society, and the seeds of revolution were scattered throughout the colony by the English revolution and the writings of John Locke. The whig and tory struggle was known in New York as in England. In 1702, and again in 1732, attempts were made toward a civil educational institution, and in 1753, Livingston waged a fierce war against ecclesiastical and royalist domination in the proposed college. Already the political and educational revolutions were begun. At the same time the psychology and political philosophy of Locke were awakening the voices of the same two-fold revolution in France, and the French philosophers flooded the world with the doctrine of the new civil education. While France was debating, New York was acting. The French ideas of secular education, of state control, of centralized administration, New York seized firmly. But, trained in English law, the New York leaders did not care so much for symmetry and ideal completeness, as for an organization which would conserve what was good in the past and would expand to meet the needs of the future. The French plans lost sight

of the individual. Their systems would have been socialistic. But individualism was dominant in New York. It was not until 1867 that the people of New York gave in finally to the idea of compulsory, universal, gratuitous instruction in the primary schools. This had been decreed by France in 1791.

The University of the State of New York was a marvellous compromise between the new and the old ideas. It conserved to the full, advantages of individual initiative, while yet extending the benefits of system, of harmony, of coworking in the various members of the educational body, and of organic connection with state life. It was neither English nor French. It was the American university, and as such its idea has largely given the impetus to the development of state educational systems in the west. Wherever the "state university" is governed by a body of regents, who have no teaching functions, and who are appointed by the political authority, and are accountable to the people in their political capacity, there is found the influence of this unique political invention, "the University of the State of New York."

CHAPTER 4

A CENTURY OF UNIVERSITY WORK

It is not the purpose of this volume to sketch the history of the University since its founding. That task is reserved for the future. But the present work would be incomplete without some further reference, than was contained in the first chapter, to the actual achievements and activity of this institution.

There has been scarcely any educational reform in the state of which the University has not been the promoter. It was the agitation of the University for common schools which started the movement that resulted in establishing the state system of primary instruction. In the training of teachers, the regents have been specially active. Teachers' classes in academies were instituted by them in 1833, one of the earliest attempts toward normal schools in this country. In the incorporation of colleges and academies the University has endeavored, by requiring a high standard of attainment and financial equipment, to keep up the level of the higher education. They have finally been given by the law of 1892 exclusive power of granting charters to educational institutions, in order to prevent weak institutions from getting legislative charters.

In the distribution of public funds to the academies, they were led in 1864 to devise a method of general examination in the academies, upon the basis of which the funds would be apportioned. Since that time the standard of work in the academies has become higher and more

nearly uniform. The system, although defective in some particulars, has been a very efficient one, and is carried further at present than ever before.

The direct activity of the University upon the colleges has been limited. In the law of 1787, Columbia won for herself and for all future colleges almost complete independence, and as yet there has been no marked tendency to give more vigorous control to the University.

The University has conducted various scientific enterprises for the state, chief among which was the determination of the boundaries between New York and Pennsylvania, and between New York and New Jersey; the organization and care of the state museum of natural history; and the conduct and publication of observations in meteorology. Its care of the state library and publication of historical works have already been noticed.

In nothing has the activity of the University been more beneficial than in the publication of its yearly reports. Since 1787, an annual report of the work of the colleges and academies has been regularly made to the legislature. "In 1835, the condition of colleges and academies began to be published in greater detail, and from this time we may begin to date the series of educational statistics, which illustrate so fully the history of the colleges and academies of New York, and in which this state stands alone."¹ The 102d report (1887-88) for example, is a volume of nearly 1,000 pages, containing carefully prepared abstracts and tabular abridgments of the reports of all the colleges and academies in the state. These results give information upon courses of instruction, textbooks, faculty, financial resources, apparatus and libraries; in a word, upon all matters connected with the different institutions. Besides these reports, the regents' report contains the laws and ordinances relating to the University and a full account of the proceedings of the Convocation. It is probably safe to say that nowhere else in the United States is there published annually a volume of so much interest and value in the literature of education.

The Convocation is an institution of a unique type. It was formed in 1863. It is composed of the regents together with "all instructors in colleges, normal schools, academies and higher departments of public schools that are subject to the visitation of the regents, and the trustees of all such institutions,"² and representatives of the New York state teachers' association. Its objects are, by an annual session at the state capitol, to secure better mutual acquaintance, an interchange of opinion upon educational questions, greater harmony through the adoption of common rules, and thus to advance the standard of education throughout the state; and "to exert a direct influence upon the people and the

¹ Hist. record, p. 71.

² Conv. proc. 1869, p. 6.

legislature of the state, personally and through the press, so as to secure such an appreciation of a thorough system of education, together with such pecuniary aid and legislative enactments as will place the institutions here represented in "a position worthy of the population and resources of the state."¹ It is a sort of sanctified lobby, justified by the sacredness of its cause.

The discussions carried on at these sessions are of the utmost importance in the educational work of the state. It is the only place where the various individual interests of the separate institutions can be represented. And while it has no authoritative voice, yet its efficient force in determining the policy of the regents and in affecting legislative opinion has been very great. Its proceedings are published and among them are papers upon educational topics by the very highest authorities in New York and other states. It is growing in efficiency and in importance. The topics discussed are not merely the educational problems of New York state, but of the nation and of the world. The *personnel* of those who take part in the Convocation, likewise, makes it rather a national than a state institution. It is in fact the most important annual educational convention held in the United States, and merits well the name of the "Congress of higher education," conferred by Chancellor Curtis.

UNIVERSITY EXTENSION

The University has never undertaken the work of teaching. And wisely so. The educational needs of the state during this century have been mainly just in those lines where there has been most activity, in the common schools and the academies. This was work which there was no need for the University to undertake directly. It is one of the greatest merits of the organization that it has been only the directive power of forces that spring from individual initiative.

With the teaching done by the colleges the University has had no reason to vie. The many colleges in the state have, in the main, given opportunity to all who wished a higher education than the academies could give. But the advancing educational standards of this generation have created a new need. Both in England and in America it is coming to be the recognized duty of the colleges, to extend their facilities, as far as possible, to those persons who can not come to the colleges. The University has been quick to acknowledge this duty. By the new law of 1889, "The field of the University has also been extended to include the chartering not only of high schools, academies and colleges, but also of libraries, museums, summer schools, correspondence schools, permanent lecture courses, and all other institutions for promoting higher

¹ Conv. proc. 1869, p. 9.

education,"¹ and to "maintain lectures connected with higher education in this state."² Under the spirited leadership of Melvil Dewey, the secretary of the University, a plan has been formed and is being pushed to accomplishment, of working out a system of "university extension." In the address just quoted from, Mr Dewey has shown how admirably adapted is the system of organization of the University for this work, as it is being done in England. He has already organized a successful library school at the state library. He proposes the formation of a great educational library and museum at the regents' office, with specialists upon its staff, who shall be ready to give advice and direction to the schools and libraries of the state. He proposes a real extension of the work done, in all its departments. It is a part of his plan that the state library and state museum, which are parts of the University, should form the central institution of multitudinous local libraries and museums, to be established throughout the state, in organic relation to the University. In connection with these local libraries and museums, he would establish university extension lectureships similar to those of England. His ideal is the real democracy of learning, a true higher education brought within the reach of all. The scheme is a grand one and full of promise for the future. Already several important steps have been taken toward its accomplishment.

In July, 1889, the regents passed the following resolution:

"*Resolved*, That the regents recognize as an important feature of the work the extension of university learning and culture to those who are unable to take the regular course in a college or university."

They then appointed a committee on university extension to report at the next annual meeting. At the Convocation of 1890, a committee of representatives of the colleges and universities of the state was appointed to confer with the regents. Presidents Adams of Cornell, Low of Columbia, Hill of Rochester, Webster of Union and Taylor of Vassar constituted this committee. In their report to the regents in February, 1891, they use this language:

"*Resolved*, That in the judgment of this committee, the time has come when the best interests of higher education in this state demand that the regents should undertake the establishment and supervision of a state system of university extension, including not only lectures, but such conferences, examinations and certificates of work done, as experience may have proved to be desirable and practicable."

"*Resolved*, That in order to maintain a high standard of instruction it is essential that the regents work through the representatives of the uni-

¹ Dewey, Melvil. Extension of the University of the State of New York (*see* Conv. proc. 1889, p. 73).

² University act 1889.

versities and colleges of the state as a committee having charge of the details of instruction and examination."

The regents thereupon took immediate action. They made their committee on university extension a standing committee and provided for a permanent successor to the committee of colleges by the establishment of a university extension council composed of representatives of the colleges. They also resolved to ask aid of the legislature. Their appeal was promptly and generously met by an appropriation of \$10,000 for the use of the University in promoting university extension in the state of New York.¹

In June, 1891, the regents' standing committee made a valuable report from which the following extracts are made as showing the aim and scope of the work undertaken:

"In the conception of your committee, university extension, as contemplated by the regents of the University, means extension to the people at large, adults as well as youths, of the best obtainable opportunities for education."

"In execution of the authority heretofore given them to begin and carry on the work of university extension, your committee design, among other things, to prepare and issue, from time to time, circulars, bulletins, syllabuses, suggested courses of reading and study, and plans for local organizations therefor; to ascertain the fitness of and accredit teachers and lecturers who desire to engage in the work of university extension, and aid localities, organizations and associations in selecting suitable instructors; to procure and keep on hand, by purchase, or by printing and reprinting, original and other matter of educational value in connection with the development and execution of the system of university extension, and to circulate the same, gratuitously or otherwise; and to provide for apparatus and collections of books and specimens, to be loaned or otherwise furnished from time to time to localities, organizations or associations in this state engaged in educational work,—using therefor also any of the properly available books, specimens, apparatus or other property of the University."

"Carefully fostered and wisely developed, university extension will well round out and complete in the state of New York an educational system whose influence may reach all of the people. For those who can avail themselves thereof, our common schools, our academies and high schools, and our colleges, universities and technical schools, will cover the whole field of human learning; while the university extension department will leave none beyond the possibility of such enlightenment as is needful for human welfare and happiness, as well as for good citizenship."

¹ Laws 1891, ch. 303.

To meet the demands of the new enterprise, the regents at the same time greatly enlarged their system of examinations and regulations for the granting of certificates and diplomas.

This machinery for the extension of university teaching has already been put in operation. Several successful courses of lectures have been given and organized centers established for the permanent carrying on of this work. Progress is likely to be slow. True to its traditions the University has confined itself to stimulating and fostering individual local ambition. No part of the state appropriation is allowed to be used in payment of lecturers' fees or other expenses of a local course of lectures. The money of the state is for administrative purposes only which shall further the general scheme. Local benefits must be gained by the enterprise, both moral and financial, of the locality.

It is too early to predict the eventual success or failure of this experiment. But the success of the movement in England and of similar work done by various organizations in this country, proves that the times are ripe for such an educational movement. The unique organization of the University would seem to have been specially designed for this work. The London and the Victoria universities are copying some features of the New York University to better enable them to meet new educational needs. The men who founded this imperial University "built better than they knew."

Looking at the peculiar organization of education in New York, it seems as if success were largely dependent on cordial and wise cooperation between the University and the colleges. If they do not work together the cause is lost in the state of New York. In the university council, the colleges obtain a qualified representative in the management of this department of the regents' work. The colleges wisely insist that the standards of higher education shall not be lowered. That is the one danger in the whole university extension movement. It can be averted only in one way, namely by the colleges themselves throwing their strength into the work. The ranks of university extension teachers must be recruited from the colleges. The moral force of college opinion must maintain in university extension work the high standard of collegiate attainment. If the colleges hold aloof, the work will necessarily be of a lower type. It is the great opportunity of the colleges to spread their effective influence into every corner of the state, and make themselves more than ever an essential element in the life of the people. The time has come when knowledge must be democratic. It is the duty of the colleges, as the conservators of knowledge, to see that in this growing democracy of learning, the standards are not lowered.

THE UNIVERSITY'S OPPORTUNITY

There are however other educational needs of the American people which it may become the proud destiny of the University of the State of New York to satisfy. University extension is merely a new method of teaching. It does not solve the question as to what shall be taught.

In American education there are these glaring defects. In the first place there are not sufficient facilities for original and deep research, the pursuit of truth for its own sake to its last hiding places. Secondly, there are no schools designed to train persons for the public civil service. Thirdly, the general education of the people in the principles of political economy and of civil government is not recognized as the duty of the state. It lies within the grasp of the regents of the University of the State of New York to immortalize themselves by taking the lead in these educational reforms.

1 School for graduate work. For the prosecution of original research the University possesses signal advantages.

The magnificent state capitol which towers above the city of Albany, and upon which New York has lavished her millions, has been declared by the late Professor Freeman of Oxford to be the finest specimen of American architecture. The library of the state, now housed in this splendid building, is a rich mine of historical material, the resources of which are not adequately used, not even adequately known. As the writer was carrying on some researches there in the summer of 1890, he was oppressed with the sense of the failure of the people of the state to utilize these treasures of learning. The law library is probably unsurpassed in the United States, yet is practically little used. The general library with its 160,000 volumes, its vast collections of manuscripts and documents, is scarcely visited except by the passing traveler. The legislative and executive collections of documents are in requisition during the sessions of the legislature, but are otherwise virtually useless. The idea impressed itself upon the writer that in the University itself, the history of which he was writing, existed the very organization which could develop into its wider usefulness these libraries under its control.

Here is an opportunity for this great University to advance the interests of the highest learning, to utilize these unused materials, to offer to students the best advantages for original research and to make the University itself a more powerful and efficient body than it has ever been. The new law of 1889 gives the University express power to maintain lectures connected with higher education in the state. The state capitol is such a university building as exists nowhere else in the world. In Albany is centralized the whole administration of the state. The executive offices are all located there. The legislature and the

court of appeals sit there. Except in the national capital no such collection of material for the study of history, economics, statistics, finance and the science of administration exists in the United States. It would need merely the establishment of half a dozen professorships, under the direct management of the University, to develop in a few years a graduate school of economic, historic and political science, rivalled only by the best of the great German universities.

The graduates of the colleges in the state or from other states could here pursue a regular course of study for higher degrees. A school for the higher and philosophical study of the law has become a crying need of the times. With a few additions to the library, of authorities upon Roman and Teutonic systems of law, to supplement the magnificent collection of works upon American and English law already upon the shelves, the study of historic and comparative jurisprudence could be carried on by those students who wish to learn more than the practical business of law. Students in economic and political subjects would have for their use not merely the statistics and collected information of the various state departments, but would likewise see the practical workings of those departments. Besides the offices of the governor, secretary of state, controller and treasurer — there are the offices of the railroad commissioners, canal commissioners, the bank department, the insurance department, state census, land office, state agricultural society, forestry commission, Indian affairs, bureau of labor statistics, state boards of health and charities, of arbitration, of factory inspection and several others. The legislature itself would be a practical school of political science. Every facility is at hand for research in every department of political science and political economy. No other university would have so admirable an equipment. In historical science likewise the material is at hand. It was the original design of the University to confer the higher degrees. With the work done by academies and colleges the University would not interfere. But in this field of original research, in this work done at the German universities, lies the proper direction of the activity of the University. This corporation, with its historic dignity, thus would become in truth the head and crown of the educational system in the state. It would strengthen, not rival the work of the colleges. The spirit of research has seized our American universities. In the past 15 years they have leaped a long way forward toward the standard of the best European institutions.

The Johns Hopkins university, for example, shows what has been accomplished, even with comparatively meager facilities and in a brief time. Whatever attempts had previously been made in other colleges to carry on research for its own sake were scattered, intermittent and usually only an adjunct to the pedagogical system of undergraduate work. The Johns Hopkins university began as an institution

for organized research with its pedagogical undergraduate department as the vestibule to its higher work. It was the first to work out into a system adapted to American needs, whatever was best in European methods of research. And with true missionary spirit it has sent its disciples everywhere throughout the land as apostles of its higher faith. Everywhere the younger colleges have heard them gladly, while even the older institutions however skeptical in their utterances, are yet quietly imitating its methods. The truth is the Johns Hopkins university came at the call of the living age and just when the time was ripe.

But one such school for graduate work is not enough. The older colleges, hardened and gnarled by the process of historic growth, can not quickly and easily be adapted to meet the new demands. The University of the State of New York in the lines of its organization and the method of its government, was predestined at its birth for this higher work. Leaving undergraduate training to existing colleges, its hands would be free for encouragement of the most advanced scholarship.

New York, in the old University of which she is justly proud, has an institution which could shortly lead all the universities of America in this special type of learning.

2 An academy for the training of civil officers. The need of a purer and more efficient civil service is everywhere recognized. That the best way to accomplish this end is by means of proper training schools is an idea, likewise common to many minds. Washington, in the same sentences in which he recommended the establishment of the West Point Military academy for the training of army officers, urged the necessity of a national university, one of the chief aims of which would be training in the science of government. Mr Casper T. Hopkins, in a thoughtful and suggestive pamphlet, recently published in San Francisco with the title, *Shall we educate our politicians*, even goes so far as to urge the necessity of a special education and training for our legislators. He would have special schools of "statecraft," with the degrees of bachelor, master and doctor of statecraft. For the main thesis of his pamphlet, that a higher type of politician can be expected only as the result of special training, he presents a series of able arguments supported by telling facts.

Professor H. B. Adams, in his monograph on the College of William and Mary, has made some admirable suggestions in regard to a "civil academy at Washington."

By adapting to New York conditions some of the proposals of Professor Adams, it will become clear that New York has all the machinery needed for what he calls, "the promotion of the higher political education in practical ways." He says: "A civil academy for the training of representative American youth would be as great a boon to the American people as the military and naval academies have already

proved." He speaks of New York as uniting two systems of appointment of students, "the West Point plan of taking student appointees from congressional districts, and the Cornell university plan of student appointments for merit." He recommends that such "student appointees or government fellows," should be under the direction of an educational commission, which should have in charge the government of the academy. New York already possesses such a commission in the regents of the University. "A few lecture rooms and a working library would suffice. The students should be instructed in physical, historic and economic geography; in political, constitutional and diplomatic history; in the modern languages; and in all branches of political science, including political economy, statistics, forestry, administration, international law, comparative methods of legislation, and comparative politics. Instruction should be given in class sections (as at West Point) and in public lectures by government experts and university specialists, who might be engaged from time to time from different institutions for such services." It is interesting to note that this "merit" system of appointments is an old one in New York. In the law of 1732, for the establishment of "a public school in the city of New York," already described, there is a provision that the schoolmaster shall teach, free of tuition, "the number of 20 youths." They are to be recommended in a certain proportion from the various counties of the colony. "For the cities and counties of New York and Albany, by the respective mayors, recorders and aldermen thereof. And for the several counties by the justices at the general sessions of the peace to be held for those counties respectively." In the recommendations it was to be certified that "they have been well instructed in reading and writing of English."¹ By a judicious revival of this principle a body of picked young men from every part of the state could be trained at Albany under the direction of the state University, to enter into the high civil service of the state. And New York could then not only secure a better civil service in her own departments, but her trained specialists would find their way into every department of the civil service in the other states and in the national civil service as well. It would be another instance of the imperial leadership of New York among the states. In this academy it would be necessary for the University to do work of collegiate grade. No private college could maintain the required discipline. The students must be made to feel that civil service is no less a duty to the state than army service. A military discipline would have to be enforced and the direct authority of the state alone could do this.

But the very special character of the academy and the necessarily limited number of students who could have the privilege of attendance

¹ Pratt's Annals (*see* Conv. proc. 1869, p. 187).

would prevent any interference with the work of the colleges. This school would fill a place which the colleges do not fill in any sense. It is the duty of the state to attract to its service the best talent of the state and to train that talent to the service of the state. This is specially necessary at this time when so much of the best intellect of the country is allured into the employ of gigantic private corporations. The state ought not to hold out enormous pecuniary reward to tempt talent to public office. But it is within the power of the state to create a sentiment which shall place the honor of the public service above mere pecuniary reward. A civil "West Point" would do much toward this end.

3 General education in economics and politics. The Wharton School of Finance and Economy, one of the departments of the University of Pennsylvania, stands for the idea that a scholarly study of political economy and of the principles of civil government, is essential to a really successful professional or business career. The school and its policy have been widely indorsed by business men, notably the American Bankers' association, and are being widely copied by educators.

When one considers that political issues have become in these later years mainly economic, the importance of a general education of the people in the scientific aspects of their industrial life becomes clear. It is necessary that our legislators and our executive and judicial officers shall understand the effects upon industry, of changes in governmental policy; and that they shall be impressed with the importance of having the economic welfare of the people always before them as the goal of their activity. It is necessary that professional and business men shall understand the relations between the industrial life of the people and the laws and policy of the government. They must be prepared to bring the force of their opinion to bear upon the public opinion of the country in the face of proposed legislation. For the safe conduct of their business likewise it is essential that they should grasp the scientific principles of their business, as well as its practical rules. The purely practical man rarely looks into the future or builds for longer than a day.

Again, it is superlatively necessary that our people generally should learn something of this economic science which is becoming in our industrial age, the great science. Our rulers are chosen from the body of our people by the people themselves. Unless the whole people are trained in economic and political science, how can intelligent elections or intelligent legislation be had? Industry is vastly more important than war to-day. If this country is to achieve the progress it is capable of, the first thing necessary is a right economic policy wisely chosen and firmly pursued. In the omnipresence of the elective system of government, this can never be accomplished without the general educa-

tion of the people in the principles of economic science and of civil government.

The University of the State of New York has a magnificent opportunity to further this end. The graduate school and the civil academy above spoken of would be great aids in this work. They would reach directly, however, only limited classes. To make their work effective along these lines they must adopt the policy of propagating everywhere the idea of this general political education. They must specifically do this in two ways. First, they should encourage the establishment, in all the colleges and academies of the state, of schools or departments devoted to economic and political science. They might even make this one of the conditions for the admission of new institutions into the University. Secondly, they should in their university extension work make economic and political education the most prominent and important work. This is specially demanded of a state university. Its duty is toward the state. The industries of the people are the life of the state. In the plan of university extension adopted by the university, lies a most efficient means of promoting in every part of the state better knowledge of economic and political science, and of stimulating the ambition of the people to know more of these subjects. It would, likewise, become a great agency in finding and leading out into a public career the special talent that might lie hidden in remote corners of the state for lack of opportunity to develop.

For work along the three lines thus pointed out, the adaptation of the University of the State of New York is marvelous. Its libraries; its museum; its facilities for publication; its coordination of graded institutions, ramifying into every part of the state; the eminence and dignity of its regents; its central bureau, so efficiently organized; its powers, entirely adequate for the maintenance of its lectureships, for examination, and conferring of degrees; its university extension methods, so successfully inaugurated; its Convocation, bringing to a focus at the center of government the educated public opinion of the state; its close organic relation to the legislature—these are all characteristics fitting the University to undertake this task.

The graduate work could begin immediately in several departments; for example:

1 A graduate school in history and political science, including jurisprudence in its various branches, international law, Roman law, comparative jurisprudence.

2 A graduate school in economics. Besides the theory of economics, public finance, agriculture, forestry, meteorology, banking, insurance, railroads and canals, and other like subjects, could be investigated in their economic aspects.

3 An advanced school in pedagogics and library training. The State Normal college could be affiliated, and together with the state library, made the basis of this school.

4 A school for advanced scientific work in connection with the state museum, and by proper affiliation with the best scientific and technical schools in the state.

The object of these schools should be research. From them should come learned experts who could become professors and writers in their specialties.

The civil academy, having for its object the training of men and women for intelligent civil service, would have the same facilities at its command. The University beside founding professorships, could obtain for special lectures in both these schools, eminent professors in the colleges of the state and the specialists in the state departments. Only graduates of the colleges, of the civil academy and others who should pass satisfactory examinations set by the regents should be admitted to the graduate school. The University should there undertake only the most advanced work. Graduates of the colleges, instead of going to Europe to carry on their researches would prefer to come to Albany where they would be more likely to have the opportunity of entering the employ of American universities and of their state or the national government. The whole country would look to the University of the State of New York for its trained specialists, whether as teachers or as civil officers. The high degrees conferred by the University could be made the most honorable of any in these United States.

In the one institution of the University would be realized the most hopeful ideals in American education to-day — the Johns Hopkins university idea, of the highest learning; the West Point idea, of special training for the public service; the Wharton school idea in its broadest aspect, of emphasizing economics and political science as studies of the first importance in a general education; and the university extension idea, of making available to all classes of the people all the facilities of the higher education. The University itself would become a true academy of science and letters with international influence and a world-wide fame. And, perhaps, at some time not far distant, the government of the United States, again learning from New York, would carry this innovation to the capital of the nation and thus fulfil the dream of Washington. Indeed another bill for a national university has lately been introduced into congress and the passage of some such act may be nearer than we think.

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These are the chief sources used in the preparation of this monograph. There are a number of other works which were used to some extent, but which are not specially to be noted. Some have already been noted in the body of the work. Poore's charters have been consulted for the state constitutions and Compayré Hippeau, Théry and other historians of education in France, have been used, as well as Mullinger's article on the "University" in the *Encyclopædia Britannica*.

APPENDIX

UNIVERSITY LAW

Laws of New York, 1892, ch. 378

AN ACT to revise and consolidate the laws relating to the University
of the State of New York.

APPROVED by the Governor April 27, 1892. Passed, three fifths being present.

*The people of the state of New York, represented in senate and assembly,
do enact as follows :*

<p>§ 1 Short title.</p> <p>2 Definitions.</p> <p>3 Corporate name and objects.</p> <p>4 Regents.</p> <p>5 Officers.</p> <p>6 Meetings and absences.</p> <p>7 Quorum and executive committee.</p> <p>8 Authority of regents to take testimony.</p> <p>9 Ordinances and rules.</p> <p>10 Departments and their government.</p> <p>11 General examinations, credentials and degrees.</p> <p>12 Academic examinations.</p> <p>13 Admission and fees.</p> <p>14 Extension of educational facilities.</p> <p>15 State library; how constituted.</p> <p>16 Manuscripts and records "on file."</p> <p>17 Use.</p> <p>18 Book appropriations.</p> <p>19 Duplicate department.</p> <p>20 Transfers from state officers.</p> <p>21 Other libraries owned by the state.</p> <p>22 State museum; how constituted.</p> <p>23 Collections made by the staff.</p> <p>24 Institutions in the University.</p> <p>25 Visitation and reports.</p> <p>26 Apportionment of state money.</p> <p>27 Charters.</p> <p>28 Provisional charters.</p> <p>29 Change of name or charter.</p> <p>30 Dissolution and rechartering.</p> <p>31 Suspension of operations.</p> <p>32 Conditions of incorporation.</p> <p>33 Prohibitions.</p> <p>34 Powers of trustees of institutions in the University.</p>	<p>1 Number and quorum.</p> <p>2 Executive committee.</p> <p>3 Meetings and seniority.</p> <p>4 Vacancies and elections.</p> <p>5 Property holding.</p> <p>6 Control of property.</p> <p>7 Officers and employees.</p> <p>8 Removals and suspensions.</p> <p>9 Degrees and credentials.</p> <p>10 Rules.</p> <p>§ 35 Public and free libraries and museums.</p> <p>36 Establishment.</p> <p>37 Subsidies.</p> <p>38 Taxes.</p> <p>39 Trustees.</p> <p>40 Incorporation.</p> <p>41 Reports.</p> <p>42 Use.</p> <p>43 Injuries of property.</p> <p>44 Detention.</p> <p>45 Transfer of libraries.</p> <p>46 Local neglect.</p> <p>47 Loans of books from the state.</p> <p>48 Advice and instruction from state library officers.</p> <p>49 Use of fees and fines.</p> <p>50 Apportionment of public library money.</p> <p>51 Abolition.</p> <p>52 Laws repealed.</p> <p>53 Saving clause.</p> <p>54 Construction.</p> <p>55 To take effect.</p> <p style="padding-left: 2em;">Schedule of laws repealed.</p>
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“Univer- § 1 **Short title.** This chapter shall be known as the University
sity law.” law.

Meaning § 2 **Definitions.** As used in this chapter,
in this 1 Academies are incorporated schools for instruction in higher
law of: branches of education, but not authorized to confer degrees, and such
Academies.

high schools, academic departments in union schools and similar unincorporated schools as are admitted by the regents to the University as of academic grade.

2 The term college includes universities and other institutions for higher education authorized to confer degrees. College.

3 University means University of the State of New York. University.

4 Regents means board of regents of the University of the State of New York. Regents.

5 State superintendent means state superintendent of public instruction. State sup't.

6 Higher education means education in advance of common elementary branches, and includes the work of academies, colleges, universities, professional and technical schools and educational work connected with libraries, museums, university extension courses and similar agencies. Higher education.

7 The term trustees includes directors, managers, or other similar members of the governing board of an educational institution. Trustees.

§ 3 **Corporate name and objects.** The corporation created in 1784 under the name of Regents of the University of the State of New York shall continue and be known as University of the State of New York. Its objects shall be to encourage and promote higher education, to visit and inspect its several institutions and departments, to distribute to or expend or administer for them such property and funds as the state may appropriate therefor or as the University may own or hold in trust or otherwise, and to perform such other duties as may be intrusted to it. To promote higher education; inspect institutions; administer property and funds.

§ 4 **Regents.** The University shall be governed and all its corporate powers exercised by 19 elective regents, and by the governor, lieutenant-governor, secretary of state, and superintendent of public instruction, who shall be *ex officio* regents. In case of the death, resignation, refusal to act or removal from the state, of any elective regent, his successor shall be chosen by the legislature in the manner provided by law for the election of senators in congress, except that the election may take place at such time during the session of the legislature as it may determine. No person shall be at the same time an elective regent of the University and a trustee, president, principal, or any other officer of any institution belonging to the University. Governed by 23 regents.

§ 5 **Officers.** The elective officers of the University shall be a chancellor and a vice-chancellor who shall serve without salary, a secretary, and such other officers as are deemed necessary by the regents, all of whom shall be chosen by ballot by the regents and shall hold office during their pleasure; but no election, removal or change of salary of an elective officer shall be made by less than 10 votes in favor thereof. Each regent and each elective officer shall, before entering on his duties, take and file with the secretary of state the oath of office required of state officers. Mode of electing.

§ 6 **Non-eligibility.** No person shall be at the same time an elective regent of the University and a trustee, president, principal, or any other officer of any institution belonging to the University. Non-eligibility.

§ 7 **Ballot.** The ballot for the election of regents shall be taken in the presence of the secretary of state, and the ballot shall be taken in the presence of the secretary of state, and the ballot shall be taken in the presence of the secretary of state. Elective officers chosen by ballot; term of office.

§ 8 **Oath of office.** Each regent and each elective officer shall, before entering on his duties, take and file with the secretary of state the oath of office required of state officers. Regents and officers must take oath of office.

§ 9 **Duties of officers.** The chancellor shall preside at all Convocations and at all meetings of the regents, confer all degrees which they shall authorize, and fix the time and place of all special meetings. In his absence or inability to act, the vice-chancellor, or if he be also absent, the senior regent present shall perform all the duties and have all the powers of the chancellor. Duties of chancellor; of vice-chancellor and senior regent;

§ 10 **Secretary.** The secretary shall be responsible for the safe-keeping and proper use of the University seal and of the books, records, and other property in of secretary.

Secretary's bond of \$10,000.

May appoint deputy.

Annual meetings fixed by ordinance.

Special meetings.

Three absences make vacancy.

Ten a quorum.

Executive committee of 7 or more.

Powers.

May hear proofs.

May make or alter rules.

Restriction.

State library, museum, and other University dep'ts under exclusive control of regents.

Regents may maintain lectures; buy, sell, receive, lend or deposit articles.

May confer honorary degrees, and

charge of the regents, and for the proper administration and discipline of its various offices and departments, and shall give an undertaking to be approved by and filed with the state controller, in the sum of \$10,000 for the faithful discharge of his duties. He may appoint, subject to the confirmation of the chancellor, a deputy to exercise temporarily any specified powers of the secretary in his absence.

§ 6 Meetings and absences. In addition to the annual meetings for which the time and place shall be fixed by ordinance of the regents, the chancellor shall call a meeting as often as the business of the University shall require, or on written request of any five regents; and at least 10 days' notice of every meeting shall be mailed to the usual address of each regent. If any regent shall fail to attend three consecutive meetings, without written excuse accepted as satisfactory by the regents not later than the third consecutive meeting from which he has been absent, he shall be deemed to have resigned, and the regents shall promptly report the vacancy to the legislature, which shall fill it as provided in § 4.

§ 7 Quorum and executive committee. Ten regents attending shall be a quorum for the transaction of business, but the regents may elect an executive committee of not less than seven, which, in the intervals between their meetings, may transact such business of the regents as they may authorize, except to grant, alter, suspend or revoke charters, or to grant honorary degrees.

§ 8 Authority of regents to take testimony. The regents, or any committee thereof, may take testimony or hear proofs in any manner relating to their official duties, or in any matter which they may lawfully investigate.

§ 9 By-laws, ordinances and rules. The regents may as they deem advisable in conformity to law, make, alter, suspend or repeal any by-laws, ordinances, rules and resolutions for the accomplishment of the trusts reposed in them. No by-law, ordinance or rule by which more than a majority vote shall be required for any specified action by the regents shall be amended, suspended or repealed by a smaller vote than that required for action thereunder.

§ 10 Departments and their governments. The state library and state museum shall be departments of the University, and the regents may establish such other departments as they deem necessary to discharge the duties imposed on them by law. All University departments shall be under exclusive control of the regents who shall have all powers of trustees thereof, including authority to appoint all needed officers and employees; to fix their titles, duties, salaries and terms of service; to make all needed regulations; and to buy, sell, exchange or receive by will, gift or on deposit, articles or collections properly pertaining thereto; to maintain lectures connected with higher education in this state, and to lend to or deposit permanently with other institutions books, specimens or other articles in their custody which, because of being duplicates or for other reasons, will in the judgment of the regents be more useful in said institutions than if retained in the original collections at Albany.

§ 11 General examinations, credentials and degrees. The regents may confer by diploma under their seal such honorary degrees as they may deem proper, and may establish examinations as to attain-

ments in learning, and may award and confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the requirements prescribed.

§ 12 **Academic examinations.** The regents shall establish in the academies of the University, examinations in studies furnishing a suitable standard of graduation from academies and of admission to colleges, and certificates or diplomas shall be conferred by the regents on students who satisfactorily pass such examinations.

§ 13 **Admission and fees.** Any person shall be admitted to these examinations who shall conform to the rules and pay the fees prescribed by the regents, and said fees shall not exceed one dollar for each academic branch, or five dollars for each higher branch in which the candidate is examined; and all fees received may be used by the regents for expenses of examinations.

§ 14 **Extension of educational facilities.** The regents may cooperate with other agencies in bringing within the reach of the people at large increased educational opportunities and facilities, by stimulating interest, recommending methods, designating suitable teachers and lecturers, lending necessary books and apparatus, conducting examinations and granting credentials and otherwise aiding such work. No money appropriated by the state for this work shall be expended in paying for services or expenses of teachers or lecturers.

§ 15 **State library, how constituted.** All books, pamphlets, manuscripts, records, archives and maps, and all other property appropriate to a general library, if owned by the state and not placed in other custody by law, shall be in charge of the regents and constitute the state library.

§ 16 **Manuscripts and records "on file."** Manuscript or printed papers of the legislature, usually termed "on file," and which shall have been on file more than five years in custody of the senate and assembly clerks, and all public records of the state not placed in other custody by a specific law shall be part of the state library and shall be kept in rooms assigned and suitably arranged for that purpose by the trustees of the capitol. The regents shall cause such papers and records to be so classified and arranged that they can be easily found. No paper or record shall be removed from such files except on a resolution of the senate and assembly withdrawing them for a temporary purpose, and in case of such removal a description of the paper or record and the name of the person removing the same shall be entered in a book provided for that purpose, with the date of its delivery and return.

§ 17 **Use.** The state library shall be kept open not less than eight hours every week day in the year, and members of the legislature, judges of the court of appeals, justices of the supreme court, and heads of state departments may borrow from the library books for use in Albany, but shall be subject to such restrictions and penalties as may be prescribed by the regents for the safety or greater usefulness of the library. Others shall be entitled to use or borrow books from the library only on such conditions as the regents shall prescribe.

§ 18 **Book appropriation.** The treasurer shall pay annually to the regents, on warrant of the controller, \$15,000 for books, serials and binding for the state library.

§ 19 **Duplicate department.** The regents shall have charge of

certificates and degrees on examination.

Standards for academic graduation and college admission.

Open to all.

Fees not over \$1 for academic and \$5 for higher branches.

Regents may cooperate in university extension.

State not to pay local expenses of teachers' fees.

All state literary property part of state library; exceptions.

Ms and records more than 5 years "on file" are part of state library.

To be made easily available.

To be removed only by senate and assembly resolution.

Library to be open at least 8 hours daily. State officers may borrow.

Other borrowers.

\$15,000 annually for books.

Charge of

certain state publications. Duplicate dep't in state library. To have extra copies of all state publications.

Receipts to be used for library.

Books, papers and other articles may be transferred to state library.

State library report to include summarized reports of other libraries.

Such libraries to have all privileges of branches.

Includes work of all state scientific officers.

Includes state property appropriate to general museum.

Exceptions.

Summarized reports.

Collections during office belong to museum.

University includes all incor-

the preparation, publication and distribution, whether by sale, exchange or gift, of the colonial history, natural history, and all other state publications not otherwise assigned by law. To guard against waste or destruction of state publications, and to provide for completion of sets to be permanently preserved in American and foreign libraries, the regents shall maintain a duplicate department to which each state department, bureau, board or commission shall send not less than five copies of each of its publications when issued, and after completing its distribution, any remaining copies which it no longer requires. The above, with any other publications not needed in the state library, shall be the duplicate department, and rules for sale, exchange or distribution from it shall be fixed by the regents, who shall use all receipts from such exchanges or sales for expenses and for increasing the state library.

§ 20 **Transfers from state officers.** The librarian of any library owned by the state, or the officer in charge of any state department, bureau, board, commission or other office may, with the approval of the regents, transfer to the permanent custody of the state library or museum any books, papers, maps, manuscripts, specimens or other articles which, because of being duplicates or for other reasons, will in his judgment be more useful to the state in the state library or museum than if retained in his keeping.

§ 21 **Other libraries owned by the state.** The report of the state library to the legislature shall include a statement of the total number of volumes or pamphlets, the number added during the year, with a summary of operations and conditions, and any needed recommendation for safety or usefulness for each of the other libraries owned by the state, the custodian of which shall furnish such information or facilities for inspection as the regents may require for making this report. Each of these libraries shall be under the sole control now provided by law, but for the annual report of the total number of books owned by or bought each year by the state, it shall be considered as a branch of the state library and shall be entitled to any facilities for exchange of duplicates, interlibrary loans or other privileges properly accorded to a branch.

§ 22 **State museum, how constituted.** Unless otherwise specifically provided by law, the state museum shall include the work of the state geologist, paleontologist, botanist, entomologist and any other state scientific officers; and these officers with their respective assistants shall constitute the scientific staff of the state museum. All scientific specimens and collections, works of art, objects of historic interest and similar property appropriate to a general museum, if owned by the state and not placed in other custody by a specific law, shall constitute the state museum, and one of its officers shall annually inspect all such property not kept in the state museum rooms, and the annual report of the museum to the legislature shall include summaries of such property, with its location, and any needed recommendations as to its safety or usefulness.

§ 23 **Collections made by the staff.** Any scientific collection made by a member of the museum staff during his term of office shall, unless otherwise authorized by resolution of the regents, belong to the state and form part of the state museum.

§ 24 **Institutions in the University.** The institutions of the University shall include all institutions of higher education which are

now or may hereafter be incorporated in this state, and such other libraries, museums or other institutions for higher education as may, in conformity with the ordinances of the regents, after official inspection, be admitted to or incorporated by the University. The regents may exclude from such membership any institution failing to comply with law or with any ordinance or rule of the University.

porated institutions for higher education. Regents may exclude from membership.

§ 25 **Visitation and reports.** The regents or their committees or officers shall visit, examine into and inspect the condition and operations of every institution and department in the University, and require of each an annual report verified by oath of its presiding officer, and giving information concerning trustees, faculty, students, instruction, equipment, methods, and operations, with such other information and in such form as may be prescribed by the regents who shall annually report to the legislature the condition of the University and of each of its institutions and departments, with any further information or recommendations which they shall deem it desirable to submit; and such parts of their report as they shall deem necessary for use in advance of the annual volume, may be printed by the state printer as bulletins. For refusal or continued neglect on the part of any institution in the University to make the report required by this section, or for violation of any law, the regents may suspend the charter or any of the rights and privileges of such institution.

Institutions to be inspected and to report annually under oath.

Suspension of charter or rights for neglect to report.

§ 26 **Apportionment of state money.** The treasurer shall pay annually, on warrant of the controller, \$12,000 from the income of the literature fund, \$34,000 from the income of the United States deposit fund, and \$60,000 from the general fund, according to an apportionment to be made for the benefit of the academies of the University by the regents in accordance with their rules, and authenticated by their seal, provided that the said \$60,000 from the general fund shall be used only for academic departments of union schools, and that no academy shall share in such apportionment unless the regents shall be satisfied by personal inspection by one of their officers, the necessary expenses of which inspection may be paid out of said money, that it has suitable provision for buildings, furniture, apparatus, library and collections, and has complied with all their requirements; and provided that books, apparatus, scientific collections or other educational equipment furnished by the state or bought with money apportioned from state funds shall be subject to return to the regents whenever the charter of the school shall be revoked or it shall discontinue its educational operations.

Academic fund of \$106,000 appropriated annually.

Restriction. Conditions of sharing in apportionment.

Grants subject to return.

§ 27 **Charters.** The regents may, by an instrument under their seal and recorded in their office, incorporate any university, college, academy, library, museum, or other educational institution, under such name, with such number of trustees or other managers, and with such powers, privileges and duties, and subject to such limitations and restrictions in all respects as the regents may prescribe in conformity to law.

Regents may incorporate any educational institution.

§ 28 **Provisional charters.** On evidence satisfactory to the regents that the conditions for an absolute charter will be met within a prescribed time, they may grant a provisional charter which shall be replaced by an absolute charter when the conditions have been fully met; otherwise, after the specified time, on notice from the regents to this effect, the provisional charter shall terminate and become void and

Limitations of provisional charters.

No degrees shall be surrendered to the regents. No such provisional charter shall give power to confer degrees.

Unless on unanimous request of trustees, 30 days' notice of proposed changes must be given.

§ 29 **Change of name or charter.** The regents may at any time, for sufficient cause, by an instrument under their seal and recorded in their office, change the name, or alter, suspend or revoke the charter of any institution chartered by the regents or under a general law; provided, that unless on unanimous request of the trustees of the institution, no name shall be changed and no charter shall be altered, nor shall any rights or privileges thereunder be suspended or repealed by the regents, till they have mailed to the usual address of every trustee of the institution concerned at least 30 days' notice of a hearing when any objections to the proposed change will be considered, and till ordered by vote at a meeting of the regents for which the notices have specified that action is to be taken on the proposed change.

Regents may dissolve educational corporations.

§ 30 **Dissolution and rechartering.** Under like restrictions the regents may dissolve any such educational corporation, whether with or without a capital stock, and whether incorporated by the regents or under a general or by a special law, and make such disposition of the property of such corporation remaining after payment of its debts and liabilities as the regents shall deem just and equitable and best promoting public interests. The regents may also, after a similar hearing, issue to any such educational corporation a new charter which shall take the place in all respects of that under which it has been operating.

May issue new charter.

Charter to be surrendered subject to restoration.

§ 31 **Suspension of operations.** If any institution in the University shall discontinue its educational operations without cause satisfactory to the regents, it shall surrender its charter to them, subject, however, to restoration whenever arrangements satisfactory to the regents are made for resuming its work.

\$500,000 for degree-conferring powers.

§ 32 **Conditions of incorporation.** No institution shall be given power to confer degrees in this state unless it shall have resources of at least \$500,000; and no institution for higher education shall be incorporated without suitable provision, approved by the regents, for buildings, furniture, educational equipment and proper maintenance. No institution shall institute or have any faculty or department of higher education in any place or be given power to confer any degree not specifically authorized by its charter; and no institution of higher education shall be incorporated under the provisions of any general act authorizing the formation of a corporation without grant of a special charter on individual application, and no corporation shall, under authority of any general act, extend its business to include establishing or carrying on any such institution.

Limit on location and degrees.

No incorporation or extension of educational powers under general act.

Conferring degrees.

§ 33 **Prohibitions.** No individual, association or corporation not holding university or college degree-conferring powers by special charter from the legislature of this state or from the regents, shall confer any degrees, nor after January 1, 1893, shall transact business under, or in any way assume the name university or college, till it shall have received from the regents under their seal written permission to use such name, and no such permission shall be granted by the regents, except on favorable report after personal inspection of the institution by an officer of the University. No person shall buy, sell or fraudulently or illegally make or alter, give, issue or obtain any diploma, certificate, or other instrument purporting to confer any literary, scientific, professional

Use of name college or university.

Buying, selling or tampering with credentials.

or other degree, or to constitute any license, or to certify to the completion in whole or in part of any course of study in any university, college, academy or other educational institution. Nor shall any person with intent to deceive, falsely represent himself to have received any such degree or credential. Counterfeiting or falsely or without authority making or altering in a material respect any such credential issued under seal shall be a felony, and any other violation of this section shall be a misdemeanor; and any person who aids or abets another, or advertises or offers himself to violate the provisions of this section, shall be liable to the same penalties.

False claims.

Counterfeiting or altering credentials a felony.

§ 34 **Powers of trustees of institutions in the University.** The trustees of every corporation created for educational purposes and subject to visitation by the regents, unless otherwise provided by law or by its charter, may:

1 **Number and quorum.** Fix the number of trustees, which shall not exceed 25, nor be less than five. If any institution has more than five trustees, the body that elects, by a two-thirds vote after notice of the proposed action in the call for a meeting, may reduce the number to not less than five by abolishing the office of any trustee which is vacant and filing in the regents' office a certified copy of the action. A majority of the whole number shall be a quorum.

Trustees 5 to 25.

Reducing number.

Majority a quorum.

2 **Executive committee.** Elect an executive committee of not less than seven, who, in intervals between meetings of the trustees, may transact such business of the corporation as the trustees may authorize, except to grant degrees or to make removals from office.

Not less than 7.

Powers.

3 **Meetings and seniority.** Meet on their own adjournment or when required by their by-laws, and as often as they shall be summoned by their chairman, or in his absence by the senior trustee, on written request of three trustees. Seniority shall be according to the order in which the trustees are named in the charter or subsequently elected. Notice of the time and place of every meeting shall be mailed not less than five nor more than 10 days before the meeting to the usual address of every trustee.

Regular and special meetings.

Seniority as elected.

5 to 10 days' notice of meetings.

4 **Vacancies and elections.** Fill any vacancy occurring in the office of any trustee by electing another for the unexpired term. The office of any trustee shall become vacant on his death, resignation, refusal to act, removal from office, expiration of his term, or any other cause specified in the charter. If any trustee shall fail to attend three consecutive meetings without written excuse accepted as satisfactory by the trustees not later than the third consecutive meeting from which he has been absent, he shall be deemed to have resigned, and the vacancy shall be filled. Any vacancy in the office of trustee continuing for more than one year, or any vacancy reducing the number of trustees to less than two thirds of the full number may be filled by the regents. No person shall be ineligible as a trustee by reason of sex.

Trustees may fill vacancies.

Three absences make vacancy.

Regents may fill certain vacancies. Women eligible.

5 **Property holding.** Take and hold by gift, grant, devise or bequest in their own right or in trust for any purpose comprised in the objects of the corporation, such additional real and personal property beyond such as shall be authorized by their charter or by special or general statute, as the regents shall authorize within one year after the delivery of the instrument or probate of the will, giving, granting, devising or bequeathing such property and such authority given by the

Regents may authorize holding property beyond charter limit.

regents shall make any such gift, grant, devise or bequest operative and valid in law.

Trustees have exclusive control of property. May lend, deposit, etc.

Transfer of property responsibility and rights.

Salaries and terms of office. Trustees not to be paid.

Misconduct, incapacity or neglect of duty.

Previous notice.

Only degrees and honors specified in charter. Privileges.

Rules not to conflict with law or University rules.

Restriction.

Library defined.

How established.

By majority vote.

25 taxpayers may require vote.

6 Control of property. Buy, sell, mortgage, let and otherwise use and dispose of its property as they shall deem for the best interests of the institution; and also to lend or deposit, or to receive as a gift, or on loan or deposit, literary, scientific or other articles, collections, or property pertaining to their work; and such gifts, loans or deposits may be made to or with the University or any of its institutions by any person, or by legal vote of any board of trustees, corporation, association or school district, and any such transfer of property, if approved by the regents, shall during its continuance, transfer responsibility therefor to the institution receiving it, which shall also be entitled to receive any money, books or other property from the state or other sources to which said corporation, association or district would have been entitled but for such transfer.

7 Officers and employees. Appoint and fix the salaries of such officers and employees as they shall deem necessary, who, unless employed under special contract, shall hold their offices during the pleasure of the trustees; but no trustee shall receive compensation as such.

8 Removals and suspensions. Remove or suspend from office by vote of a majority of the entire board any trustee, officer or employee engaged under special contract, on examination and due proof of the truth of a written complaint by any trustee, of misconduct, incapacity or neglect of duty; provided that at least one week's previous notice of the proposed action shall have been given to the accused and to each trustee.

9 Degrees and credentials. Grant such degrees and honors as are specifically authorized by their charter, and in testimony thereof give suitable certificates and diplomas under their seal; and every certificate and diploma so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar diplomas of corresponding grade granted by any institution of learning.

10 Rules. Make all by-laws, ordinances and rules necessary and proper for the purposes of the institution and not inconsistent with law or any ordinance or rule of the University; but no ordinance or rule by which more than a majority vote shall be required for any specified action by the trustees shall be amended, suspended or repealed by a smaller vote than that required for action thereunder.

§ 35 Public and free libraries and museums. All provisions of § 35 to 51 shall apply equally to libraries, museums, and to combined libraries and museums, and the word library shall be construed to include reference and circulating libraries and reading-rooms.

§ 36 Establishment. By majority vote at any election, any city, village, town, school district, or other body authorized to levy and collect taxes, or by vote of its common council, any city, or by vote of its trustees, any village, may establish and maintain a free public library, with or without branches, either by itself or in connection with any other body authorized to maintain such library. Whenever 25 taxpayers shall so petition, the question of providing library facilities shall be voted on at the next election or meeting at which taxes may be voted, provided that due public notice shall have been given of the proposed action.

§ 37 **Subsidies.** By similar vote money may be granted toward the support of libraries not owned by the public but maintained for its welfare and free use; provided, that such libraries shall be subject to the inspection of the regents and registered by them as maintaining a proper standard, that the regents shall certify what number of the books circulated are of such a character as to merit a grant of public moneys and that the amount granted yearly to libraries on the basis of circulation shall not exceed 10 cents for each volume of the circulation thus certified by the regents.

Non-public libraries may receive 10c. a vol. for circulation certified by regents.

§ 38 **Taxes.** Taxes, in addition to those otherwise authorized, may be voted by any authority named in § 36 and for any purpose specified in § 36 and 37, and shall, unless otherwise directed by such vote, be considered as annual appropriations therefor till changed by further vote, and shall be levied and collected yearly, or as directed, as are other general taxes; and all money received from taxes or other general sources for such library shall be kept as a separate library fund and expended only under direction of the library trustees on properly authenticated vouchers.

Tax first voted to be annual till changed by later vote.

Library money to be kept separate.

§ 39 **Trustees.** Such libraries shall be managed by trustees who shall have all the powers of trustees of other educational institutions of the University as defined in this act; provided, unless otherwise specified in the charter, that the number of trustees shall be five; that they shall be elected by the legal voters, except that in cities they shall be appointed by the mayor with the consent of the common council, from citizens of recognized fitness for such position; that the first trustees determine by lot whose term of office shall expire each year and that a new trustee shall be elected or appointed annually to serve for five years.

Powers.

Number 5.

Election or appointment.

Term of office, 5 years.

§ 40 **Incorporation.** Within one month after taking office, the first board of trustees shall apply to the regents for a charter in accordance with the vote establishing the library.

Charter from regents.

§ 41 **Reports.** Every library or museum which receives state aid or enjoys any exemption from taxation or other privilege not usually accorded to business corporations shall make the report required by § 25 of this act, and such report shall relieve the institution from making any report now required by statute or charter to be made to the legislature, or to any department, court or other authority of the state. These reports shall be summarized and transmitted to the legislature by the regents with the annual reports of the state library and state museum.

To report to regents.

Exempt from other reports.

Reports to be summarized.

§ 42 **Use.** Every library established under this act shall be forever free to the inhabitants of the locality which establishes it, subject always to rules of the library trustees, who shall have authority to exclude any person who wilfully violates such rules; and the trustees may, under such conditions as they think expedient, extend the privileges of the library to persons living outside such locality.

Library free to residents.

Exclusion.

Privileges to non-residents.

§ 43 **Injuries to property.** Whoever intentionally injures, defaces or destroys any property belonging to or deposited in any incorporated library, reading-room, museum, or other educational institution, shall be punished by imprisonment in a state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than \$500, or by both such fine and imprisonment.

Intentional injury a state's prison offense.

Wilful detention punishable by 6 mos. in jail or \$25 fine.

§ 44 **Detention.** Whoever wilfully detains any book, newspaper, magazine, pamphlet, manuscript or other property belonging to any public or incorporated library, reading-room, museum or other educational institution, for 30 days after notice in writing to return the same, given after the expiration of the time which by the rules of such institution, such article or other property may be kept, shall be punished by a fine of not less than one nor more than \$25, or by imprisonment in the jail not exceeding six months, and the said notice shall bear on its face a copy of this section.

Transfer approved by regents carries right to receive money, books and other property.

§ 45 **Transfer of libraries.** Any corporation, association, school district or combination of districts may, by legal vote duly approved by the regents, transfer the ownership and control of its library, with all its appurtenances to any public library in the University, and thereafter said public library shall be entitled to receive any money, books or other property from the state or other sources, to which said corporation, association or district would have been entitled but for such transfer, and the trustees or body making the transfer shall thereafter be relieved of all responsibility pertaining to property thus transferred.

Right to state grants forfeited.

§ 46 **Local neglect.** If the local authorities of any library supported wholly or in part by state money, fail to provide for the safety and public usefulness of its books, the regents shall in writing notify the trustees of said library what is necessary to meet the state's requirements, and on such notice all its rights to further grants of money or books from the state shall be suspended until the regents certify that the requirements have been met; and if said trustees shall refuse or neglect to comply with such requirements within 60 days after service of such notice, the regents may remove them from office and thereafter all books and other library property wholly or in part paid for from state money shall be under the full and direct control of the regents who, as shall seem best for public interests, may appoint new trustees to carry on the library, or may store it or distribute its books to other libraries.

Regents may remove negligent trustees.

Control of property.

Libraries in University may borrow.

§ 47 **Loans of books from state.** Under such rules as the regents may prescribe, they may lend from the state library, duplicate department, or from books specially given or bought for this purpose, selections of books for a limited time to any public library in this state under visitation of the regents, or to any community not yet having established such library, but which has conformed to the conditions required for such loans.

Traveling libraries.

Instruction on organizing and administering libraries.

§ 48 **Advice and instruction from state library officers.** The trustees or librarians of any citizen interested in any public library in this state shall be entitled to ask from the officers of the state library any needed advice or instruction as to a library building, furniture and equipment, government and service, rules for readers, selecting, buying, cataloguing, shelving, lending books, or any other matter pertaining to the establishment, reorganization or administration of a public library. The regents may provide for giving such advice and instruction either personally or through printed matter and correspondence, either by the state library staff or by a library commission of competent experts appointed by the regents to serve without salary. The regents may, on request, select or buy books, or furnish instead of money apportioned, or may make exchanges and loans through the duplicate department of

By library staff or commission.

Aid free to residents of state.

the state library. Such assistance shall be free to residents of this state as far as practicable, but the regents may, in their discretion, charge a proper fee to non-residents or for assistance of a personal nature or for other reason not properly an expense to the state, but which may be authorized for the accommodation of users of the library.

Fees for certain cases.

§ 49 **Use of fees and fines.** The regents may use receipts from fees, fines, gifts from private sources, or sale of regents' bulletins and similar printed matter, for buying books or for any other proper expenses of carrying on their work.

Receipts to be used for expenses.

§ 50 **Apportionment of public library money.** Such sum as shall have been appropriated by the legislature as public library money shall be paid annually by the treasurer, on the warrant of the controller, from the income of the United States deposit fund, according to an apportionment to be made for the benefit of free libraries by the regents in accordance with their rules and authenticated by their seal; provided that none of this money shall be spent for books except those approved or selected and furnished by the regents; that no locality shall share in the apportionment unless it shall raise and use for the same purpose not less than an equal amount from taxation or other local sources; that for any part of the apportionment not payable directly to the library trustees the regents shall file with the controller proper vouchers showing that it has been spent in accordance with law exclusively for books for free libraries or for proper expenses incurred for their benefit; and that books paid for by the state shall be subject to return to the regents whenever the library shall neglect or refuse to conform to the ordinances under which it secured them.

State aid to free libraries.

Conditions.

Books to be approved.

Equal amount from local sources.

Return of grants.

§ 51 **Abolition.** Any library established under this act may be abolished only by a majority vote at a regular annual election, ratified by a majority vote at the next annual election. If any such library is abolished its property shall be used first to return to the regents, for the benefit of other public libraries in that locality, the equivalent of such sums as it may have received from the state or from other sources as gifts for public use. After such return any remaining property may be used as directed in the vote abolishing the library; but if the entire library property does not exceed in value the amount of such gifts it may be transferred to the regents for public use, and the trustees shall thereupon be freed from further responsibility. No abolition of a public library shall be lawful till the regents grant a certificate that its assets have been properly distributed and its abolition completed in accordance with law.

Abolish only by majority vote at two successive elections.

Disposition of property.

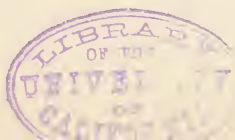
Regents' certificate necessary.

§ 52 **Laws repealed.** Of the laws enumerated in the schedule hereto annexed that portion specified in the first column is repealed.

Laws repealed.

§ 53 **Saving clause.** The repeal of a law or any part of it by this act shall not affect or impair any act done or right accruing, accrued or acquired, or liability, penalty, forfeiture, or punishment incurred prior to such repeal, under or by virtue of any law so repealed, but the same may be asserted, enforced, prosecuted, or inflicted as fully and to the same extent as if such law had not been repealed; and all actions and proceedings, civil or criminal, commenced under or by virtue of the laws so repealed and pending at the time of such repeal, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

Repeal not to impair action, nor affect rights, liabilities, etc.



Continuation, not new enactment.

Revival.

References.

§ 54 **Construction.** The provisions of this act, so far as they are substantially the same as those of the laws herein repealed, shall be construed as a continuation of such laws, modified or amended according to the language employed in this act, and not as new enactments. Repeals in this act shall not revive any law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

References. References in laws not repealed to provisions of law incorporated in this chapter and repealed shall be construed as applying to the provisions so incorporated. Nothing in this act shall be construed to repeal any provision of the criminal or penal code.

§ 55 **To take effect.** This act shall take effect immediately.

Schedule of laws repealed.

Laws of	Chapter	Section	Laws of	Chapter	Section
Rev. laws of 1813	59	All.	1852	366	1.
Rev. stat., pt. 1.	5, tit. 3; 5.		1853	184	All.
Rev. stat., pt. 1.	9, tit. 8; 6, 7, 8.		1854	80	1.
Rev. stat., pt. 1.	15, tit. 1; All.		1855	91	1, 2.
1815	207	All.	1855	50	All.
1818	276	All.	1855	410	1, 2.
1832	8	3, 4.	1855	471	1, 2, 3.
1834	140	2.	1856	168	1, 2, 3.
1835	34	3.	1856	54	All.
1835	123	2, 3.	1857	355	1, 2, 3.
1836	142	1.	1857	527	All.
1838	237	8, 9.	1858	81	1, 2.
1839	226	All.	1859	395	1, 2, 3.
1839	315	1, 2.	1859	426	1.
1840	245	1, 2.	1860	518	1, 2.
1840	246	All.	1865	697	All.
1840	381	3.	1868	179	1, 2.
1842	142	All.	1869	774	All.
1842	149	1, 3, 4, 5, 6.	1870	60	1, 2.
1843	85	1, 4.	1870	51	All.
1844	254	1, 2, 3.	1870	557	1, 2, 3, 4, 5.
1844	255	1, 3, 5, 6, 7.	1871	711	1, 2, 3.
1845	179	1, 3.	1872	746	1, 2, 3, 4, 5.
1845	85	1, 3.	1873	642	4.
1846	132	1, 2, 3, 4, 5.	1875	176	All.
1847	190	1.	1875	372	All.
1847	212	1, 2.	1876	132	1, 2.
1848	262	2, 3.	1877	163	All.
1848	372	All.	1879	289	All.
1849	175	1, 2, 3, 4, 5.	1880	514	1.
1849	266	All.	1881	120	All.
1850	360	1, 2, 3.	1881	679	All.
1851	396	All.	1886	493	All.
1851	536	1, 3.	1887	652	All.
1851	544	All.	1889	529	All.







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