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SPEECHES

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OF

MR. HOPKINS OF NORTHAMPTON,

ON

THE BILL TO INCORPORATE THE

COLLEGE OF THE HOLY CROSS,

IN THE CITY OF WORCESTER;

DELIVERED IN THE HOUSE OF REPRESENTATIVES,

APRIL 24TH & 25TH, 1849:

With an Introductory Letter to the Members of the House.



NORTHAMPTON, MASS.

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LETTER.

To my fellow members of the House of Representatives.

GENTLEMEN,

YOUR decision, at your late session, upon the petition of J. B. Fitzpatrick and others, for an act incorporating a Jesuit College in the City of Worcester, has been the subject of extensive comment and animadversion. A Review of the Reports and Debates recently appeared in a periodical known to be devoted to the interests of the petitioners, (*Brownson's Quarterly*), and was simultaneously issued, in a pamphlet form, and extensively distributed to the Members of the Legislature, and to distinguished citizens. The Reviewer argues against your conclusions, but kindly and courteously apologizes for your error, and expresses his entire confidence that your ways will be amended at the next session, when the Legislature is made to *understand the case*.

It has occurred to me that an *understanding of the case*, and a defence of your recent course, may be simultaneously promoted by giving to the public the reasons and views, in the light of which your decision was had. This seems to be but just to you, and to your successors. Those reasons are to be found in the Report of your Committee, and in the arguments in the House, by which, against great odds, that Report was triumphantly sustained. It is not claimed that all who voted to sustain the Majority Report, giving the petitioners leave to withdraw, indorse all the reasons and arguments of the Report or speeches referred to; yet the reasons therein assigned may be fairly supposed to represent, in general, the views of the House, and to constitute the ground on which they rest their justification.

Hence I am induced to present you with the speeches which I esteemed it my duty to make on the occasion. Whether they constitute the "one exception," referred to by the Reviewer, to the "more than ordinary courtesy on both sides" * which characterised

* Review, p. 4. The Pamphlet form is the one referred to throughout this letter.

the debate, you will judge. I have no apologies to make in their behalf, no retractions, no modifications. To whatever original sin they possessed, I now add the more deliberate enormity of actual reiteration and publication, and consequently remove myself beyond the pale of forgiveness.

The speeches were made to you for the purpose of guiding and assuring your judgment, and, very possibly, had some influence to this end. I esteem them, therefore, as belonging to you, and trust that, upon a calm review of the case, which their perusal will occasion, they may tend to your re-assurance and satisfaction. They were written out soon after delivery, at the urgent request of many individuals, and with a design of publication. As the public mind, however, in the mean time had become seemingly quiet, they were withheld. But the Reviewer now calls them forth, and they constitute my humble contribution toward supplying the defect in the reports and publications of the debates so much regretted by him. (p. 5.)

I give these speeches, gentlemen, into your hands with the less reluctance, because of the seeming sanction which they received from your final votes on the question. The time was—and it is probably fresh in your memory—when, in discharge of what I considered my duty, as your servant, I found myself in a very unequal contest. The Report of your Committee, which, as the Reviewer says, (p. 4.) “with a total disregard or misapprehension of the” case, I had the misfortune, or dishonor, to present, was assailed on every side; by the able and eloquent chairman of the Committee in whose behalf the Report was made, (Mr. Upham of Salem,) by another member of the Committee, by all the political leaders of the House in turn, as well as by other individuals of great eloquence and influence. Of the ability of the opposition which this important Report encountered, I quote the Reviewer who says “if those speeches had been correctly or adequately reported and published, nothing more would need be said.” (p. 5.) Again, “Mr. Healy’s speech, we may say, without the least disparagement to the speeches of the other gentlemen who preceded or followed him on the same side, covered the whole field of discussion, dissipated, to all who understood him, the fog which had been collected around the question, disentangled it from all irrelevant matters which had been adroitly mixed up with it, placed it in its true light and real bearings, on its legitimate grounds, answered all the objections which had been or could be brought against it, showed its perfect accordance with the uniform policy of the laws of the Commonwealth, and proved conclusively, that, according to that policy, the petitioners made out a clear case, and were honestly entitled to a charter for their college; and it did this with the calm earnestness and courtesy of manner, the clearness and distinctness of expression, the enlarged and liberal views, the depth and accuracy of legal knowledge, and the aptness and force of argument, for which that gentleman is so eminently distinguish-

ed. If we had that speech as it was delivered, we would not attempt to add a word of our own; we would simply insert it in our pages, sure that it would carry conviction to every calm and deliberate reader." Thus there was every ordinary indication of an overwhelming defeat of the Report of your Committee. Under these circumstances, with the incidental but effective aid of one or two individuals only, I sought to do my duty simply and fearlessly. You will pardon me for venturing to *express* to you my personal gratitude for your support. By a majority of 33 you declared the truthfulness and righteousness of that Report and the arguments by which it was enforced. And now that that contest is passed, and you, having sustained your Committee, have become, in your turn, the objects of assault, it is the least that I can do, to give you, in a permanent form, whatever of defence may be found in the views which seemed once to have received your approbation.

You cannot but have observed with what consummate coolness the Reviewer assumes that the case was decided without being fully deliberated or understood! After such a variety of able speeches, as those upon which he lavishes praise, after such an array of talent and influence in favor of the Reviewer, it is rather preposterous to intimate that the House did not understand the subject! The inference flows awkwardly from the premises, and reminds us of a direction given by a certain logician to his pupil, as follows, "Draw what inferences you want. If they come fairly and easily from your premises, it is well; if not, *then draw the harder.*"

But, gentlemen, the manner of his apology for your error is another instance of a coolness quite amounting to something which it might be *impudent* for me to express. His language toward the House is studiously courteous; but only that it may be more caustic. He anoints with oil; but it is the "oil of vitriol." Toward the Committee he is a shade less decorous, while toward *somebody*, whom he is careful not to mention, he seems to bear himself with peculiar emotions. Of the Report of the Committee he "must be permitted to say, that it appears to have been drawn up with a total disregard or misapprehension of the real nature of the prayer of the petitioners, and with an imperfect knowledge and understanding of the laws and policy of the Commonwealth, which, though natural enough in a fanatical country minister of one of the minor sects, we are surprised to meet in the report of a grave legislative Committee." (p. 4.) Thus the arrow whose savage head glitters with terrors before the eyes of the entire Committee, is, at the last moment, so adroitly pointed as to wound only a "fanatical country minister" doomed to fall friendless into the arms of a "minor sect"* whose vengeance the Holy Catholic Church has no occasion to fear! This

* What sect? Are the Congregationalists of Massachusetts including, as the term does, Unitarians, Orthodox, Baptists, and almost all anti-prelatists—are they a "minor sect?"

surely is adroit! Perhaps it is "*Jesuitical*" as that word is "popularly understood." (p. 11.)

The reason of *your* error, gentlemen, the Reviewer finds in the error of the Committee, and especially of the poor fanatic, who seems singled out as the victim for an appeasing sacrifice. He says "Instead of presenting the prayer of the petitioners for the action of the House in its true light and real bearings, his Report seems to have been expressly designed to misrepresent it, to envelop it in a dense fog, to render it obscure and confused by mixing up with it foreign or irrelevant matters, and to prevent ordinary minds, without long and patient investigation, from being able to form any tolerable notion of its actual character, or to judge it on its own merits. That it had this effect on many minds in the House cannot be doubted." (pp. 4. 5.)

So it seems that the "fanatical country minister" who so successfully shrouded the wisdom and honesty of the Committee with his own duplicity and ignorance, had some success with the House. His course was well calculated to affect "*ordinary minds*" and "*that it had this effect on many minds in the House cannot be doubted.*" True; it cannot be doubted that there were 117 minds in that House so "ordinary" as to be duped by the said "minister," notwithstanding what the Reviewer calls the "very able and statesmanlike speeches of the supporters of the petition,"* the publication of which would render the Reviewer's lucubrations entirely superfluous, and "would carry conviction to every calm and deliberate reader." (p. 5.)

But, gentlemen, those speeches, the mere *reading* of which would render all else superfluous, were *delivered* in your presence, with all the living and persuasive accompaniments of voice and manner; they were poured out from warm and eloquent hearts upon attentive and earnest ears; and yet—they were insufficient to enlighten and convince your "ordinary minds," and to dissipate the spell with which the "fanatical country minister" had bound you!

This is the shift to which the Reviewer is driven! This is his courteous apology in your behalf! This is the oil of his anointing! The honesty of your *purposes* is maintained at the sacrifice of your *competency*! And you are graciously pardoned for this inadvertence, on condition that you, or your successors, will not "hesitate to retrace a false step which through misapprehension you have taken." (p. 4.)

While, with the Reviewer, I bear testimony to your honest intentions and earnest endeavors, I prefer rather to hold you responsible, also, for your deliberate decisions, than to apologize for you as the dupes of a fanatic. I commend to you, however, the Reviewer's dread of priestcraft and hierarchies. After all, "there is method in his madness."

* "Supporters of the petition;" of whom there was not one.

We are informed by the Reviewer, that the rule directly, or virtually, prohibiting Protestant youth from enjoying the privileges of the proposed College, is a rule that does not obtain in any other Catholic College in the United States, "and in all the Catholic Colleges except the one at Worcester, they (non-Catholics) are received, and without being required to conform to the Catholic faith and discipline." (p. 12.)

Hence it follows, that the Petition (*as maintained in the debate*), taken in connection with this rule, is *anomalous*. No other sect, surely in New England, ever adopted or enforced such a rule concerning their literary or theological institutions. No one ever asked for an act of incorporation, with such avowals of purpose. And it now comes out that the *Catholics* have no such institution in all the country! Whether they have ever sought one elsewhere, and been denied, they do not say. For aught we know, there may be precedents *against* them. We have their statement that the whole country affords not a single precedent *for* them. And you, gentlemen, did not refuse that which has been granted them by any of your sister states. Their application was a novel one, and, as far as their own history in this country is concerned, the refusal they received at your hands, does not contravene a single precedent.

Again, it follows that this peculiar feature of exclusiveness which presented the most prominent aspect in which you contemplated the case, is not at all necessary to the Petitioners. They live and prosper every where else, in this country, without it, and in refusing it, therefore, even if you were wrong, you were not guilty of any injury to the petitioners.

But why is this anomalous application now made to the Legislature, and why do the petitioners utterly refuse to relax a feature, not essential to them elsewhere, and which they find is peculiarly obnoxious here? I conceive, gentlemen, that there would be no inconsiderable difficulty in answering this were it not for the aid of the Reviewer. He proceeds to say, (pp. 12. 13.) "The college in Worcester is exclusive in this respect, because its founder deemed it prudent to make it so, and because its present managers have seen no good reason to make it otherwise. The great complaint against Catholic colleges, particularly in the West, is that they are proselyting institutions. * * * * This complaint, we all know, was brought against the Female Academy of the Ursuline Convent in Charlestown, and nobody doubts that one of the principal causes which excited a mob to lay it in ashes was the fact that many of its pupils were from our respectable Protestant families. It was to obviate a like catastrophe for his college, * * * that its munificent founder, the late learned and eminent Bishop Fenwick, who wished as far as possible to live in peace with all men, and to give occasion of wrath to none, adopted the exclusive rule, and refused to receive into the College of the Holy Cross any but children of Catholic parents, or such as, with their own free will and the free and full consent of their parents or guardians, were preparing to be-

come Catholics. * * * He sought to obtain such a college, without giving umbrage to his Protestant neighbors and fellow-citizens, or doing any thing to provoke their hostility or suspicions against his college, or the people of his charge. Here was the motive which led to the adoption of the rule, a motive wholly in the interests of the non-Catholic portion of the community; and the rule is unalterable only because the college does not choose to alter it."

The plain English of all this is, that they need the rule to insure their buildings and property from the violence of a PROTESTANT, MASSACHUSETTS MOB! They adopt it and retain it for their security, and as a sop to our prejudices. Our self-respect forbids us to acknowledge it as necessary for the security which, we maintain, is ample under our laws and government; and our prejudices are much more offended, than appeased, by it. If these, then, are the reasons of their rule, it will be to their advantage to relax its rigor before they renew their application to the Legislature.

It is by no means my purpose to follow the Reviewer, or to review his review. To correct all errors, and to dispute all points, would be endless and needless. The important points, I flatter myself, were anticipated in the remarks which I made to the House, and which are herewith submitted.

I merely wish to call your attention to one assumption of the Reviewer, underlying his whole article, which is so cool and bold, and so clearly in the face of all truth, that there is some danger of its currency, arising from these very qualities. He assumes that the House were divided into two classes—one favoring, and the other opposing the prayer of the petitioners. He highly compliments "the very able and statesmanlike speeches of the *supporters of the petition*." Now there was no such division of the House; and there was found, in all that Protestant Sodom, not even one righteous man ready to arm himself as an advocate of the petition. It is remarkable that the Reviewer who claims to have drawn up the petition and may be supposed to understand it, should have overlooked this fact.

The petitioners asked that the "College of the Holy Cross" might be created with such "*powers as are usually conferred on such institutions*." I know not what right the Reviewer has to say, (p. 7,) that "the whole substance of the prayer of the petitioners, simply stated, is to be permitted to use a corporate seal," &c. One of the powers "usually conferred on such institutions" is to confer degrees; that the graduates of these institutions may go forth bearing their well earned distinctions under the sanction of the Commonwealth. This power is inseparable from the idea of a fully established and authorized College. And where a State bears the reputation which, thanks to our fathers, Massachusetts is privileged to bear with reference to her educational institutions, the honor of her sanction is not to be lightly given, or lightly esteemed. We are sorry that its great value should have been eclipsed, to the eyes of the Reviewer, by the glittering bauble of a "corporate seal."

The petition found no supporters—none ready to advocate the erecting of the institution into a College proper. The Committee were unanimous against granting their prayer. The Minority, whom the Reviewer esteems, *par excellence*, his friends, say in their report that “the principles held by the petitioners * * * * * prevent their standing on the same level, in the eye of the law, with the other educational institutions of the State.” (p. 17.) The majority of the Committee, the case of the petitioners being, on all hands, deemed inadmissible, thought that the most rightful and honorable course was to report leave to withdraw. The minority, however, anxious to be liberal, and seeing the impolicy of refusing altogether the prayer of petitioners supposed to represent a widely spread and somewhat potent constituency; and both the impropriety and impolicy of granting the prayer in full, sought to take that course which, under the somewhat difficult circumstances of the case, seemed to them the most discreet and just. They, therefore, took a course which they represented as a sort of compromise (see concluding paragraphs of minority Report) and recommended a bill simply giving the petitioners that “corporate seal” which suddenly loomed up so brilliantly in the eyes of the gentleman who drew the petition, as the great dignity and glory of a New England College!!

The only question, therefore, submitted to the House, by the Reports of the Majority and Minority of the Committee, was whether the petitioners should have leave to withdraw, or be put aside, like a troublesome child, with this “seal.” *And this was the only question entertained by the House.* The petition was lost sight of. Both in the Committee and in the House it suffered a default; not one of those able “supporters,” spoken of by the Reviewer, having appeared, or ever having been seen, save by his own “distempered fancy which sometimes sees things ‘not to be seen.’” (p. 17.) So that the petitioners, and all outside objectors, who find fault with the Legislature for not granting their request for a college proper, find themselves at issue with the entire Committee and with the entire House. And if they find fault that even the Bill recommended was not granted, it is sufficient to say that it was not that for which the petitioners applied, and the Legislature did not incline to give a part where it could not give the whole. And where this is not satisfactory, the objector must have recourse, as far as possible, to the Reports and Debates, and see if he can gain satisfaction by a full, detailed investigation.

It may be true, after all hearings before the Committee were closed, and after it was known that the Report was to be adverse to the prayer of the petitioners, and that not even a minority of the Committee would report for them such a charter as they respectfully prayed for, that then they offered to be satisfied with the bill which the minority vouchsafed to report. We know not what may have passed privately between them and any gentlemen of the Committee

or of the House. And it may be that, because of some expressed willingness on their part to be satisfied with the Bill, it was represented, occasionally, in the debate, as the Bill for which they asked. But it was not that for which their *petition* asked; it was not that for which they sought before the Committee, and it was not a Bill ever submitted to the Committee by them or their friends. Still it may have received their private assent, *under the circumstances*. It may not be amiss to suppose that their sagacity forbade their strict adherence to their original petition in the face of the unanimity every where against it, and that they, therefore, *submitted* to that which they did not *prefer*. But then, the whole offence of the House is reduced to this, that they gave the petitioners leave to withdraw, rather than to give them that for which they did not petition, but which, perhaps, under the circumstances, and for the time, rather than lose all, they might gladly have taken.

Mr. Healy of Boston seems to have labored under a strange delusion as to the prayer of the petitioners whose case he so fully argued. I refer to him, because the Reviewer so highly applauds his views, and rests the entire case on his speech. He is reported in the Boston Atlas as having said "If they came here * * * * and asked us to grant them a charter *such as we have given to other colleges,*" (the precise sense, and almost the *words*, of the petition,) "and told us at the same time, as they tell us now, that they were exclusive and sectarian, THEY WOULD BE OBNOXIOUS TO THE OBJECTIONS WHICH HAVE BEEN RAISED AGAINST THEM." We have only to add that Mr. Healy's *supposition* was the *literal fact*,* as the files of the House will show, and that his conclusion is just, and fully sustains the action of the House. We are not responsible for the Protean shapes afterward assumed by the petitioners in any private conversations. The House brought the case to an issue *as it stood upon the record*, and in so doing are justified and sustained by the gentleman whom the petitioners indorse as their all-sufficient champion, and upon whose "aptness and force of argument" they triumphantly rest.

Surely if the petitioners have suffered any slight, they suffered it most keenly at the hands of the minority of the Committee, and of the minority of the House, whose earnest advocacy of their cause extended only to a portion of their petition. Lukewarm friends are generally more obnoxious than open enemies. To be told by these *friends* and "*supporters*" that they could not stand "on the same level, in the eyes of the law, with the other educational institutions

* It is remarkable that the gentleman who drew the petition should have so misunderstood it as to suppose that in asking for a college, like other colleges, he was asking for a mere business corporation: (see p. 7.) and that the gentleman (Mr. Healy) who presented it to the House should predicate his argument on the assertion that they did not ask for such a charter as is given to other colleges, when the words of the petition are so expressly the reverse.

of the state," must have been a hard answer to their petition for a college, with such "*powers as are usually conferred on such institutions.*" And then, to be obliged, in order to keep the peace with such friends, to repress all complaints that their real petition was *unanimously* refused, and rejoice over the prospect, and wail over the loss, of a mere *sop* as though it were the *substance*, is either a remarkable illustration of craven submission, or of that adroitness which sometimes "stoops to conquer."

The House, on the other hand, reluctantly coinciding with the minority, that the petitioners could not stand "on the same level," &c. thought it more fair and honorable to give them leave to withdraw, than to join with the minority in preparing a *new and lower level*.

It is not strange, however, that the petitioners were anxious, at the last, to secure even that "level"; having the sagacity to discern that this temporary stooping was the prelude to their speedy conquest—and the obtaining of their entire request. They saw the connection between a part and the whole—that the sanction of the state in one respect would ultimately prove a sanction in all, and that the Bill of the minority, if it became an "Act," would be more than a match for their logic.

I refrain from other topics suggested by a perusal of the *Review*. The corporation question raised in the Report and Debate was, and is, of some importance. It has, however, an importance greater in other relations than in its relation to this petition. We rely upon the other points of the case. Still we say that corporations are not to be created except with reference to public benefits accruing therefrom, basing this doctrine upon the VIth. Sect. of the Declaration of Rights, and we argued that it made against the exclusive institution of the petitioners. The opposite doctrine is stated on p. 24. of the *Review*—and sets forth, in substance, that the Legislature are bound to give acts of incorporation to all applicants who will show that they can derive benefit to themselves, and *do others no injury*. This is broad and liberal beyond the custom of the Legislature. I merely submit whether a few poor men combining to purchase a cow or even a pig, a benefit to them, without any possible harm resulting, cannot claim an act of incorporation and a corporate seal, and be thereby invested with all the substantial dignities proposed, by the minority of the Committee, to be conferred on the College at Worcester.

In conclusion, gentlemen, I have only to remind you, of that which you all well know, that no subject came before you, during your laborious and protracted session, which was more deliberately discussed, more fully understood and more fairly decided. Such was your anxiety to act wisely that the subject was sent a second time to the Committee, with instructions to report their views at length. Two Reports were made by the Committee, both of them

refusing the prayer of the petitioners, but one proposing a substitute, or compromise. These reports were before you for days. They were finally made the subject of almost two days discussion, nearly all the speakers being in favor of the compromise bill, though none favoring the petition. Nevertheless both the petition and compromise were refused, and you granted the petitioners leave to withdraw.

What more could the petitioners ask for in respect to the amount and the courtesy of the deliberation bestowed upon their case? The ablest advocates in the House—and enough of them—argued against your decision. And if, under all these circumstances, you misapprehended the question, (as kindly suggested by the Reviewer,) it must be attributable to some defect in the “able and statesmanlike speeches” which he commends, or else to the “peculiar psychological conformation” of your “ordinary minds.”

Perhaps the Reviewer and the public may find the solution of the mystery in the following speeches.

Very Respectfully,

Yours, &c.

ERASTUS HOPKINS.

Northampton, Aug. 31st, 1849.

[THE majority of the Committee on Education reported "leave to withdraw," on the petition of J. B. Fitzpatrick and others, for an act to incorporate the College of the Holy Cross with such "*powers as are usually conferred on such institutions.*"

The minority reported a Bill, not in full conformity with the petition, but granting them merely the power to hold property, and do business under a corporate seal.

When the question arose in the House on the acceptance of the Majority Report, Mr. Upham of Salem moved to amend the Report by striking out the recommendation of the Committee and inserting the Bill reported by the minority.

The question arose on this amendment, which resulted in its rejection; the votes standing, yeas 84, nays 117; after which the Report of the Committee was accepted, without count, and the petitioners had leave to withdraw.

The Debate was opened by an able and eloquent speech from Mr. Upham of Salem, in support of his proposed amendment. He was followed by Messrs. Bigelow of Walpole and Barton of Springfield, each making short, but pertinent, speeches in reply. Then followed Messrs. Schouler of Boston, Williams of Norton, Healy of Boston, Griswold of Greenfield and Walker of N. Brookfield, in long and effective speeches in favor of the bill—the speech of Mr. Healy being specially regarded by the petitioners as clear, cogent and unanswerable. A very able reply was made to them by Mr. Bartlett of Lowell, who was immediately followed by Messrs. Boutwell of Groton and Banks of Waltham in favor of the Bill. The House was then, at the close of the afternoon session, addressed by Mr. Hopkins as follows.]

S P E E C H.

MR. SPEAKER:—

THIS discussion has been so protracted, and so varied, in its character, that I feel no ordinary embarrassment in attempting a reply to the many and diverse views which have been so eloquently urged upon the House in opposition to the Report of the Committee. It was my duty to submit that Report to the House, and it is my duty to defend and sustain it. This I shall seek to do in my own way, without turning aside to reply to many things which in themselves may truly seem to be worthy of comment.

But, before proceeding, I must advert to the extraordinary remarks made by my friend who has just taken his seat. (Mr. Banks of Waltham.) He asks us to raise Catholics to a “level with other sects”—to grant them equal privileges, and to recognize their proper rights!

I confess my surprise, sir, at this strain of remark—at this implication that the Catholics are oppressed, or denied, in this Commonwealth, any civil or religious rights which are common to others. I cannot believe that this House will be influenced by any such representations, or by an argument based in any manner upon them!

In what respects, sir, are the petitioners not on a level with other sects? What privileges, common to others, are withheld from them? There are none. They live among us, are protected by our laws, are under no civil disability, and they establish and enjoy their own worship, and their own institutions, as fully as do others. Where then is their disability? In what respects do they need the aid of our laws to promote them to a level with others? I protest, sir, against invoking, in behalf of the petitioners, the aid of prejudices so void of all foundation in our constitution or our laws.

The real question before this House is not whether the sect represented by the petitioners shall be tolerated—whether they shall have the rights of others, but whether they shall have *more* than others. Their toleration in this Commonwealth is complete. We welcome them to our shores; their houses of worship arise, peacefully, upon our soil; their congregations lawfully assemble; they become, in all respects, our citizens; and the man of them is not to be found in our midst, who labors under the least civil disability, on account of his religious faith. What is this, sir, but full and complete toleration? But my friend, to whom I have before alluded, does not like the word *toleration*. It seems to savor, to him, of *intolerance*, of a right to proscribe, of forbearance and partial endurance. He esteems a right to be a right, and hence above all toleration. Sir, I have no dispute with the gentleman about terms. If toleration is a word admissible in an American vocabulary, then I maintain that the Catholics of Massachusetts enjoy it. If, however, men choose to speak only of *rights*, and to eschew so patronizing a word as *toleration*, then I say that the Catholics have their *rights*, without abatement, hindrance or molestation. They have that which they are entitled to have; which the Legislature has no constitutional power to withhold; of which no good citizen desires to deprive them—to wit—*the full and equal protection of our laws*.

This, sir, is what I conceive to be toleration, about which so much has been said in this debate—toleration without abatement; from which you can take nothing, and to which you can add nothing. If, on this score, the petitioners could show any grievance upon them by our laws, it would be our cheerful duty to yield them prompt and adequate redress. But when any citizens, finding the provisions of general laws to be insufficient for the purposes they entertain, come to the Legislature for special enactments, they ask not for common rights, but for special privileges. And this is precisely the position of the petitioners. They ask a special grant of corporate powers for certain purposes by them declared. They have a right thus to come—to be heard patiently, respectfully, fully. And it is also our right to judge of their request, and to grant, or withhold, any special enactment asked for, according to our judgment. The right of the citizen to come here and ask for special legislation is complete. And the right of this Legislature to decide upon the application, in view of its various relations, is equally complete. These rights are as distinct in their provinces, as they are clear in their nature. The petitioners have exercised their right, and

we are now deliberating in the exercise of ours ; and any question of toleration, or appeals to elevate the Catholics to a level with other sects have not the remotest connection with this subject.

The true question then is, shall we grant an act incorporating the College prayed for and endow the petitioners with special powers to be used by them for the purposes, and in the manner, of their avowal ? Subsidiary to this, arise many other questions which may be legitimately entertained, but into which I do not propose to enter. Before granting the prayer of the petitioners we ought, perhaps, to consider whether it is expedient to sanction a system of education which commits the entire training of youth, from the tender age of 8 years and even less, to *Celibates*,—men who, by their strongest religious views and vows, have separated themselves from all the refining and beneficial influences of social life. I intend no disrespect to the character of these men, or to the religious convictions under which they act ; but are we prepared to commit the youth of this commonwealth to the training of such a class ? Is it accordant with nature, religion and sound policy ? And, moreover, are we ready virtually to sanction that censorship of the press which these gentlemen exercise over their little community, by *allowing* the use of the Douay version of the Bible, and placing the protestant, and every other form, and version, of it under that ban of proscription which the State applies only to obscene books and publications ? And if these questions suggest no valid objection, it still remains for us to inquire, whether a fourth College is needed in the State, or whether we shall strengthen those that exist, and enlarge their facilities of meeting the demands of a liberal education ? If we authorize another college, we concede the propriety and necessity of its establishment, and are fairly holden to *encourage, sustain and aid it*. Is Worcester the proper locality for such a College ; and is the institution represented by the petitioners sufficiently elevated, in its design and character, to be dignified with the name and privileges of a College ?

These questions are all, manifestly, within the scope of the subject before us ; but having alluded to them, I waive the discussion of them.

Reserving these questions, I shall base my opposition to the amendment proposed, upon other and more general grounds. We meet with another and prior consideration which, in my view, is a conclusive bar to the prayer of the petitioners.

They ask for a charter for the College of the Holy Cross in the

City of Worcester with "such powers as are usually granted to such institutions." The history and character of this institution, which already has a private existence, is given in the Reports of your Committee. It is the desire and purpose of the Petitioners to teach the Roman Catholic Religion in connection with science and literature, and to make a conformity to all the rites, ceremonies, and discipline, of the Catholic sect, an unalterable condition of enjoying the benefits of intellectual culture. They propose to educate, not the *people*, but a *sect*, and to afford the light of knowledge only to those whom their views of religion adjudge to be faithful. They are unwilling to be abridged in their power to do this, and any provision restraining them in the exercise of this power would be unacceptable. They ask us, therefore, for an act securing corporate powers to a certain religious order, commonly known as Jesuits.

Now, sir, I do not deem it necessary to inquire into the character of the religious rites, ceremonies or discipline of these gentlemen. I deem our duty to be clear, independent of any such considerations; or of any opinions favorable, or adverse, to any given religious views. I do not wish to enter into the region of theological or religious warfare. In view of what I have stated of the design of these Petitioners, I am ready to meet the case upon these two questions—Do they ask for more than others have? Do they ask for any thing inconsistent with the usages and principles of the Commonwealth?

I apprehend, sir, that both of these inquiries must result to the disadvantage of the petitioners. No such powers have been deliberately granted to any religious sect; while, on the other hand, I conceive the whole policy of the State, and the principles on which that policy is based, to be adverse to the prayer and purpose of the petitioners. The great principle, the leading feature of Massachusetts policy concerning her colleges and her schools, has ever been that of freedom to all. There is no exclusiveness. Our schools are public, and our colleges are public, and our academies are public; and all our educational institutions, bearing in any manner the sanction of the State, are public and open to all. I speak of these things as facts. I concede, that there are a number of academies, in the charters of which there may be no expressed conditions to this effect. But why? Do gentlemen argue, from this omission, that authority is given to conduct these academies exclusively? Perhaps there may exist the technical power to establish arbitrary and exclusive rules, in opposition to the whole genius of our gov-

ernment, and to the policy of our legislation, as well as in defiance of an almost universal public sentiment. But to *give* them such authority was never the intent of our legislators. If they failed to guard this point, and to express clearly their own intent, the fault was not of their sagacity, but of their confidence in the genius of the government and of the people—a confidence which forbade suspicion. It never entered the minds of our fathers,—when they were encouraging the establishment of “seminaries of learning,” giving them permanency all over the Commonwealth by liberal acts of incorporation, guarding the funds which charity had contributed, and increasing them by their own public donations—that they were doing any thing else than promoting the ends of *universal education*. So pure and comprehensive were their own purposes, so confiding were they in the genius of learning and of liberty, and in the corresponding heart of the people, that a suspicion of exclusiveness in the future conduct of those institutions never darkened their minds. Hence the absence of any restrictions on this point, in the charters alluded to, was the result of an innocent and generous confidence in a people, against whom suspicion never suggested the *necessity* of restrictions and guards. This confidence was not misplaced. This trust has never been violated. Where is the academy, or college, or school, either of law, theology, medicine, or science, which has made the reception of a creed, or a rigid conformity to religious rules, the indispensable condition of bestowing its favors? The annals of the State afford no such exception to the policy which has ever declared, within her borders, learning, in all its departments, to be free and unrestrained. Must a man be a Baptist before he can go to Newton, or a Calvinist before he can go to Andover? They have no such rules at these institutions. Men of any denomination will be permitted to avail themselves of advantages there, if of unblemished character, and of orderly behavior. True, the laws of affinity draw together, at these institutions, those of like sentiments and habits, and there is an homogeneity about the communities there assembled; but, sir, I have yet to learn that law enforces it, that there exists a single requisition of admission practically exclusive of any individual of upright character and conduct. I have yet to learn that a Catholic or an Unitarian may not attend lectures at Andover or Newton, may not have access to their libraries, and free intercourse with their professors, because, forsooth, they cannot conscientiously mingle their devotions with orthodox or protestant christians. So that, in these institutions,

so readily seized upon because of their religious character, you can find no usages bearing the least parallelism to those which we are asked to sanction in the case of the petitioners. *True to the confidence reposed in them, and in response to the sentiments of the American community, they are free of access, and diffusive in their blessings.**

The same is true of our incorporated academies. Whatever may be the latitude of their charters, faithful alike to their own instincts, and to the spirit of the trusts reposed in them, they are open to the public. All may enter who choose to go. Their end and aim is to diffuse an enlightened education without condition or reserve. All these institutions were expected to be public in their character, free of access, diffusive in their benefits; and an instance is yet to be adduced, by gentlemen on the other side, in which one of them *has disappointed that expectation*. There is no such instance.

The simple fact that to many, if not to all the academies referred to, the State has made grants of money, or of portions of the public lands, demonstrates the views that the State has entertained of these institutions, and of the manner in which, and of the purposes for which, they would use their corporate pow-

* In the course of the debate, the statements varied concerning the Andover theological institution. Mr. H. once stated "of his own personal knowledge" that the Andover institution had no such exclusive rules or practices as were alleged to exist there; and upon the authority of an aged and highly respectable member of the House, that there was a legislative enactment against it. The last statement was disputed by Mr. Upham of Salem, and Mr. H. declined to insist on it, as the records were not at hand, and he did not wish to allude to, and thus entangle, the aged gentleman in the debate, (Judge Locke, of Lowell) on whose authority he made the statement.

The fact however is settled by reference to Massachusetts Special Laws, Vol. 4, p. 523, where we find the following enactment concerning the Andover Theological Seminary. "*Provided*, that no student belonging to the said institution, sustaining a fair moral character, shall be deprived of any privileges of said institution, or be subjected to the forfeiture of any aid, which has been granted by said institution, for the purpose of enabling him to prosecute his studies, or be denied the usual testimonial on closing his studies, on the ground that his interpretations of the scriptures differ from those which are contained, or may hereafter be contained in the articles of faith adopted by said institution."

This provision is, and ever has been, in force; and the by-laws of the Institution require nothing else, as the absolute ground of admission, than that the candidate shall subscribe a declaration of his belief in the christian Religion.

We approve this liberality, and the action of the Legislature both in this case, and in the case of Amherst College. The ground is right. The policy is clearly defined. And now it is strange that protestant institutions, and especially those known as orthodox, are placed under these rules, and we are then bidden to legislate specially for the Jesuits. But the Catholics are a large part of our population—and have votes!

ers. Think you the property of the whole people would ever have been thus granted for the exclusive use and behoof of any sect or class among the people? Have not the Legislature, in these grants, ever exhibited a confidence that the benefits thereof would be enjoyed by the public, without any restraints resulting from the personal peculiarities of the corporators? The very asking for public funds on the one hand, and the bestowal of them on the other, afford a mutual construction, by the parties themselves, in favor of the public nature of the trust reposed in the corporators.*

Sir, our fathers have ever regarded *learning* as the handmaid of liberty, and they have declared liberty to be the birthright of the people; and whenever they have done any thing for education they have supposed themselves to be acting for the interests of the whole people as truly as when they were enacting laws for the better security of liberty. The idea has never been entertained upon this puritan soil, and amid these puritan institutions, that learning could ever be restrained. No one has sought to restrain it. The case of the petitioners is the first on record in the annals of this Commonwealth.† It has been reserved for them to suggest a new feature in our policy, and to ask us to sanction, by the grant of special corporate powers, the restriction of learning to a religious sect—the enclosure of it within a cloister. The world has tried that policy in ages that are past. It is not American.

I know, sir, that the act proposed to be granted conveys no such expressed powers; but it is an act without restrictions, and one which, the petitioners state, they intend to use *exclusively* for the benefit of a religious sect. Under these circumstances, therefore, the proposed act, if passed, sanctions and authorizes their course, and thus introduces a new feature into our educational policy—a feature that is inconsistent with all that has ever been

* The friends of the Bill acknowledge that public grants should be bestowed only on institutions of learning open to the public; and therefore, assure us that they will never apply for aid from the public funds. We trust they will no longer plead those academies which have received public funds, though they have *charters* without conditions, as precedents for their application. The bestowal and reception of these funds have settled the question as to their public character.

† And probably in America. The Catholics have no such institution elsewhere, as the one they ask for—so says the Reviewer. Surely no other interest has, so far as we are informed. It is anti-American. A man must be of the Church of England in order to go to the Universities of Oxford and Cambridge, he must be a Papist in order to go to the colleges of Rome, while to enjoy American colleges and schools of all grades, he need but be a MAN.

—with the whole genius of our government, of our people, and of learning itself. Whereas the acts of incorporation granted to our academies, which are here pleaded as precedents, were given with expectations entirely the reverse, and have been used for purposes entirely different. Those acts, therefore, taken in connection with their circumstances, instead of being *precedents* for that which, with its circumstances, we are now called upon to pass, are the very *reverse of precedents*. Their whole spirit and force is strongly and irresistibly against the advocates of this bill.

But, sir, it is not an academy, or a theological institution that we are called upon to establish. The petitioners ask for a College. And to the colleges should we go, therefore, for our precedents. As institutions they are different from all others. Their object is to give general intellectual culture, and to lay the broad foundation of a liberal education, so that their scholars can go forth prepared to prosecute any particular branch of knowledge, or engage in any profession, or any literary or scientific pursuit which their tastes or interests may dictate. The very scope and design of these institutions, therefore, makes them public. They open their doors to all who thirst for knowledge, and afford their facilities, as freely and cheaply as possible to all;—to the youth who seeks the legal profession, as well as to the one who aspires to the walks of science; to the candidate for the pulpit, as well as to the candidate for the forum. They harmonize with the spirit of our government, and of our people, and with the true spirit of learning. They exclude none, but invite all. They prescribe no conditions to the intellect or conscience as the price of their privileges. The minority of the Committee concede that neither of the existing colleges can be referred to as precedents for the case now under consideration. They acknowledge that, by the very tenor of their existence, and in obedience to the opinions and wishes of the people of this Commonwealth, they are free and open to all;—or, to use their own language, they “offer a general liberty to christians of all denominations to participate in their privileges, without molestation, disadvantage, or prejudice.” And they, therefore, proceed to introduce the act which they recommend, and to justify and urge it on other grounds than that of precedents furnished by existing colleges; or than that of sanctions derived from the opinions and wishes of the people.

But, notwithstanding the position of the minority of the Committee, and their free and fair concessions, it has been argued, in

the course of this debate, that our colleges are sectarian, and that there is that in their character and government, which is substantially as exclusive as the college proposed by the petitioners. Now, sir, I deny all this. I deny that any religious creed, whatever, and that any religious conformity, *contrary to an honest conscience*, is, or ever has been, made the condition of enjoying any, or all, of the privileges of our colleges. The same I believe to be equally true of all our New England colleges.

It is well, that this matter of sectarianism, so often spoken of in reference to our colleges, should be understood. I deny, that in any odious sense, in any sense injurious to their free and public character, in any sense prejudicial to the public weal—are our colleges sectarian. True, sir, there must be some religion connected with them. Learning and religion have ever co-existed and they can never prosper while separated. We do not wish our children to grow up without any admonitions of God, and of the future, and of their own accountability. We do not wish them to live in a community where all mention and all thought of these things are excluded, and where no religious influences mingle with those which form the man. Let this policy prevail, and our colleges would become places of pestilence. There never yet was found a community who did not deem the mingling of religious with intellectual culture absolutely necessary and unavoidable. And we, like all others, do find and must find, and what is more, we *wish* to find some religious influences mingling with those other influences which form and mould the communities gathered in our colleges.

Now, sir, the attempt to have a general religious influence, without being any thing in particular; to have some religion but without any particular type, is to have no religion. Religion, therefore, in connection with our colleges, must have some type. It assumes the type imparted to it, and impressed upon it, by its original patrons and founders, or by its curators and professors for the time being. Let the type be Calvinistic, or Unitarian, or Universalist, or Wesleyan, or Papal, it is better that there should be religious culture there after any one of these types, than that our children and youth should hear nothing of God and immortality. I contend, sir, that religion may, and must, thus exist in our colleges, and yet no one of them be subject to the charge of sectarianism. But when this type is made the *inexorable* rule of the institution, and an attendance on the various religious exercises, *regardless of the consciences of the youth, or of their guardians*, and an entire yielding up of the student to

the religious moulding of the teachers—when these are made the conditions of receiving the benefits of the college, then it becomes sectarian and exclusive ; then the teaching of *religion* becomes the end of the institution. It departs from the purpose of intellectual culture and discipline, to the purpose of religious training. RELIGION, from being the *incident* of the college, becomes its GREAT END AND AIM. *This is the purpose of the petitioners in the college which they ask us to charter. And here is the wide difference between such a college, and those already established in our state.*

When, sir, have the peculiar religious views or conformities prevalent at Harvard, or Williams, or Amherst been enforced to the violation of any one's conscience? When has any student, of good character, been forced to leave either of those institutions or to turn aside from them because of the stringent application of any religious rules? I have yet to learn that a Catholic will be excluded from either of them, because he cannot conscientiously attend upon protestant services. And I know not why the Catholics should ask us to sanction their exclusion of others. It would be a course unheard of in Massachusetts legislation, and utterly at variance with our policy hitherto.

[Mr. Schouler of Boston rose to explain and said that, in the remarks made by him in the forenoon, he meant to be understood to argue that all the colleges were Protestant—they might differ on some minor points, still they were all Protestant.]

Mr. Hopkins resumed—I have yet to learn, sir, that teaching religion is any part of the business of our colleges—that Protestantism, or any other *ism* is any part of their design. If intellectual culture tends to Protestantism, if free inquiry is Protestantism, then they are Protestant. But the teaching of religion is no part of their design. A religious atmosphere is about them, as there is a religious atmosphere about every community in Massachusetts ; but, that they are Protestant in any other sense than every township or municipality is Protestant, I deny. Until, sir, our colleges say to our youth, you shall not enjoy your own religious views, you shall not enter for education except you adopt a certain theology, or conform to certain religious rites, you cannot charge them with sectarianism.

Sir, I do not blame these petitioners for wishing to educate the children of their people in their own way. I may not think their way wise ; but, being theirs, they lawfully and properly desire to pursue it. If they think the temporal and eternal interests of these children are seriously compromised by sending

them to the schools and colleges of the Commonwealth, I do not blame them for seeking to establish such schools as their judgments and consciences demand. They have established the one they ask us to erect into a college. They have full right to establish multitudes more; and they will all be under the protection of our constitution and laws. They have the same rights and facilities for the religious training of their youth which others enjoy, without demanding any special legislation from us. And when they come to us, with these peculiar views and consciences, and ask us to legislate with special reference to their religious sentiments, they ask of us what we never have granted and what we never can grant. We cannot legislate for a class, or sect, distinct from the community.* The people of this state have privileges in common. We have common laws, common institutions—common schools, common colleges—a general community of interest—what one enjoys all may enjoy—we have, in all these schools, colleges, institutions, and laws, an ancient and a glorious *Common-wealth*—a blessing and an inheritance of which, we may be justly proud, while we are humbly thankful. To this *community*—to this fraternity of interest and privilege, we welcome all. If they can enjoy it with us, it is well; and we rejoice in every accession, as enlarging the boundaries, and increasing the resources, of our COMMON WEALTH. We have nothing exclusive; we are truly Catholic. But, sir, if those things which are good enough for us, are not satisfactory to others; if the privileges, laws, and institutions, under which we are content and happy, are not sufficient for others; if they cannot partake of, and rejoice in, our common inheritance and our Common-wealth; if, while among us, they are not of us; surely, sir, I know not what remedy we can provide for their case. We cannot legislate for them as for another, a separate community. We can establish no "*imperium in imperio*." If their consciences† demand a peculiar college for their youth, will not the same consciences demand peculiar schools, so that we shall have to graft a system of uncommon schools upon that stock of *common* schools which is our pride and glory? Why must we not virtually establish them as a distinct community, with distinct schools, pro-

* Unless the Marshpoe Indians are an exception.

† Throughout the debate much stress was laid upon the *consciencies* of the Catholic community with regard to the education of their children. This was one strong ground of argument. The Reviewer however abandons it, and says the exclusiveness is for the consciences of the Protestants! and that the Catholics practice no such exclusiveness elsewhere in the country.

vided at the public expense exclusively for their children ; lest, forsooth, they should receive detriment, in their religion and morals, from commingling with our children, and encountering some sentiments and modes of thought differing from their own ! Is this the *liberal education* of the petitioners ?

Look at it, sir, and tell me where will this matter end ? They cannot enjoy our colleges, because a protestant atmosphere floats around them, protestant voices are there, and the Catholic youth *is not safe* in unrestrained contact with our Protestant American youth. They are to live among us, but they are to be *taught that they are not of us*—that *intellectual contact with us is spiritual death* ; and all this, though they have, with us, the same rights of conscience, the same rights of religious worship, and the same freedom from sectarian restraint and conformity.*

Do they not, must they not meet with the same difficulty every where—and will they find nothing else needing the remedies of our special legislation in their behalf but our colleges ? I have already spoken of the schools. But who can say that these peculiar consciences will not feel other difficulties, and find that they cannot conscientiously pay taxes to support a protestant government, the principles of which they conscientiously deem subversive of all temporal and eternal interests ; or that, if required to pay them, they can contribute them only to catholic tax-gatherers, and that they wish therefore to be incorporated in catholic townships, and be solely under catholic officers, lest they should be contaminated by the presence, the sentiments, and the atmosphere, of heretics ! And why should we not grant these requests, if we begin a course of legislation which tends to sanction their alienation from our Commonwealth ? I know of no other rule than to resist the beginning of this evil and anomalous legislation.

I would not be understood, sir, to speak of these “consciences” disrespectfully. If they are honest, they are to be deplored, rather than ridiculed. But I cannot find, in such consciences, the least ground for safe and wise legislation ; but, on the other hand, I do find ground only for that legislation which is exceed-

* The plan of the college indicates all that dread of Protestant contact which is alledged. They take children at 7 or 8 years old, and even at a tenderer age, seclude them from all intercourse with others, until they are 20 or 21 ; during which time the opinions and habits of the man are formed, not under the light of free discussion and free institutions, but under just such light and influence as the instructor chooses to bestow. And this is the *liberal education* of an American college !

ingly unsafe, unwise, and at utter variance with our whole political system.

I have said, sir, that none of our existing colleges exclude students on account of non-conformity in matters of religion and conscience. It is well known, as stated in the Reports of your Committee, and often repeated in the course of this debate, that a Section was introduced into the charter of Amherst College, prohibiting the application of religious tests, as a condition of holding office in the college, or of enjoying its benefits. Thus it is seen that the State have already distinctly disapproved any tendency to the exclusiveness proposed to be practiced in this new college. I have appealed to the history and management of all our incorporated institutions of learning—of our academies, and colleges, and seminaries, as evidence of the intent of our people with reference to such exclusiveness. True, it was not the custom of the legislature to enact restrictions against this exclusiveness, in the charters of these institutions, for reasons which I have given. But no sooner did the legislature begin to have any apprehension of such exclusiveness, as a possible thing, than their jealousy became awakened. The occasion occurred at the time of giving the charter of Amherst College. At that time, and previously, religious divisions were the absorbing interests of the State, affecting almost every question of its local or domestic policy. The desire for Amherst College stood, in part, connected with these divisions. The religious sect, more specially favoring it, was the largest in the state; if not in actual numerical ascendancy over all others. They demanded the college for the general interests of learning, for the wants of a section of the state most remote from the two colleges previously existing, and because they did not like the character of the religious atmosphere surrounding the University of Cambridge. The legislature were so jealous lest the proposed college should become, instead of an institution of learning, an institution of sectarianism and proselytism, and be exclusive and bigoted in its character, that a charter was repeatedly withheld; the State, though always ready to multiply its institutions of learning, and bestow on them the sanctions of its authority, being unwilling to countenance the subjugation of learning to any special type of religion. They had no objection to its being associated *with* such a type, but only to its being used exclusively *in subservience* to it. They demanded, when the act was granted, that the institution should open its paths of learning to the youth of the Commonwealth, and to all who might seek admission, without any regard to reli-

gious views or principles.* This provision, being right in itself, being the proper expression of what had ever been the opinion of the people, and being in no sense foreign to, or conflicting with, the designs of the patrons of the institution, who themselves strongly sympathized with it, was inserted in the charter; and, in this form, and with this provision, then for the first time demanded by an apparent emergency, the act was passed incorporating the Trustees of Amherst College. Thus, sir, not only the whole genius of our institutions, the genius of learning itself, and the universal practice of our literary corporations, are in opposition to the proposed religious exclusiveness of this College of the Holy Cross, but the legislature itself, by its formal and unusually deliberate act in the case referred to—the first that seemed to call for its action—has been its own expositor of the views and policy of the Commonwealth. Its decision, sir, was right and wise. It was acquiesced in on all hands, and no murmur of discontent has been heard, until in connection with this debate. In these remarks, sir, you have my answer to the question which has been raised, why we insist so strongly on *Amherst* College? And there is still another reason in the fact that it is the only college which has originated, and been perpetuated, within the period of our separate existence as a State. Harvard grew up with the colony and stands now, as it has always stood, equally free to all. Williams College sprung from the donation of a generous individual, long before the revolution, and was found by the State originally existing as a “free school.” So that Amherst is the only College, the chartering of which has ever tested and declared the principles and policy of the State concerning such institutions, and is the only full precedent which our history affords. And I pray, sir, that the day may never dawn when we shall disown this policy. Let individuals establish what schools they choose—let religious sects do the same, in such ways as, in the exercise of their constitutional freedom, they may; but let the sanction and seal of the whole people be given only to those schools and colleges which educate the children of the whole people. Education is alike the privilege of all. This is

* It was conceded that the State should require this openness of any college to which they should give pecuniary aid, but argued that the petitioners did not seek such aid from the State. Neither did Amherst College seek it, at the time alluded to, and there was even a strong disposition to forbid it all hope of aid. Still the State would not sanction it, in any form, or to any degree, without this provision against exclusiveness. And this provision was not based upon the expectation that the college would be aided by the State, for no such disposition, or expectation, then existed.

the doctrine of Massachusetts—this has ever been characteristic of her policy. Learning and Education, as well as Liberty, are the birthright of her people ; and it is the part of her rulers to guard and secure their universality, until, like the gushing waters and leaping streams of her mountains, so regardless of conventional boundaries, Learning, without cognizance of sect, or class, or color, shall flow to every hamlet, to every cottage, and to every thirsting soul, within her happy borders.

I cannot dismiss this point without adverting to one fact that makes against me. I find, appended to the Report of the minority of your Committee, the name of one of my colleagues on that Committee, who is a member from Boston, (J. Lothrop Motley,) a gentleman for whom, the intercourse and acquaintance, incident to our associate duties, has begotten in me the highest respect ; and, concerning whom, my chief regret is, that the eloquence which moves his pen so seldom inspires his tongue. The simple but potent influence of his name is against me ; but silent as it is, it is by no means safe to leave it unanswered. There are some influences that can be overcome only by being turned upon themselves. And surely, sir, the generosity of that gentleman will forbid his taking any offence, if I make my whole defence against him, by invoking the influence of his name in a higher case, against its influence in this lesser one. I hold in my hand House Doc. No. 92, being the Report of this same Committee on Education on the memorial of the Presidents of Harvard, Williams and Amherst Colleges. It is a noble document, of which it is difficult to say whether it is most to be admired for its Rhetoric, Logic, or Philanthropy. It bears, in behalf of the Committee, the lone signature of the same friend, to whom I have already referred, as one of the signers of this minority Report in the case of the Worcester College. Its whole force and power is contributed to impress the true American idea that Education is to be *diffused* through all the institutions established for its advancement ; that its fountains are never to be sealed, but *opened* ; that the State is to aid and sanction her schools and colleges, only with reference to such a diffusion of learning. In this Document, the author pleads with us that we do not allow our colleges to become "*exclusive establishments, within whose limits little sympathy is felt with the whole community,*" (page 6.) and implores us never to "*refrain from forcing open the doors, as soon as we see any danger of their being closed upon the PEOPLE AT LARGE,*" and even to resist "*an aristocratic policy which would confine the advantages of a better*

culture to a favored class." (page 8.) It is a wise warning ; and it suggests still another which History speaks more plainly—that we beware lest the *power of the intellect becomes united with the elements of religious bigotry and tyranny.* And it would seem, sir, that under an apprehension of this very danger, the gentleman kindles with a true spirit, and with a force and beauty more truly *American*, in the following words. (p. 9.) "Education should be *free* to the rich and poor. Massachusetts should open wide the gates and say aloud, Enter every one who thirsteth. *Liberty should be the presiding nymph at the fountain. The temple of learning should not have mumming priests for its ministers,* nor should a cabalistic word, nor a golden branch, be necessary to effect an entrance through its door."

Would that I might have been the author of that sentiment ! But only the lesser, and still sufficient honor was left me, of recording, in connection with the other members of the Committee, my hearty sanction of its truth and eloquence. Sir, it breathes the *American* spirit—the Massachusetts sentiment, and no wonder, therefore, that, in the bosom of my friend, it should gush up in all its purity and beauty ! Sir, I claim that the sentiments which I have uttered in this debate are the sentiments not only of the author of that report, but also of the gentleman from Salem, (Mr. Upham,) and I claim, therefore, the virtual sanction of them both, in reiterating, as I now do, that whatever private influences may lawfully do, let them do, and let them not only remain unmolested, but let them be vigorously protected ; but when the State is asked to found, or sanction, or honor an institution of learning, or to impart to it any of the special privileges within her grant, let her act upon her own catholic and republican principles, so ably expounded by these very gentlemen, and foster those institutions which open their doors with privileges *equal to all and offensive to none.* Sir, my friends may seem, just now, to have departed from this faith which they once so gloriously confessed, and have so recently defended. But, it is but for a moment ; it is only an eclipse from which they will soon emerge with increased brilliancy and power.

Thus far, sir, I have maintained that the policy of the Commonwealth has ever been opposed to any exclusiveness in connection with the institutions of learning which she has seen fit to establish, or to sanction ; and that to endow the petitioners with the powers they ask, and for the purposes which they avow, would be to grant to them what has never been granted to others ; and that the refusal to grant this request would subject

them to no unusual disability, or ourselves to any just charge of illiberality. But, there is another objection. They ask for an act of incorporation. This question of corporations—the right and propriety of granting these acts has been a matter of protracted and bitter controversy in this State. And, perhaps there never a was time when we have had more need to define, to understand, and to live up to, correct principles on this subject. Men seem to be regarding acts of incorporation, for any purpose, as a portion of the fundamental, and inalienable, rights of citizens of this Commonwealth! All parties in this discussion seem to regard an act of incorporation, in this instance, as one of the most harmless of all powers, and one of the least of all mercies! And none have been more forward in these views than gentlemen who owe their whole political power and existence to an uniform jealousy, of these *acts of special legislation*.

What is the true doctrine concerning corporations?—the doctrine on which they can be sustained and defended? I think I find it shadowed forth in the Declaration of the Rights of the inhabitants of this Commonwealth, in words, as follows. [Sect. VI.] “No men, nor corporation or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, *than what arises from the consideration of services rendered to the public.*”

This, sir, is the true doctrine. Special legislation, granting special powers to individuals or bodies of men, is justifiable, only in consideration of advantages *returning to the public*. So that the justification of these special corporations rests upon the benefit derived by the grantors, and not upon the good of the grantees, save and excepting only as the latter are a part of the whole people. Corporations are, therefore, defended on the ground that they are a public benefit. And, on the other hand, they are attacked on the ground that they advance the interests of a class, and not of the public. This is the precise issue, and on this ground the contest is had. Banks are an advantage to the corporators; but the State creates them, because of their *convenience to the public*, in affording circulation and exchange, and in the tax levied on their capital. Railroads are supposed to be profitable to their owners; but the State authorizes them, because of the *great facilities they afford to the public*. And manufacturing corporations are defended solely on the ground that thereby the facilities of business, of industry, and of wealth, are greatly augmented. On the same principle, sir, are the charters of our colleges and academies granted—not for the benefit of the cor-

porators, not for the mere convenience of a sect, or a class, but because of the blessings flowing therefrom to the whole public ; because their doors are open to the youth of this Commonwealth, that they may enter and be instructed, without let or hindrance.

But where and how are these public benefits to result from the proposed college at Worcester? It proposes to do nothing for the public. It seeks, and is urged upon, your favor, on the *ground of its exclusiveness* ; presenting, and urging the very feature which is obnoxious to the sentiments, the practices, and the constitutional principles of this Commonwealth.

Before closing these remarks, I cannot but call the attention of the House to some remarkable features of the Bill which it is proposed we should pass. The first Section, in ordinary form, names the corporators, and establishes the corporation. The 2d Sect. defines, in a few words, the purposes and powers of the said corporation. The 3d Sect. subjects it to the visitation and investigation of the legislature. The 4th, and most remarkable Section, is in the following words :—"Until such time as said college shall signify its acceptance of the sixth section of act eighty-four, of the legislative year 1824, it shall be regarded as a private corporation, for the benefit of one denomination only, and, therefore, having no claims whatever upon the Commonwealth, beyond what is herein granted."

Surely, sir, the gentlemen who here submitted this Bill, seem to have had some misgivings concerning their own measure. They propose, in the first place, to give the petitioners only half of what they ask, as they withhold all authority to give degrees, and to exercise the long established functions of a college proper. But, in the section just cited, they take special pains to establish this corporation *under a protest* ! They seem to feel awkwardly, at looking upon their own bantling—to be unwilling to contemplate the work of their own hands ; Pilate like, to wash their hands of the deed they are about to do. Being all aware, apparently, of the impropriety of the exclusiveness which will be exercised by the corporators ; of its inconsistency with the educational policy of Massachusetts, they take pains to declare, that though the State create it, they will not own it ; though the people of this Commonwealth sanction its erection, and contribute of their authority thereto, they repudiate all obligation to aid it, or to bless it ; and all this, because they refuse to conform to that policy which the State recognizes, and which alone she feels bound to aid and bless. It seems to me, sir, that the very tone and temper of this section is the reiteration of the great doctrine

which I have urged, as underlying all our legislation on the subject of our schools, academies, and colleges; and, in defiance of which, we are asked to pass this charter! It says to the petitioners, we give you a charter, (partly what you ask,) but we desire you to understand that you have "no claims whatever upon the Commonwealth." Your paternity is rather public, but still we disown you, and declare you to be a "private corporation for the benefit of one denomination only;" we enjoin it upon you never to return to us for support, or any further favor, until your character is better—until you have voluntarily adopted "the 6th section of act 84, of the legislative year 1824,"* and shown yourselves to be an honor to your parentage, and worthy of your collegiate brethren.

But, sir, all these disclaimers can never alter facts. You *do* create this corporation. You do acknowledge benefits to result from its creation—benefits of such a nature and extent, as to justify your special legislation. It is a public corporation, in the sense of being created by public authority, and existing under public sanctions. Now, why take such pains to inform the world, that it is only a private corporation? Why disclaim its right to return to you with future claims? You cannot repudiate those claims. As well may a father disown, beforehand, the son he begets, as for us to disclaim this offspring of our legislation. They have a right to return and tell us that we have allowed the propriety and usefulness of their creation; that, upon these grounds, we gave them existence, and now it is our duty to sustain and advance that which we have decreed to be necessary and advantageous. And what force will this 4th section then have, and with what weapons can you defend yourselves against the logic with which they will approach you? Sir, if you erect this corporation, it is worse than idle to say that they have no farther claims upon you. They will have claims, which you cannot consistently resist. This bill will no sooner be passed, and the perplexities of the moment be gone, than the absurdity of this section will be manifest to all, and its imbecility be universally acknowledged. And if, perchance, hereafter, moved with a more liberal spirit, they should comply with the condition of this 4th section, and adopt section 6th, of act 84, of 1824, then they will have a right to return upon the State, and argue an *implied contract* for the aid of the State. You tell them they shall have no claims whatever, until they do adopt

* 6th Section of the Amherst College charter.

said section; and surely the converse of it would be forcibly argued, as equally binding. They adopt it, and then demand your reward—the payment of the bribe which the State holds out to them, for foregoing their *consciencs*, and surrendering what they conceive to be the religious interests of their children!

I have finished my comments and my arguments. In view of the case, it remains for the House to decide.

I have only to repeat, that I respect the petitioners and all their rights. They have but exercised a right, in coming to us; and, in the prosecution of their prayer, they have been courteous and respectful. The like treatment they should receive from us. No prejudice should bar it. It is with personal reluctance that I oppose their request. I have no objections to urge, and have urged none, merely on the ground that they are Catholics and Jesuits. I would treat them as all others. If they desire to become the corporators of a college like our other colleges, and to connect religion with it, as it is incidentally connected with other colleges, using their corporate powers for the main purpose of intellectual culture and discipline, refraining from such an enforcement of their religious views and ceremonies as to exclude those who differ from them; in other words, if they desire us to sanction a college, to be in all essential features like our other colleges, excepting only a difference in the religious type which may there prevail; I have yet to learn, that this single exception will be found to operate as a bar to their petition. In the meantime, their right is unquestionable, to enjoy, in their own private way, the institution which they have erected. Its features, however, must conform more fully to the policy of the State, and to what we regard as the true genius of Learning, before we can impart the powers and sanctions which are asked.

We offer them the same advantages for intellectual culture which we give to all. In matters of religious faith and practice, they have full and equal rights. If they deem that the religious interests of their people require such an institution as that established at Worcester, they have it; but when they ask us to erect this exclusive religious school into a college, they ask us to do for them *what we have done for no other sect*; what *no other sect have ever sought*, and what is at utter variance with our views of a college as a place for POPULAR EDUCATION.

[WHEN the subject was resumed, the next day, Mr. Upham of Salem, moved to amend the Bill, by striking out the fourth section; (for which, see back p. 31.) Pending this question, the debate was continued, in favor of the bill, by Messrs. Curtis and Robbins of Boston, Kellogg of Pittsfield, and Condry of Newbury. On the the other side, Mr. Hopkins spoke, as follows.]

S P E E C H .

MR. SPEAKER :—

I AM extremely sorry to trouble the House again; but however ready, on personal accounts, to remain quiet, the position I hold forbids it. Almost the entire current of the debate has been against the Committee. In their behalf, it is my duty, to trespass once more upon the House, though they are manifestly impatient for the question.

There are two views prevailing in the House, on the subject of this proposed charter; one, that it is a very unimportant affair, involving nothing prejudicial or novel; the other, that it is a matter involving principles on which rest great interests. I contend, with increased earnestness, for the latter—that the question, in view of its logical and certain results, is one of great importance; and, if decided affirmatively, establishes a precedent entirely new in itself, and inconsistent with the sentiments and principles, always underlying, and sometimes positively moulding, the legislation of this Commonwealth.

You propose to clothe the petitioners with mere corporate powers to hold property, under the name of “The College of the Holy Cross.” Considering this as a mere business act, viewing it as but adding a small business corporation to the many which we have established, and are increasing, it may seem a small and inconsiderable matter. And this is the only view of it apparently taken by many in this House. They see it in no wider or higher relations. They conceal from their own view, and the view of others, the *principles* which are sanction-

ed by this act, and the end to which it logically conducts us. There is often more in a transaction than appears upon its surface. Gentlemen deceive themselves; they *refuse* to make this corporation a *college proper*, and argue that it is but a business corporation, with the mere *name* of a "College," without being admitted to the fraternity of our colleges. And while gentlemen thus persuade themselves, and thus declare, they are certainly and inevitably erecting the full college which they unitedly make a merit of disavowing! You give to these petitioners these simple corporate powers which are now urged, and, the next year, they will come and put in a very simple and respectful petition for additional power, to confer degrees. As a civil power, this is much less, than that which you grant them, to hold property, and they will urge it as being a comparatively unessential incident to that which you have already given. The lesser boon must, and will follow the greater; and thus you will surely have that full college, which you now make a merit of disclaiming, and in lieu of which, the minority of the Committee have reported this simple bill, conferring corporate powers. So that, in this very bill, you have the unerring germ of that which you profess to refuse; you are betrayed into the erection of a new college, with all the powers, privileges and immunities pertaining to other colleges; a new college, without that deliberation which is due, when a State is about to establish another of its highest institutions of learning; a new college, with no more reflection than is ordinarily bestowed upon a small business corporation; a new college, which, in common with others, you are legitimately bound to sustain, and advance, notwithstanding all their disclaimers about seeking for, or your disclaimers about granting them, pecuniary aid; a new college which, if now a "private" corporation, is sure to become a "public" one, whenever the State opens the hand of her bounty to her higher seminaries of learning. And if, sir, these were all the consequences of this simple bill, I should surely be less strenuous; but when I see these grave consequences thus thrust, as it were, by stealth on this Commonwealth, and that in the full erection, and future endowment of this institution, you are betrayed into the sanction of rules and principles, in connection with public institutions of learning, which rules and principles cannot now find a single advocate in this House, and which are repugnant to the prevalent sentiments and practices of the people, I must be pardoned for insisting, with earnestness, that the question before us is one of *very great moment*.

The gentleman from Boston, (Mr. Curtis,) in the remarks which he made, stated the difference between a public and a private corporation ; and that, since this proposed corporation is to have no public duties prescribed to it, and is not to be made the recipient of public benefactions, that it is to be regarded as a private corporation ; that, therefore, the objections to the private rules, which it establishes for its own private regulation, are not pertinent, the public having no responsibility for the mode in which it chooses to carry out its own private purposes ; that our only concern is with the general end it has in view, which, if moral and good, we may sanction, so far as the proposed bill goes, without being involved in any responsibility concerning its private rules. My friend, therefore, sees no strictly constitutional or legal objection to the passage of the proposed bill ; especially, as the habit has prevailed, of establishing private corporations in this way, as in our Academies, and our Churches, about the private regulations of which, the public have never concerned themselves, being satisfied as to their general purposes ; and as no objection has been made to the general purpose of the petitioners, which seems to be admitted as moral and good, he is at a loss to find any valid objections against the bill.

It is not for me, sir, to dispute the legal definitions or distinctions made by my friend. His opinions on such subjects, are of great weight and authority. I merely propose to take the ground which he concedes, that we have a right, and even duty, to inquire into the general purposes, to which the proposed act of incorporation is to be devoted. Those purposes we are supposed to sanction—we do sanction, and for them, we are responsible. The purpose of our academies is to diffuse learning, and promote intellectual culture ; of our churches, to promote the fear of God and the salvation of men. These purposes we approve, and leave such corporations to pursue such a course toward these ends, as their own consciences and judgments commend, confiding in their integrity and wisdom, that they will do nothing manifestly departing from, or subversive of, these ends.

Now, sir, I propose to open, concerning these petitioners, that very question which my friend from Boston indorses as proper, but which he seems to regard as conceded in their favor ; to wit, *whether their purpose is moral and good, and, therefore, entitled to our sanction ?*

What is that purpose ? In judging of it, we have a right to go to the private rules which they aver do now exist, and must always exist, in the management of their institution ; and one of

those rules is that rule of religious exclusiveness, on which, the consideration of their case has thus far mainly turned. With this in view, we find that their purpose is, to dispense intellectual culture, on the condition of a specified and rigid religious conformity; so to unite the teaching of Learning and Religion as to make a certain sectarian type of Religion *the indispensable condition* of imparting the blessings of a well stored and well cultivated mind. In the sphere of their influence, they purpose that none shall be gifted with the power and influence which Learning always gives, but those who will first bow the knee to the God, or Baal, which they may set up; *purposing*, through the influence of those select faithful, on whom they bestow the privilege and power of Learning, to control the religious faith and conduct of the more ignorant masses. Before they will impart the gift of knowledge, they require a bond that it shall be subjugated to *their form of religion*. They say, give us the keeping of your souls, and we will give culture to your intellects; surrender to us your moral, and we will enrich your intellectual nature. This is the new trade proposed to be opened by this business corporation. "*Liberty*" is not found the "*presiding nymph*" at their fountains of learning; "*mumming priests*" are "*its ministers*." Their purpose is not, like that of our colleges and academies, to teach and diffuse knowledge; it is not in accordance with the American idea, that Learning is to be broadcast throughout the community; but their purpose is to teach Religion *first*, and Knowledge *afterward*—to diffuse light, not to all, but only to the *faithful*. Their purpose is not like that of our churches, whose end is to promote religious culture; but it is a purpose remarkably blending Religion and Learning, and bringing the one into subjugation to the other.

This purpose, sir, I pronounce to be new and anomalous. It is first conceived, and brought forth to the light, in this Commonwealth, by the petitioners, and presents a remarkably novel case. Ere we sanction such a purpose, it is a matter of common caution that we should pause. It concerns us to weigh and comprehend it. I, sir, for one, am not ready to act on the assumption that it is moral and good. This House, I trust, are not ready to act, on any such hasty assumption, and under the delusion that they are only erecting a small, private business corporation. *The purpose avowed by the petitioners, ere it be sanctioned, demands the greatest deliberation. Is it "moral and good?"*

But, sir, further than this general question, is it our duty to

go, in deciding upon the character of this purpose. If we are to sanction such an alliance of Learning to Sectarianism, if we are to give over that Goddess who presides over Liberty even, to the espousals of any Sect, it is our right, and our imperative duty, to inquire into the character of those hands to which we commit her.

I proceed, then, to ask, *Who are these petitioners, and What form of Sectarianism, or Religion, is that which they propose to teach?*

I had hoped, sir, to avoid all questions of this nature, and to have joined the issue without allusion to topics of a religious character. But, if the full question of *purpose* is opened, and we are to sit in judgment on its wholesomeness, I see no way of avoiding these inquiries.

Who, then, are the men who propose *thus* to affiliate Learning to a religious sect? They are Jesuits. And who are Jesuits? In answer to this legitimate inquiry, I have no prejudices to pour out before the House—no tirade of denunciation or abuse. I answer it only as these gentlemen themselves answered it, when asked by your Committee. I give you the information, that we derived from them. The distinctive feature of this order, we were told, is that of entire, inflexible subordination and obedience to their superiors in office, through various grades, up to a certain Vicar General, who is not the Pope, but an high functionary who resides at Rome. Hence, it follows, if you incorporate the individuals named in the bill, all of whom are Jesuits, you do really incorporate that Vicar General; or, you establish a corporation, though nominally in the persons of American citizens, really under the control, and absolute direction, of a foreign power—and a power, (substantially papal,) which, in its alliances with monarchical governments, constitutes the very essence of their tyranny, and their strong bulwark of defence, against the encroachments of free institutions, and the rights, and liberties, of the people.

Against this order of Jesuits, I have nothing to say. My intercourse with them, and personal knowledge of them, has been confined almost entirely to these gentlemen, who are the applicants for this college. I have found them, apparently, gentlemen and scholars. Their conduct has been courteous and respectful, and all the personal impressions they create, are of a pleasant and highly creditable character. I do not say but that they are an order of men which we ought to encourage and foster, by the special legislation which they ask of us. Perhaps it

is for our interest to aid them in the development of all their purposes, and in the dissemination of all their doctrines and views among our people. It is true, that they have been expelled from every country in Christendom, by turn; not excepting even Rome and Popedom, whose children they are. It is also true that now, wherever the fires of Liberty are breaking out on the continent of Europe, it is one of the first objects to send these men adrift. Yet, sir, all these movements may proceed from the illiberality and ignorance of the people. It is possible that our brethren in Europe may not understand the principles of religious liberty, and the true relations of these men to free institutions. I do not now urge their example, for our imitation. Perhaps, notwithstanding all these ebullitions of foreign prejudice, it may be best for us to adopt, and foster these Jesuits, that we may reap the benefits of their influence and teachings. I do not say that we ought *not* to seek the establishment of their institutions on every hill-top in Massachusetts; but I do say that, **THIS IS A QUESTION—and a question which it behooves us to investigate and understand, BEFORE WE UNSETTLE THE LONG ESTABLISHED PRINCIPLES OF OUR LEGISLATION, TO MAKE ROOM FOR THEM.**

And what is the Religion, which these men propose to incorporate so exclusively with Learning? It is the Roman Catholic Religion. And what is that? I am astonished to read the declaration of my friend from Salem, (Mr. Upham,) made in the minority Report, concerning the section of the Amherst College charter, prohibiting requisitions upon the students, of sectarian conformity,—and to hear him reiterate it in the debate, that the section alluded to contains the “great principle of Protestantism.” I should state that principle, sir, as distinguishing between Protestantism and Romanism, to be much larger and more momentous. The great and distinctive feature of the Roman Catholic system is, *that they interpose an Hierarchy and a Priesthood between men’s souls and their God.*

Sir, if I am dependent upon your favor for a salary, wherewith to clothe and feed myself and household, I am *your humble servant*. But if, in addition to this, you hold over my soul *the power of life and death, the keys of Heaven and Hell*, I am your SLAVE. It was the prevalence of this persuasion which occasioned, and for centuries perpetuated, the Reign of Darkness over Christendom. Kings and Emperors, even, sued for temporal and eternal salvation, at the gates of Rome, and at the very feet of the Hierarch. The people were in the most abject

subservience to the life or death-giving Priesthood. And it was not till Luther arose, and, sweeping away these Hierarchs and Priests, took the poor peasantry by the hand, and taught them the glorious truth, that they could go directly to God and,—all alone, far away from priests and altar, in the retirement of their cabins, where no eye could see them but the eye of God, and no ear could hear them but the ear of God,—pour out the tears of deep contrition, and utter the voice of complaint and supplication before Him, of whom it is said, “Like as a Father pitieth his children, so the Lord pitieth them that fear him,”—it was not till then that the shackles of spiritual and temporal bondage fell, and the people arose with the strength, and in the majesty of freemen! And it *was then*, that the seeds of civil and religious liberty were sown, the fruits of which have since enriched the world!

It is thus, sir, that we see the distinctive features of Romish and of Protestant Christianity; and thus we have an answer sufficient in reply to the question concerning the character of that Religion which the petitioners propose to introduce into an exclusive alliance with Learning, and in doing which, they ask our sanction. Now, sir, I do not say that we ought not ultimately to give that sanction—that we ought not to approve and patronize this peculiar purpose of the petitioners. I do not say but that their views of Christianity are all right, and should be adopted; but that we should especially and exclusively legislate for their sect, and make such alterations in our constitution and laws as are requisite to this end. Perhaps the evil effects resulting, during the dark ages, from the prevalence of their peculiar form of Christianity, was attributable rather to the times, and the soil, and the climate, than to their doctrines; and that, in this more genial country, and in these more enlightened times, different results would be experienced. But, sir, I do say again, as once before, that **THIS, also, IS A QUESTION**—*a question to be understood and settled, before we hastily sanction the anomalous purpose which they avow.*

I esteem the question as to the wholesomeness of the general purpose of these men, which question seems to have been overlooked in the remarks of the gentleman from Boston, as one of *immense moment*—one which I do not wish to discuss, and am not prepared to discuss—but one which plainly challenges, and will receive, discussion, fearless, and full, if these gentlemen press the subject upon public consideration. I have thus alluded to this subject reluctantly, and I dismiss it willingly.

The religious societies of this Commonwealth have been insisted upon as precedents for such a corporation as these petitioners seek. These societies are incorporated, it is alledged, for the sole purpose of teaching religion, and thus *the teaching of religion*, in all the various types which Christianity assumes, has been and is sanctioned, in each and all of these religious societies which constitute so extensive and essential an element of our social condition.

In reply, we say that these "religious societies" are a part of the fundamental law of this Commonwealth; they enter into the frame work of our civil society; they are a part of our CONSTITUTION. That Constitution guaranties their "corporate" existence, and recognizes their existence, in this community, as the *first thing*, and the thing MOST ESSENTIAL to the "HAPPINESS AND PROSPERITY OF A PEOPLE, AND THE SECURITY OF A REPUBLICAN GOVERNMENT." (See Dec. of Rights, Art. III.) It also guaranties the rights of individual conscience, in forbidding that any "*subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience.*" (See Dec. of Rights, Art. II.) It, therefore, directly recognizes and authorizes "corporate" "religious societies," of all kinds, and further decrees that they shall all, "demeaning themselves peaceably," "be equally under the protection of the law." (Art. III. Dec. of Rights.)

The Constitution not only thus *allows* the worship of God, and provides for liberty of conscience therein, but it declares it "*as the DUTY of all men in society, PUBLICLY, and at stated seasons, to worship the SUPREME BEING.*" (Art. II. Dec. of Rights.) The necessity, therefore, for these public, corporate, religious societies, is a necessity proceeding from those "Rights" which we declare to be inherent in all citizens; and a necessity recognized, in the very frame work of our government, as essential and imperative; *so* essential and *so* imperative as to constitute the first matter of distinct recital in the Declaration of Rights, after the preliminary assertion of our existence as free-men. Indeed, we may say that Art. III. of the Declaration of Rights is, itself, a *quasi* act incorporating these religious societies, for it guaranties to them all, "whether corporate or unincorporate," certain legal rights and powers which it distinctly recites.

While the CONSTITUTION thus erects these "religious societies," it defines their purposes to be "to worship the SUPREME BEING," and to afford "*instructions in piety, religion and mo-*

rality." It says nothing about instruction in literature, or the diffusion of knowledge, as connected with, or subordinated to, Religion. Of Education, and the "Encouragement of Literature," it treats afterwards, and gives no intimation of any other connection between it and Religion, than that it "tends to the honor of GOD, and the advantage of the Christian Religion." (Const. Chap. V. Sect. I. Art. I.) Afterward, in Sect. II. of same chapter, it recognizes "wisdom and knowledge" as that which the State is to cherish, that it may be "*diffused generally among the body of the people * * ** for the *preservation of their rights and liberties*" which "*depend on spreading the opportunities and advantages of education.*"

Thus the Constitution recognizes and establishes religious societies for certain specified purposes, and it authorizes and enjoins seminaries of learning for certain other specified purposes. The legislature has done nothing more with reference to these religious societies, than what has been constitutionally imperative upon it. And the course of its legislation, therefore, concerning religious societies, cannot be plead as a precedent for this anomalous religio-literary institution at Worcester, until that institution can make as strong an appeal to the Constitution, and the Declaration of Rights, as can those "religious societies." There is no trace, therein, of anything recognizing, or most distantly indicating such an institution. If that institution is, in good faith, a "religious society" for the "worship of the Supreme Being," and to give "instructions in piety, religion and morality," then it may rightfully be incorporated. Or if it is a seminary, established in good faith, "*to cherish the interests of literature and the sciences,*" to promote "wisdom and knowledge" * * "*generally among the people (as) being necessary for the preservation of their rights and liberties,*" then the Constitution, and numerous precedents under it, sanction its incorporation. But if it is neither, or a strange admixture of both, it presents an anomalous case, and can plead no precedents in legislation, and point to no authority in the Constitution.

It is with reluctance, sir, that I express these views in opposition to the wishes of the petitioners, to whose gentlemanly and courteous bearing, in all their intercourse with the Committee, I bear cheerful testimony. But I cannot consent to their receiving favors here, which others have never sought; and, to the granting of which, the legislature have, by repeated specific acts, manifested and recorded their repugnance. There are not six Unitarian gentlemen in this Commonwealth, that dare come to

this legislature with a statement that they cannot conscientiously send their sons to Harvard, or to the other colleges in the State, because of their freedom from religious tests, and ask authority to erect another college, where their children shall hear nothing but strictly Unitarian sentiments, and shall read no other than the *Unitarian* version of the New Testament, and shall conform to all the religious teachings and prescriptions of Unitarian teachers. If there could be found any number of such gentlemen, with such views and feelings, and they should come here with such a request, they would not be heard for a moment; they would be driven away, I fear with an unbecoming rudeness, because of the strong prejudice against such a sectarian demand. And the same result would occur, if a few orthodox gentlemen should demand a college which should require of its students a confession of faith in the Westminster catechism, and a conformity to all the sentiments and practices of some form of Calvinism. Their refusal would be immediate, and overwhelming. The people are utterly, and rightly, opposed to sanctioning, and pursuing indiscriminately any such policy, in its application to the various religious sects of the Commonwealth. But these gentlemen come here with their petition for a Jesuit College, to be conducted on just such exclusive principles, and they are received with courtesy, their prayer is respectfully considered, and they find favor with a large portion of this House. I do not say, for I do not believe, that they have been treated with any more courtesy, or respect, than is due to any well-demeaning citizens approaching us with their petitions; but I do say, that they are treated, in this application, with a courtesy and respect *which would not be shown to any other sect or denomination in this Commonwealth.*

In conclusion, I say we are not exclusive; we bear these petitioners, and the community which they represent, though chiefly of foreign origin, and of foreign politico-religious alliances,—we bear them none but the kindest feelings. In the spirit of our free institutions, we welcome them to our common air,—we welcome them to our common earth,—we welcome them to our common schools, and to our common colleges;—we welcome them to our common rights, and to our *Commonwealth*; but we cannot, in their behalf, disturb our settled policy, or accord to them any novel and peculiar privileges, which—if this bill is passed,—screen it as you may, clothe it in whatever language, and cover it with whatever sophistries, you like, they will and must enjoy.

We will give them what we give to others, what we have received from our fathers, and what we give to our children; but if, beyond this, and not content therewith, they seek and insist, however respectfully, on that which we deny to our own people, we have only one thing left that we *can* give them, however reluctantly, and that is, in the language of the Majority Report, "LEAVE TO WITHDRAW."

[The main question, to strike out the concluding paragraph of the Report of the Committee on Education, and insert the Bill reported by the minority, was then ordered, and the following is the result.

SUFFOLK.—*Yeas*—Messrs. Clark, Coffin, Curtis, Eaton, Fowle, Gray, Healey, Jenks, Kendall, Leeds, Motley, Phillips, Robbins, Schouler, Soule, Tarbell, Warren, Cary. *Nays*—Messrs. Boles, Brewster, Bryant, Cook, Coolidge, Denton, Jones, Richardson, Sanford, Smith.

ESSEX.—*Yeas*—Messrs. Chard, Wait, Swasey, Condry, Dalton, Russell, A. Story, Symonds, Upham. *Nays*—Messrs. Abbott, Hildreth, Lovett, Burnham, Friend, S. Story, Tenny, Huse, Kinsman, Proctor, Safford, Pike, Gould.

MIDDLESEX.—*Yeas*—Messrs. Boutwell, Burbank, Albee, Brastow, Banks, Richardson, Baldwin. *Nays*—Messrs. Kendall, Chamberlain, Farwell, Wyman, Merrill, Nixon, Nichols, Clafin, Russell, Adams, Bartlett, Corliss, Locke, Moar, Rice, Pratt, Walcott, Kidder, Coggin, Emery, Bennett.

WORCESTER.—*Yeas*—Messrs. A. Sawyer, Stone, Bisco, Wilder, Delano, Hapgood, Savage, Peck, Tolman, White. *Nays*—Messrs. Davenport, Perry, Cheney, Bennett, Hero, Perkins, Boyles, Newton, Allen, Johnson, N. W. Holbrook, Dixon, Brigham.

HAMPSHIRE.—*Yeas*—Messrs. Marcy, Kellogg, Nash. *Nays*—Messrs. Longley, Joy, A. Smith, Stone, Ferry, Meacham, Hopkins, Parsons, Wright, Hallock, Hyde, Paine.

HAMPDEN.—*Yeas*—Messrs. Park, Hull, White. *Nays*—Messrs. Bowker, Hall, Cooley, Sikes, Barton, Dickinson, Pynchon, Stowe, Wells, Allen.

FRANKLIN.—*Yeas*—Messrs. Clark, Griswold, Winter. *Nays*—Messrs. Moore, Giles, Putnam, Lamson, Bardwell.

BERKSHIRE.—*Yeas*—Messrs. Emmons, Hubbell, Kellogg, Trescott, Rayley. *Nays*—Messrs. Dawes, Marsh, Cogswell, Woodruff.

NORFOLK.—*Yeas*—Messrs. Howe, Torrey, Marsh, Billings, Sleeper. *Nays*—Messrs. Scott, Pierce, Kingsbury, Jackson, Bigelow.

BRISTOL.—*Yeas*—Messrs. Barker, Mason, Pratt, Borden, Ford, Wardwell, R. H. Williams, Bates, Slade, Short, Reed, J. M. Williams. *Nays*—Messrs. Hatch, Mendall, Wood, Staples, Braley, Aldrich, Cain.

PLYMOUTH.—*Yeas*—Messrs. Jenkins, Cushman, Tilden, Corbett. *Nays*—Messrs. Josselyn, Harris, Waterman, N. Smith, Dexter, Briggs, E. Smith.

BARNSTABLE.—*Yeas*—None. *Nays*—Messrs. Bearse, Baker, Butler, Snow, Hilliard, Bourne, Lombard, Crowell.

DUKES.—*Yeas*—None. *Nays*—Messrs. Arey, Mayhew.

NANTUCKET.—*Yeas*—Messrs. Barney, Mitchell, Morrissey, Starbuck.—*Nays*—None.

Yeas 84—*Nays* 117.

23 J1 68

The majority Report, leave to withdraw, was then accepted.—*Boston Atlas of April 28th.*]

A

R E V I E W

REVIEWED IN A LETTER

TO

DAVID ANDREWS, NEHEMIAH CUTTER, SAMUEL FARRAR,
ARNOLD HUTCHINSON, AND VRYLING SHATTUCK,

Committee of the Church.

BY CALEB BUTLER.

BOSTON:

BENJAMIN H. GREENE.

1850.