

find a perfect agreement and the account just and correct. They offer the following resolutions.

*Resolved*, That the annual account of John Norton, Jr., Esq., Treasurer, is hereby approved and that with the accompanying documents it be filed with the Secretary.

*Resolved*, That the Committee be discharged.

*Resolved*, That the sum of Eleven thousand Nine hundred and twenty-five dollars and forty-one cents, being an overdraft of the Treasurer's account with the Bank of Michigan be appropriated for the payment of the same.

Mr. Kearsley submitted the following resolutions, which were adopted:

*Resolved*, That the Treasurer be authorized and required to pay in the City of New York Three thousand dollars, being the amount of interest due on the One hundred thousand dollars loan, and that he be required to pay said interest hereafter promptly as the same may fall due.

*Resolved*, That the President of the Board on filing with the Secretary the Bond of Dr. Asa Gray with his receipt for Six thousand five hundred dollars, heretofore appropriated for a Library and his salary, do receive his receipt given for that amount.

On motion of Lieutenant-Governor Mundy, it was ordered that the Committee on Building be authorized to dig a well on the University Grounds at Ann Arbor.

On motion, the account of the City of Detroit for paving around the Branch building was referred to the Committee on Branches.

Mr. Wilkins made the following report, accompanied by a resolution:

The Committee appointed by a Resolution of the Board to inquire into the legality of appropriations made out of the fund derived from the sale of University Lands for the support of University Branches,

Report, That they have given the subject that consideration which its importance merits. The lands mentioned in the resolution compose the munificent grant made by the Congress of the United States in the Act of the 20th May, 1836, entitled, "An Act concerning a Seminary of Learning in the Territory of Michigan." for the use and support of a University within the said Territory and for *no other use or purpose whatsoever*.

In enquiring into the legality of appropriations made out of the said Fund for the support of University Branches, two questions present themselves:

First. In what sense is the word University used in the Act of Congress? and,

Second. To what object and extent was the donation designed?

First. In the Act of Congress the Secretary of the Treasury was authorized to set apart and reserve from sale out of any of the Public Lands within the Territory of Michigan to which the

Indian title was extinguished, a quantity of land not exceeding two entire Townships for the use and support of a University within the Territory aforesaid and for no other use or purpose whatsoever, to be located in tracts of land corresponding with any of the legal divisions into which the Public Lands are authorized to be surveyed, not less than one Section, one of which said Townships so set apart and reserved from sale shall be in lieu of an entire Township of land, directed to be located in said Territory for the use of a *Seminary of Learning* therein by an Act of Congress entitled, "An Act making provisions for the disposal of the Public Lands, in the Indian Territory, and for other purposes," approved March 20, 1804. By the provisions of this Act this liberal fund is specifically dedicated to the *Use and Support* of a University. What then is a University? It will be perceived that the language of the original donation is changed in the body of the Act, although retained in the title. A Seminary of Learning may in some respects be synonymous with a University, but there are many Seminaries of Learning that could not properly be termed Universities. For instance, a Female Academy or an Elementary School is a Seminary of Learning, but not a University; for all the Sciences are not taught in such Institutions; they might be roots or branches to such an establishment; they might be parts of the Body, but not the Body itself. Webster, in his Dictionary, defines a University to be "An assemblage of colleges, established in any place with Professors for instructing students in the Sciences, and other branches of learning, and where degrees are conferred." It is therefore an assemblage of Colleges and not one College and comprehends instruction in all Sciences and Arts. It is not necessary to meet the force of this definition that all these Colleges must necessarily be located in one village. It is sufficient if the main and principal College where the degrees are to be conferred has the superintending government of the whole. This is frequently the case, and it must be supposed that Congress had this in view in changing the Language of the Gift. In 1804 when it was first made, the land was comparatively of little value and scarcely sufficient to justify any reasonable anticipations of its meeting the exigencies of even a Seminary of Learning. The Country was then a wilderness, and the most sanguine could not have anticipated the wonderful increase of population which twenty years was destined to make in the West. But in 1826 three new States had sprung up like magic from this very wilderness, and rapid settlements and improvements were everywhere meeting the view and enhancing the value of the Public Lands. That which was designated for a Seminary could well be extended to a University: that which was thought could nourish *only one* College was now deemed amply sufficient for the use and support of an assemblage of Colleges within the designated Territory. The spirit of this congressional donation is not to be confined to the mere erection of a splendid edifice for the purpose of displaying to the eye of taste this or that order of architecture or with the ignoble view of ornamenting and increasing the values of this or that village, within the Territory of Michigan; it was not intended "for the use and support" of a University of Brickbats and Mortar; but unquestionably designed to promote Learning and for the cheap education of the People.

The evil had long been perceived by the people of the United States that College education, maintained by the Public Funds of

the different States, was principally confined to the children of the wealthy who could afford to send and maintain their sons at such Institutions. But *all* alike had not the same advantage, and many a stupid heir of Fortune received the parchment title of an A.B. or an A.S.S., when impoverished genius and talent had to struggle on without this Public facility. Congress, in this Act, determined differently in the appropriation of this portion of the Public domain for the use of a University designed for the education of the People of the Peninsula of Michigan. They made the appropriation for the University of Michigan and not for a single Seminary of Learning. Now a University is general in its signification; it not only comprehends instruction in all Arts and Sciences, but in every branch of learning from the preparatory school where a-b-c-darian principles are taught, to that standard of scientific perfection when it is deemed fit and proper to confer upon him the final degree.

But secondly. To what object and extent was the donation designed?

The language of the Act is, "for the use and support of a University and for no other use or purpose whatsoever." Your Committee have already explained the sense in which they conceived Congress used the word "University." It now becomes essential to consider the prohibitory phrase: "for no other use or purpose whatsoever." Your Committee believe that Congress intended this fund to the purpose of education and inhibit its being used for any other purpose: such as its ever being devoted to meet the expenses of the Territorial or future State Government, or even being used in works of Internal Improvement, or any other object of general State concernment, than the sacred purpose of General Instruction. In other words it was a munificent endowment of a University in Michigan by the Government of the United States. The consecration of the Fund is not, in the opinion of your Committee, expressly limited to expenditures upon a splendid building, or the support of Professors who shall be called to instruct the youth there. The language of the Law is more extensive. The spirit of the times in which it was enacted was more liberal. There were Universities then in existence elsewhere, both in Europe and America, and it was well understood that the college buildings did not compose the University. The German Universities had no specific buildings whatsoever. The University of Dublin had its colleges other than in the city or its immediate vicinage. The University of Virginia had throughout the State its preparatory schools, and the University of Canonsburgh and Pennsylvania had its Law and Medical Departments at distant places from the Mother Institution. But all were included within the Maternal protection and comprehended in the meaning of "the University." Your Committee are of opinion that the spirit and meaning of the Act of Congress not only dedicates the University Fund to the erection of the Main Building at some designated place in Michigan and the support of instruction there, but also for the use and support of such necessary Branches as may by the competent authority be deemed essential as preparatory schools to supply from time to time with students qualified to pursue with advantage the higher branches of Science. The main edifice would be but a standing Monument of Folly and Wasteful extravagance if unoccupied with students, and the various Professorships but sinecure posts of honor.

It is surely not within the bounds of reasonable anticipation that the Halls will be filled with students from other States. Although Michigan does present a beautiful and liberal system calculated to entice students from other States, yet it would be unwise, unpatriotic, to depend altogether upon that source. Other States have their own state Institutions and will in a great measure receive the encouragement of their own citizens: and this munificent grant of Congress to Michigan should not be so construed as to operate to the measurable exclusion of the youth of Michigan. The Branches, then, form a very essential part of the University. They are the arms which feed the mouth of the Body, the roots which nourish the trunk of the tree. Your Committee are strengthened in this construction of the Act of Congress by the subsequent legislation of that Body, which if not allowed to give meaning to the previous legislative language, yet at least must be considered as enlarging the terms of the grant. The Congress of the United States is the donor. The State of Michigan is the recipient of the gift. There are no other parties to the transaction. If the donee violate the terms of the Contract, the subject matter might revert; but it is perfectly competent for the Donor, or original proprietor with the consent of the donee to enlarge the objects of his benevolence.

The grant was made by an Act of Congress on the 20th May, 1826. On the 15th of June, 1836, ten years afterwards, Congress passed the act providing for the admission of Michigan into the Union and in the 2nd Section enacts, "that the constitution and State Government which the People of Michigan have formed for themselves, be and the same is hereby accepted and ratified and confirmed." In the 5th Section of the 10th Article of that Constitution, the Legislature of the State is empowered to take the necessary measures for the disposition and improvement of the Lands granted by the United States to this State for the support of a University; and the article further declares that the Funds accruing from the rents or sale of such lands shall be and remain a permanent fund for the *support* of said University with such Branches as the Public convenience may demand. This constitutional provision of this State in relation to this fund, the subject matter of the specific grant mentioned in the Act of 1826, was affirmed, ratified, and accepted by Congress, the original proprietor and Donor. If, therefore, the prohibitory words of the Act of 1826 limiting the grant for the use and purpose of an University and no other use or purpose whatsoever, must receive the strict construction or confirming all appropriations out of this Fund to the Main Building at Ann Arbor, your Committee are of opinion that the ratification by Congress of the Constitution of the State enlarges the terms of the donation and justifies the use of the funds for the maintenance and support of Branches. In pursuance of the power thus vested in them by the Constitution of the State, and thus confirming and recognized by the Congress of the United States, the Legislature has assumed the control of the subject matter and enacted the Law organizing the Board of Regents of the University and directing the establishment of its Branches. In Section 10 of Chapter 2nd of Title 11 of the Revised Code, it is made the duty of the Board of Regents together with the Superintendent of Public Instruction to establish Branches of the University in the different parts of the State and providing that there shall not be more than one in any

one organized County of the State. This confers ample power upon the Board of Regents in connection with the Superintendent of Public Instruction to appropriate the funds dedicated by the Act of Congress to the support of the University to the use and support of the Branches of that University. Your Committee conceive such appropriations already made or hereafter to be made, as perfectly legal; and offer the following Resolution:

*Resolved*, That they be discharged from the further consideration of the subject.

On motion the Resoluituion was adopted, and the Report laid on the table.

Mr. Kearsley laid on the table the following resolution:

*Resolved*, That the Regents concur in the Report made by the Committee on the subject of appropriations for Branches of the University and that said report be adopted.

On motion the Secretary was directed to make a report to the Senate called for by the following resolution:

*Resolved*, That the Committee on Literature be instructed to enquire into the plan, if any have been adopted by the Board of Regents of the University for the University buildings, the material of which they are about to be composed, and the estimated cost of erection. Also, whether the loan of One Hundred Thousand dollars, on the credit of the State authorized by an Act of the Legislature has been effected, in what manner and on what terms, if effected; and what disposition has been made of said loan, with leave to report by bill or otherwise.

And then the Board adjourned to the 30th instant.

### THIRD JANUARY MEETING, 1839.

Detroit, January 30th, 1839.

The Board met puruant to adjournment.

*Present*: Governor Mason, Lieutenant-Governor Mundy, Chief Justice Fletcher, Mr. Justice Ransom, Chancellor Farnsworth, Dr. Pitcher, and Messrs. Wilkins and Adam.

Dr. Pitcher presented a communication from Messrs. Langley, Coffinberry, and Ingenon respecting the removal of the Branch heretofore established at Centerville and accompanied the said communication with the following report from the Committee on Branches, which were severally laid on the table:

The Committee on Branches on laying before the Board of Regents a communication addressed to them through said Committee by Messrs. Langley, Coffinberry, and Ingenon of the village of Centerville, ask leave to state that your Committee have replied to