

about one-quarter of the customary and regular charge therefor.

"I find that the salaries of the officers of the appellant are reasonable and moderate in amount, and that there are certain instances of professors in the University who because of their financial ability and zeal and devotion to the interests of the appellant, have been and are accustomed either to serve without salary, or to give their salaries to the use of the appellant."

The counsel for the University were Bristol, Stoddard & Bristol. The members of this firm are Louis H. Bristol, Yale '59; Henry Stoddard, Yale Hon. '88, and John W. Bristol, Yale '77.

The counsel for the Assessors were Jacob P. Goodhart, Yale '85S., who is Town Counsel; John W. Alling, Yale '62; William H. Ely, and William B. Stoddard.

The decision of the court in full is as follows:

### The Decision.

In 1887 the Corporation of the President and Fellows of Yale College in New Haven was authorized to use the title "Yale University," and gifts received and contracts made under either of said names were declared to be valid. The powers of the Corporation were not otherwise changed. (10 Special Laws, p. 467.)

In October, 1895, the University filed with the assessors of the town of New Haven a list of the property owned by it subject to taxation for the year 1896. The list contained seven pieces of land valued at \$57,680. To this list the assessors added certain buildings used for dormitories and dining hall, with the land on which they stood, valued at \$214,990, and also added certain vacant building lots, dwelling houses and factories, valued at \$167,112. The plaintiff appealed to the board of relief, which board confirmed the action of the assessors. This appeal is an application to the Superior Court alleging that the board of relief acted illegally in confirming the action of the assessors and praying for appropriate relief. The alleged illegality depends on the meaning given to two statutes, viz.: Section 3820 of the general statutes, the act of 1834 amending charter of the College appearing also in section 3822 of general statutes.

First. Section 3820 of general statutes provides that: "Buildings or portions of buildings exclusively occupied as colleges, academies, churches or public school houses or infirmaries" shall be exempt from taxation. If buildings used by the College exclusively as dormitories and dining halls for its students are buildings exclusively occupied as a college, then the action complained of in adding to the list dormitories and dining hall was illegal; if such use is not a college occupation, then said action was legal.

### MEANING OF THE WORD COLLEGE.

The word "college," used to denote a constituent of or the equivalent of "university," has acquired a definite meaning. As first used, "college" indicated a place of residence for students, and occasionally an "universitas" or "studium generale." The expressions "universitas studii" and "universitatis collegium" occur in early official documents. A suggestion of the modern university appears in the College and library of Alexandria, founded and endowed by Ptolemy Soter. Here the museum provided from the first lodgings and refectory for the professors, and later similar provisions were made for the students. A writer of the twelfth century speaks of the "handsome pile of buildings, which has twenty colleges, whither students betake themselves from all parts of the world."

The university in Europe developed about the year 1200. It was a community organized for the study of all branches of knowledge and authorized by pope, king or emperor to confer degrees upon those found competent to instruct others.

At Bologna, perhaps the earliest organized university, we find colleges almost from the beginning. Such college was a separate house, with a fund for the maintenance of a specified number of poor students. Similar colleges existed in Paris, Oxford and other universities. At first little more

than lodging rooms and refectory, they grew, especially in England, to be the home of the students for all purposes. The instruction and discipline of the university was through the colleges. The conditions of the early universities were peculiar. Vast throngs of students were gathered at one place; they were divided into "nations," each, as at Paris, with its own proctor or procurator; they were further divided among faculties, each with its dean. The divisions into nations and faculties were cross divisions; and another cross division was that into colleges and halls (hall sometimes meaning an unorganized college and sometimes used as synonymous with college). With changes in conditions, the college was largely eliminated from the continental universities, while in England the university became practically the associated colleges.

### THE ENGLISH PROTOTYPE.

Merton College, Oxford, founded in 1264, was the prototype of the English college. That College consisted of the chapel, refectory and dormitories. Here the scholars, called fellows, in token of the spirit of equality and companionship, lived under one government, educational and moral, and prepared to take the degree granted by the University. As the colleges increased all non-collegiate students were driven away. The vagabonds or chamber-dekyns, i. e., camera degens, living in lodgings as opposed to those who lived in a college, disappeared. Each student in a college must belong to the university and each student of the university must be attached to a college. And the heads of the colleges administered the university. Thus was developed the English theory of the university; where the honors and influence of the studium generale are gained and enjoyed by students living and working under government of their respective colleges.

As Neuman says, the university, to enforce discipline, developed itself into colleges, and so the term college "was taken to mean a place of residence for the university student, who would there find himself under the guidance and instructions of superiors and tutors, bound to attend to his personal interest, moral and intellectual." (See *passim*, Vol. 3, Neuman; Hist. Sketches; Lyte's History of University of Oxford; Vols. 1 and 2 Huber's English Universities; Ency. Brit., University). The college and university, however, were sometimes united in one corporation. Neuman says, "The University Toulouse was founded in a college; so was Orleans." Trinity College, Dublin, styled in its charter (1591), "The College of the Holy Undivided Trinity of Queen Elizabeth near Dublin," is both university and college, and has ever since been recognized by the Queen as a "mater universitatis"; but the hope was not realized and the university and college have ever since remained one, called in common speech indiscriminately "Trinity College, Dublin," "Dublin University," "The University of Trinity College, Dublin." Morischal College, Aberdeen, was founded in 1593 as a college and a university, with power of conferring degrees. And so at the beginning of the seventeenth century the students of an English university lived in colleges, were instructed and governed through colleges, whether the university included a number of colleges or a single college; and among the buildings indispensable for every college were the great hall or dining room and the living rooms or dormitories.

In establishing universities in the new world the limitations of the people compelled the founders to follow the example of Trinity College, Dublin, and Morischal College, Aberdeen, and not that of Oxford and Cambridge. Upon the same corporation was conferred the power of the university in granting degrees and of the college in government; and such community and the buildings required for its use were known as "The College." The first appropriation to endow a "university" in Virginia was made in 1607. In 1660 an act of the colonial legislature endowed "The College," and in 1693 William the Third established the university, described in the charter as "certain place of universal study or perpetual college of divinity, philosophy, languages and other good arts and sciences," and named it "The College of William and Mary in Virginia."

### THE FOUNDING OF HARVARD.

The settlers of New England early felt the need of a local university, and the first step was the erection of a college, i. e., a building where the students were to be lodged, fed and instructed, while pursuing the university studies and qualifying for its degrees. In 1630 the general court at Boston advanced £400 for this purpose, and subsequently appointed Newtown as the seat of the university, and for this reason changed the name of the town to Cambridge. (2 Mather's Magnalia, pp. 7, 8, 9, 19, 20. Quincy's History of Harvard.) In 1642 the court established overseers of a "college founded in Cambridge." In 1650 the charter was granted. The statutes immediately adopted provided that all students admitted to the College "must board at the commons," and also provided for preferring the first and second degrees in arts.

While the College exercised some of the privileges of a university, doubt was felt as to the power of the general court to confer such privileges. The Colonial charter of 1692 was construed as authorizing the court to erect a university, and immediately, as Mather says, the general assembly granted "a charter to this University," authorizing it to grant degrees, "as in the universities of England." This charter expired within three years from failure to receive the royal approval, and the College was subsequently reorganized under the charter of 1650. The degree of D.D. was conferred by the College in 1693 on Increase Mather, its President, who in conferring the degrees at the first commencement after the new charter, maintained that "the right of establishing universities (academias) is reserved to all those and to those only who hold the sovereignty in the state," and that the general court, under the charter of 1692, possessed such sovereignty. No other degree of doctorate was conferred until 1771, when Nathaniel Appleton was made doctor of divinity, and a few years later George Washington was made doctor of laws. The Massachusetts constitution of 1779 recognized "the University at Cambridge," and ratified and confirmed all the rights and privileges it had been accustomed to exercise.

### THE FOUNDING OF YALE.

The colonies of Connecticut and New Haven were at first unable to erect a college by themselves, and for some years contributed to that at Cambridge. The plan of the College at New Haven was early mooted and in 1654 steps were taken towards its consummation. Davenport wished to direct the benefaction of Governor Hopkins to the founding of a college and the court of that colony acceded to that plan. The difficulties attending the union of the colonies of New Haven and Connecticut obstructed the execution of the plan, and eventually the funds were appropriated to the Hopkins Grammar School. In 1698 the plan was revived, and ten of the principal ministers agreed to stand as trustees to found, erect and govern a college. They formed themselves into a society in New Haven in 1700, and the same year at a meeting at Branford, they (in the language of Trumbull) "founded the University of Yale College." (1 Trum. Hist. of Conn., 402.) In 1701 the general court of Connecticut granted to the said trustees the privilege of founding, endowing and ordering a "Collegiate school," and authorized them to acquire and hold real estate not exceeding the value of £500 per annum and personal property to any amount for the use of said school and for erecting and endowing the same. (4 Col. Rec. 363.) The act did not purport to establish a college and university, unless by indirection; but the trustees, following the example of Harvard, proceeded at once to grant degrees in arts. Until 1716 the school was migratory; the trustees then decided that it should be established at New Haven, and this decision was confirmed by the legislature the following year. (6 Col. Rec. 30.) In pursuance of this authority, aided by appropriations by the colonial government as well as by gifts from Governor Yale and other benefactors, a college house "for the entertainment of scholars," was so far finished in 1718 as "to be fit for the reception and accommodation of all the students." It contained

nearly fifty studies and was furnished with a convenient hall, library and kitchen. At the commencement of that year, in the presence of the authorities of the colony, the trustees did "with one consent agree, determine and ordain that our college house shall be called by the name of its munificent patron, and shall be named Yale College." (2 Trum. Hist. Conn. 11.)

### PRESIDENT CLAP'S RULES.

In 1745, under the energetic rule of President Clap, a body of statutes was drawn up, derived partly from the laws and customs of the College, partly from the laws of Harvard, and partly from the University of Oxford, and the same year the general court assuming the right of exercising within its jurisdiction the powers of sovereignty belonging to an independent government, not inconsistent with express statutes of England, which is always claimed, though with much fear and trembling and with great caution, granted a charter somewhat like in form to a royal patent, erecting a corporate university and college under the name of "The President and Fellows of Yale College in New Haven," endowing it as University and College with the power of self-government and of making all reasonable laws and ordinances for that purpose, and with the power of conferring all such degrees as are usually given to colleges and universities, and with the power to appoint a scribe or register, a treasurer, tutors, professors, steward, and all such other officers and servants usually appointed in colleges or universities for the promotion of good literature and for the well ordering and managing the affairs of said College.

### AN ESSENTIAL FEATURE OF THE COLLEGE.

It is plain that the College thus erected involved as an essential feature the education and government of university students in college houses under college officers. The "college or universities" referred to in the charter were the universities in England administered by associated colleges or the single colleges endowed with the privileges of a university. In both, the "college" involved necessarily buildings for the residence and entertainment of the officers and students. The general court again and again contributed to the erection of such buildings. When in 1753 the trustees of the College of New Jersey (now Princeton University), applied to the general assembly of Connecticut for leave to set up a lottery to raise money "to build a public house for entertaining the students and better answering the good ends designed in founding and erecting said College," the assembly granted the liberty "on consideration of the matters in said petition and for the encouragement of religion and learning." (10 Col. Rec. 217.) The "college" and the building for entertaining the students under college government were inseparable. In 1818 Yale College consisted of three college buildings for housing the officers and students, a lyceum, a chapel, a kitchen, and large dining room; and it was this College whose charter was confirmed by our constitution of 1818.

### A SETTLED MEANING.

The settled meaning of "college" as a building or group of buildings in which scholars are housed, fed, instructed and governed under college discipline, while qualifying for their university degree, whether the university includes a number of colleges or a single college, is now attacked. We have deemed it proper to trace this meaning with sufficient detail to demonstrate the utter unreason of the attack. This peculiar function of a college is inherent in the best conception of the university. This meaning has been attached to the English word for eight hundred years; it was the only meaning known at the time our first American colleges were founded; it was recognized and distinctly affirmed in the charter of Yale College; it has since been affirmed by repeated acts of legislation, and has received the sanction of constitutional confirmation. It was impossible for the legislature to express its meaning more clearly than in the language of