

**THE PUBLIC RIGHT
TO THE
UNIVERSITIES**

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The Public Right to the Universities by Anonymous

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BY A UNIVERSITY MAN.

“All colleges, in both universities, are, in the eye of the law, lay corporations, and bodies politic; over all of which the public has an immediate and undoubted authority, to regulate them as they shall think fit, without the least imputation of straining their power, by meddling in private matters.”—*Mr. Sergeant Miller's Address to Parliament in 1720.*

LONDON:
BENJAMIN L. GREEN, PATERNOSTER ROW.
1851.

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THE laws of England under the order of artificial persons or bodies politic, recognise two classes—spiritual and lay corporations. Of the latter there are two sorts—civil and eleemosynary; the one public, the other a more private institution, for securing a perpetual succession of specific rights. In speaking of the “universities” of Oxford and Cambridge both kinds are included in the popular sense of the term. As public institutions established for promoting learning the *universities* are civil corporations; but the *colleges* affiliated to each are strictly eleemosynary, endowed to aid youth in piety or learning, under provisions and regulations prescribed by their respective founders. It is necessary to the right comprehension of the subject now submitted for discussion, that the distinction should be clearly understood.

As civil corporations, these establishments are of

venerable antiquity. Oxford dates her charter in the thirteenth century, with some evidence of a prescriptive title from the Saxon ages. The absence of documentary evidence does not disprove the tradition that the foundation of the third light of learning in mediæval times was laid by the great master who gave an English form to the grosser materials carried to the island by his rude but free Teuton forefathers. Alfred, probably, set up unendowed schools for grammar, philosophy, and divinity, which have been fondly reckoned among the bright results of his enlightened reign. Cambridge dates from the time of Edward the elder, with a more ancient legendary history, but there is no evidence remaining of vitality till the reign of Henry I., when Joffrid, Abbot of Croyland, sent monks there to teach the sciences. History supplies few facts from which we may determine the economy of these early academic institutions. They were doubtless then, and long after, rather primary schools than colleges, with the superior functions of modern days. That they were popular, is attested by the throngs of youth mentioned by old historians; that they were free in constitution, and liberal in diffusing the blessings of knowledge to the children of the poor, may be justly presumed from the frequent notice of the "poor scholars" who repaired thither from distant countries.

During the three centuries from 1243, when Oxford received the earliest existing charter of privileges, to the Reformation, the university seems to have enjoyed the largest amount of popularity. Some of the notices are curious. Three priests having been unjustly hanged by King John, three thousand scholars resented the insult on the ecclesiastical order by retiring to the schools of Cambridge and Reading. Anthony Wood, the university annalist, gives the extraordinary number of 30,000 scholars in the time of Henry III., which was reduced to the more modest estimate of 15,000 about the beginning of the reign of Edward I. There is, probably, misstatement in both accounts, although it is certain that from that period there was a falling off; the cause may be partially ascertained from a representation made by the university to Convocation in 1488, that the colleges were become empty because in the bestowal of benefices there was no regard to learning or merit. It is interesting to find Oxford then, as she was sometimes after, the antagonist of despotism, spiritual and temporal. The university received large addition of privileges under Edward III., Henry V., Henry VI., and Henry VIII.

Cambridge shows a charter of incorporation as early as 1280, and important privileges were added, by subsequent sovereigns, down to the time of Elizabeth, when the university received a more

formal incorporation with the existing corporate title of "the Chancellor, Masters, and Scholars of the University of Cambridge." Oxford at the same period received a like grant. It is conjectured that the earliest schools were claustral, that is, either attached to, or established by, religious houses for the instruction of their novices in polite learning. To these were added secular establishments, where the scholars were lodged and instructed in halls or hostels, hired from the townsmen; some for particular branches, others for general instruction. A charter granted by Henry III. to Cambridge, appointed taxors to regulate the rents which the townsmen exacted from the students, seemingly on the scale of modern charges by their trading successors. In the reign of Stephen, Roger Vacarius, a Lombard jurist, established a hall at Oxford for instruction in the Roman law. The names of many of the ancient halls, are still preserved, and a Return of the thirteenth century states the number at three hundred—a possibly fabulous estimate. These were the precursors of our palatial colleges. Be the numbers accurate or exaggerated, facts enough remain to prove the superior liberality of our ancestors, and the catholicity of these institutions, and to censure an arrogant assumption of the exclusive liberalism of this age.

The foundation of the first of the existing colleges is a marked event in university history. William,

Archdeacon of Durham, established University College early in the thirteenth century; but there is no existing statute older than 1280. The eighteen colleges subsequently established were these: Balliol, founded by John Balliol and Dame Devorguilla, his wife, in 1263; Merton, by Walter de Merton, transferred from Maldon, in Surrey, to Oxford, in 1274; Exeter, by Walter de Stapuldon, Bishop of Exeter, in 1314; Oriel, in 1326, by Edward II.; Queen's, in 1340, by Eglesfield, Confessor to Queen Philippa; New College, in 1386, by William of Wykeham, Chancellor to Edward III.; Lincoln, in 1427, by Richard Fleming, Bishop of Lincoln; All Souls, in 1437, by Chicheley, Archbishop of Canterbury; Magdalen College, in 1456, by Patten, Bishop of Winchester; Brasenose, in 1509, by Smith, Bishop of Lincoln, and Sir R. Suttan, of Prestbury; Corpus Christi College, in 1516, by Fox, Bishop of Winchester; Christ Church, originally by Cardinal Wolsey, but substantially by Henry VIII., in 1546; Trinity, in 1514, re-endowed by Sir Thomas Pope, of Tittenhanger; St. John's, in 1555, by Sir Thomas White, a London citizen; Jesus College, 1571, by Dr. Price, Treasurer of St. David's; Wadham, in 1613, by Nicholas Wadham, a gentleman of Somersetshire; Pembroke, in 1620, by Thomas Tisdal, of Glisdal, and Richard Wightwick, Rector of Isley, Berks; lastly, Worcester College, founded in 1714, by Sir Thomas Cookes, of Bently,

Worcestershire. These are regularly endowed eleemosynary corporations. To these, however, must be added certain voluntary associations, the only remains of the ancient halls. There are now only five of these halls: St. Edmund, established about 1269; St. Mary, 1333; New Inn, 1392; Magdalen, 1487; and St. Alban, in 1547. These societies have no incorporation, and the students are subject solely to the statutes of the university.

At Cambridge, the seventeen houses hereafter named are all incorporated, there being no legal distinction between the colleges and halls. St. Peter's College was founded in 1257, by Balsham, Bishop of Ely; Clare Hall, in 1326, by Lady Elizabeth, sister to the Earl of Clare; Pembroke College, in 1347, by Mary de St. Paul, widow of the Earl of Pembroke; Gonville and Caius College, in 1348, by Edmund Gonville, the foundation being greatly increased by Dr. Caius, the famous physican, in 1558; Trinity Hall, in 1350, by Bishop Bateman; Corpus Christi College, in 1351, by two guilds of the town; King's College, in 1441, by Henry VI.; Queen's, in 1448, and 1465, by Margaret of Anjou, wife of Henry VI., and Elizabeth Woodville, wife of Edward IV.; Catherine Hall, in 1473, by Dr. Wodelarke, Chancellor of the University; Jesus College, in 1496, by Alcock, Bishop of Ely; Christ's College, originally by Henry VI., but re-endowed by the Lady Margaret, mother of Henry VII., in