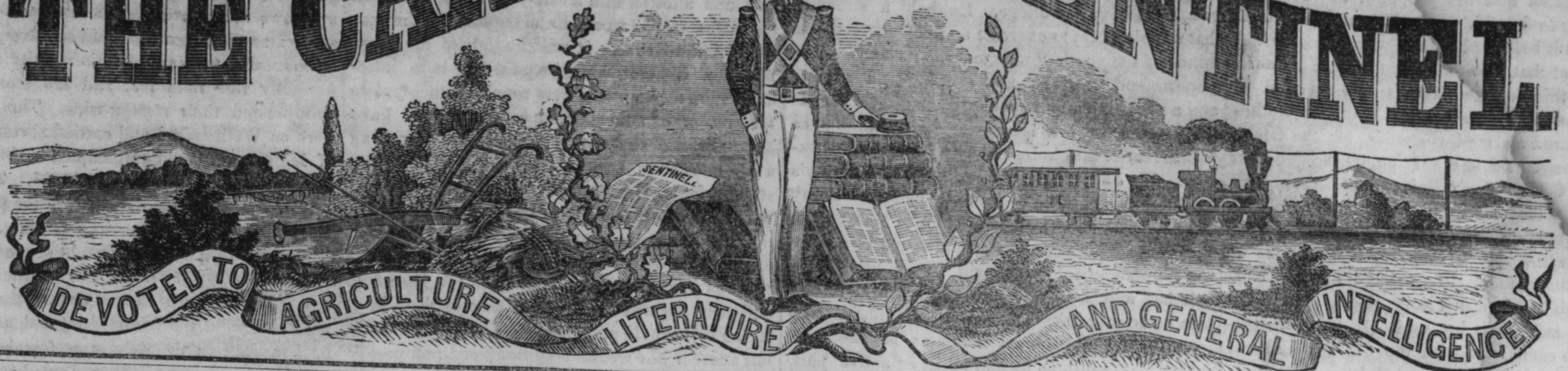


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"Our Queen and Constitution."

WOODSTOCK, N. B., SATURDAY, MAY 13, 1854.

By James S. Segee

No. 46.

HOUSE OF ASSEMBLY.

[From the Head Quarters Extra.]

FREDERICTON, N. B., April 5, 1854.

[Mr. Smith's Speech Continued.] KING'S COLLEGE.

"In the Session of 1842, no answer being received, the Bill was again brought in, and passed by the Assembly, and was again rejected by the Legislative Council.

"In the Session of 1843 numerous petitions praying for the modification of the Charter, having been presented to the Legislature from various parts of the Province, this Bill was again passed by the Assembly, and again lost in the Legislative Council.

"In the Session of 1844 the Bill was again adopted by the Assembly, and concurred in by the Legislative Council, with an amendment, making 'the Bishop of the Diocese, or (in his absence) the Archdeacon, ex officio Member of the College Council,' and this amendment having been negated in the Assembly, the Bill was again lost.

"The same Bill having been brought in during the present Session, the College Council, by their Petition to the Assembly, stated that they could not give their assent to any alteration of the College Charter by Enactment of the Provincial Legislature, and prayed that no Bill might pass for that purpose; the Council and Assembly, however proceeded with and passed the Bill, considering it their imperative duty so to do for the general interests of the Province."

This showed the difficulties the people had to contend with. Here was the College Council, with the Head of the Government protesting against their passing a Bill, and resisting the voice of the people, and telling them it was of no use for them to do so, as they would not yield their assent to it! The Address then went on to say:—

"Your Majesty will at once discover the limited usefulness arising from the unpopularity of the Institution, when you inform Your Majesty, that since its commencement, a term of sixteen years, only ninety-eight Students have matriculated, and only thirty-eight of those have graduated, while the number who have completed their Theological Studies, and taken Holy Orders, is limited to six; after deducting from the endowment of £2,211, the proportion applied towards the support of a Collegiate School, and including the expenses of the Buildings and Grounds, the total expenditure for this Institution from the Public Revenues of this Province to 1844 inclusive, exceeds £47,000 currency, equal to £480 for every Student who has matriculated.

"The total population of this Province is now about two hundred thousand, not one fifth of whom belong to the Established Church of England and Ireland, and as one College would be sufficient, under proper management, for the Collegiate requirements of the Province, we can see no good or just reason why the entire management and control of the Institution should be voted in any one Denomination of Christians, to the absolute exclusion of all others, who equally contribute to the Public endowment."

Who could read that,—knowing the money was collected from all denominations alike—and not have his feelings aroused, and find a spirit of resistance stirring up in his bosom, against bowing down and submitting to be thus trampled on by the people belonging to one denomination! (Hear, hear).—The Address concluded thus:—

"Against the unreasonable and unfounded opinion of the College Council, that it was the duty of the Legislature to alter the Charter of the Institution, we record our most solemn and decided protest; and in answer to such opinion, we are warranted in saying that they are the greatest enemies to the Institution, and most endanger its ultimate safety and success, who seek to retain its present illiberal and exclusive character. Nor can we avoid expressing our surprise, that the same Council who agreed to the modifications contained in the above Minute of 1840, should now, with only one dissentient voice, absolutely refuse their assent to any alterations in the Charter.

"The manifest and avowed object of the Institution is, in the language of the Charter, 'the Education and instruction of Youth and Students in arts and faculties,' and it is the sincere and single desire of Your Majesty's faithful Commons of New Brunswick, that the objects of the Institution should be attained to the greatest possible extent by the Youth of the Province.

"It is a singular anomaly in this Province, that while no religious test is imposed, either upon Members of the Legislature, or upon Your Majesty's Executive advisers, to whom are entrusted the management and control of the internal Government of the Colony; a particular Religious test should be required as a qualification for the governing Body of a Public Institution of Learning, which derives its support from the contributions of all classes and denominations; and we therefore humbly submit that such anomaly should no longer be permitted to exist.

"The public mind in this Province is now deeply and justly prejudiced on this subject, and those prejudices should be restricted; the exclusive character of the Institution has restricted its usefulness, and that character should be changed;—the inefficient management of the past augurs badly for the future, and imperatively requires the infusion of a more active and vigorous agency into the managing power;—the fountain of Collegiate learning has been fenced in by denominational obstructions, and these should be removed;—then, and then only, will the noble objects of the endowment be attained, and then, the Institution, elevated by the approbation and supported by the generosity of a satisfied public, will shed its light over the circumference of our Province, and distribute its blessings with a liberal and impartial hand among all denominations of your Majesty's loyal and affectionate subjects.

"We Your Majesty's faithful Commons of New Brunswick, do therefore humbly and earnestly pray that Your Majesty will be graciously pleased to take the premises into consideration, and give Your Royal Assent to the Bill for the modification of the Charter of King's College in this Province. "And as in duty bound will ever pray.

"J. W. WELDON,
Speaker of the House of Assembly."

That was a very valuable document; it was most ably drawn up, and contained a great deal of information. It showed the opinion of the House, and its fearless independence,—it showed that although they were resisted, threatened, and frowned on by the Governor and the College Council, they were not to be intimidated, and were determined not to submit to the dominant power of one Church. The Bill, and this Address in support of it, led to a correspondence between Sir William Colebrooke and Lord Stanley, then Colonial Secretary, and from the first extract he would read from Lord Stanley's Despatch, page 25th of the Journal of the House of Commons, 1842, we learned that the Legislature had no right to alter the Charter. It read thus:—

[No. 342.]

"Downing Street, 12th November, 1845.

"SIR,—Referring to the correspondence which has already taken place between us on the subject of the Act of the last Session of the Legislature of New Brunswick to amend the Charter of King's College, I have now to convey to you the necessary instructions for your guidance in that case.

"On the authority of the Solicitor General of the Province, and of the great American jurist Mr. Storey, you suggest a preliminary doubt, which, if well founded, must supersede all further discussion of this Act. It is the doubt whether the Local Legislature possesses any constitutional right to alter a Royal Charter, without the express consent of the corporate Body, and whether such an Act, if passed, would have the authority of Law."

But what did Lord Stanley reply? He pointed out that the decision of an American Judge did not apply to a British Colony, and then proceeded:—

"I do not, however, propose to pursue further this abstract enquiry, since the question to which it refers does not really arise in the present case. It is not the fact, that the Charter of King's College is a Royal Charter, in the proper sense of that term. It was not granted by the Crown in the unaided exercise of the Royal Prerogative, but on the authority of the Provincial Act of 1823, (4 Geo. 4. Cap. 3.) which enabled the Trustees of the College to surrender their Charter to His late Majesty King George the Fourth, on condition that His Majesty would grant another Charter for the re-incorporation of the College, the terms of which new Charter were partly prescribed by the Act of 1823, and were partly left by that Act to the discretion of the Crown. The question in debate is, therefore, not whether the Local Legislature have power to alter a Royal Charter proceeding from the Royal grace and favor, but whether they have power to alter a Charter, the promulgation of which was expressly authorized by themselves, and which, without their authority, could not have been so promulgated.

"Neither is King's College exclusively a Royal Endowment. For the General Assembly, first in 1823, and again in 1829, granted large funds for the support of it, and for the erection of the Buildings in which the College is held. After the acceptance of such Grants, the Crown cannot claim the same unlimited rights as might perhaps have been asserted if the Royal Bounty had been the only source of the Collegiate property. The Legislature and the Crown are, at least, Joint Founders, and as no Legislative Act on this (or indeed on any) subject can be passed without the consent of the Crown, so can no Royal Grant, changing the basis of this Institution, be properly issued without the concurrence of the Legislative Council and Assembly. Between those Houses and the Crown a virtual, if not a formal, compact, must be held to result from the Acts, which they have thus already done in concert and concurrence with each other. In such a state of things, it would be at once impolitic and unjust to insist, on, or even to propound extreme, and at best but questionable rights."

[We cannot afford the space to give the whole of Mr. Smith's speech, and drop it here, in order to give the opinions of our own Representatives on this subject to their constituents.—Ed. Sentinel]

Mr. English said he had been listening to the debate, but as yet he had not heard a single rea-

son that the College did not do as much good as it ought to do, and His Excellency, in his letter addressed to the College Council, admitted the same, and no doubt but he expressed in that letter the sentiments of his Government. At the very lowest calculation not less than £82,000 had been expended during the last twenty-five years to educate 82 persons, and he wished to know if the country could put up with that any longer,—one thousand pounds a head expended, to educate eighty-two young men, whose fathers were among the richest men in New Brunswick! He liked the Speaker's plan, to take the money and divide it among the High Schools, until the country was better prepared to support a College. He wanted to see the money expended where it would do most good. He had often heard it said that the College existed under the guarantee of a Charter, and that the Legislature had no right to interfere with it; but it was evident that His Excellency did not view the question in that light, as he stated in his letter to the College Council that the resolution passed in 1851 to withhold the money was not complied with because the Act was not repealed, and that was as much as to say the Legislature had the power to repeal the Act. The College had been in existence twenty-five years, and after all attempts to improve the Charter, and induce a larger number of students to go there, it was in a worse state than ever. Under these circumstances he would go for withholding the grant of £1,100, and then, if nothing satisfactory was done he would go for repealing the Charter. If that were done he believed the College Council would then devise some plan for improvement, and he believed they would never do it until that was done. Let the House clap their hands upon the money, and he believed the Government would soon bring in a Bill to amend the present Charter, and perhaps it would be one that would satisfy the House. He had heard no arguments against the Bill then before them, and he should therefore give it his support.

The Committee then rose and reported progress, and the House adjourned.

FRIDAY, April 7th.

Mr. Connell, in moving the debate this morning, said he would not take up much of the time of the Committee, but would make a few remarks on the subject. The first section of the Bill was to repeal a section of the Act of 1829, granting the College £1,100 a year out of the Provincial revenue, but he had no idea that by so doing they would close up the Collegiate School; at least he entertained no idea of the kind, and if the College were shut up the school would have the same claims upon the House as similar Institutions had. The lands now held by King's College were originally granted to the town of Fredericton for educational purposes, and if the Bill should pass, and the College be closed, these lands, amounting to about six thousand acres, would revert to the town. He made those remarks to quiet the minds of Hon. Members who might have entertained fears that the passing of the Bill would have the effect of shutting up the Collegiate School. The Hon. mover of the Bill had gone into statistics, showing the expense of the College from the date of its first Charter in 1829, by which it appeared that the aggregate, including the interest, amounted to the large sum of £150,000; how many persons had studied there the returns did not show, as many had graduated there who had studied elsewhere; but at all events it had cost the Province £500 for every student, and they were the sons of rich men.