

1  
Outline of Argument

1<sup>st</sup> - Show who founded Bacon College and Ky University &c. -

14 out of 16 Trustees of B. College were members of C. Church & the other two even in sympathy with it, their families being members

Refer to Ky C. E. Society & the act authorizing it to elect Trustees of B. College Vol 1 Act, 1855 1856 page 222 & Vol 2 of same page 106. -

Refer to Act 1858 head preamble & 8<sup>th</sup> Section & Comment on same - Answer Col B's

Here show that Col B denies that Bacon College was founded & show they have changed their ground  
Dilemma

argument about read headed men and Citizens of Fayette - Show that the Curators are estopped to deny recitals of Preamble of 1858 - Either the Legislature were deceived then or are attempted to be deceived now - Let them take either horn of the dilemma. -

Here make explanation for Sec 19

8<sup>th</sup> Sec in connection with recitals in preamble but the equitable title in the Curators - Certainly the beneficial interest is in some one - It is not in the Curators who are only Trustees -

It is not in the Donors for the very name implies a parting with their gift - Their rights are protected by the 14<sup>th</sup> Section which provides that their donations shall be strictly applied according to the instructions given by the donor & by the 19<sup>th</sup> Sec which gives them a representation in the Board. -

Here make Show that donor can only carry out his  
Explanatio intentions by vesting the property in some  
for Gov. P. body that is to be perpetual as his heirs  
may entertain entirely different views from  
their Ancestor.

No other religious denomination or  
the people at large make no claim to  
the University.

Who then has the beneficial interest -  
Surely the 8 Sec means something & if it  
means anything it puts this interest in  
the C. Church of Ky through the 2/3 of the  
Board -

Answer Col B quibble about the Church  
no Churches giving nothing, and that being  
Congregational they cannot hold property -  
The Board of Curator was incorporated for  
the very purpose of holding in Trust for  
them - Now do the Congregations hold their  
Church buildings - through Trustees -  
If they can do this, they certainly can  
hold through an incorporated Trustee their  
University - See from Nolyota case 15 Wallan 571. 572.

Here refer to how Catholics, through their  
Bishop, Presbyterians through their Synods  
Methodists through their Conference, &  
Baptists hold property - All these hold  
as Trustees for their respective denominations

Answer Col B  
reading from  
document that  
the University  
was to be for  
the people -  
try showing that  
the same  
donor appointed  
Committee to  
draft Charter

The Charter in Express  
Terms Recognizes the  
Christian Church of  
Kentucky & is for the  
an incorporation of it.

Where the words of a law, contract or will are capable of two or more meanings, as that the meaning is left doubtful, what has been spoken or written by the same law maker, legislator or contractor on some other occasion is a circumstance to explain the doubtful meaning. — Devan, n. Statutes, 136.

and these bodies are composed of delegates, selected by the different congregations —

The C. Church is Democratic & selects its own delegates & they would send fewer preachers, fewer solid preachers than so.

This is a Key Institution. —

Read Extracts from official utterances of the Board and its officials as to the ownership of the University

Explain Term Unsectarianism &c  
Then discuss the money question & show that we actually purchased Transylvania — She was no donor to Ky University — He paid her a grand price in the removal to Lexington beginning to refund all Mercer Co Subscriptions

When the University was first removed to Lexington no one doubted it belonged to C. Church — All the Faculty <sup>were</sup> members of C. Church

Report to Civil rights Bill which if passed will admit negroes into the University if it belongs to the people —

2-

2<sup>nd</sup> - Give the reasons why amendments are required. - All powers of Cor have come to be exercised in one manner.

The Charter has been disregarded and violated in both its letter and spirit by Act of misuser and now user of the powers granted to the Council.

1<sup>st</sup> By failure to elect a President & the Creation by By Law of a Regent. - The President is & terms referred to in the Charter &c Under 4<sup>th</sup> Sec the Board is authorized to select and employ such Officers &c - Sec 15 speaks of President or other head &c Under their power is claimed to create a Regent & place him over all the Officers of the University.

2<sup>nd</sup> The Executive Committee (the name implies Executive power only) have been vested with all the legislative & other

powers of the full Board - The Regent is made Ex Officer & member of & Chairman of this Committee - The same person is also Treasurer - Now read 7<sup>th</sup> Section:

The Ex Com have also usurped the power to order the Treasurer to pay out money - They also approve Treasurers Bond -

Refer to the organization of the Committee - Practically the whole powers of the Corporation are vested in the man, the Regent. Illustrate barely reference to Governor of City &c

Refer to Collyer's report  
an article  
that Board  
does not want  
the Sec of  
other officers to  
qualify, &c.  
H. H. Headly  
how show  
up Collyer  
on this point

48.000  
care -  
& my own  
& Steels  
Report

Reports 3 - They have assumed power to <sup>elect</sup> Eleven  
Holyoke's new Curators, though by 10 Section their  
Lymann power is limited to filling vacancies, which  
15 Wallcut occur by death, resignation or otherwise.

By this simple process they have nullified  
the 19 Sec which gives donors a right of  
representation - The new Curators are  
representatives of the Majority of the Board  
which elects them not of the donors who are  
entitled to representation.

Here refer to Genl Garis case.

If ever there was a strictly close  
corporation on Earth this is one.

They have set at defiance the  
Church & Donors, the owners & founders of

the University & denied their title to  
When the trustee denies his responsibility to the donors give them he should  
be removed - Notice Col B's assertion that Newman has, after  
offered to resign <sup>as Treasurer</sup> - Refer to Sam Hearley's case.

Here notice what Patterson said about B offering to resign every meeting  
of the Board Refer to complexion of the Board -

Refer to Prof Shadelford's case. - Here  
renew Col B's argument that the University has no  
new Sect or plan - Prof Picketer -

Under their combined influence, the  
University is going down, & the State &  
General public are common sufferers under  
the Church & Donors. - Read both Studies.

Show that the money cannot be

raised by Boardman to carry out Contract  
with State to erect College Buildings  
for Agriculture College. That the  
\$100,000 provided was all put in  
Ashland now used as his private  
residence & then an additional \$40,000  
raised to buy Woodland to get a private  
dwelling to teach in etc. -

All all sufficient reason why the  
amendment should be granted is the  
simple & naked fact that the owners  
& founders of the College desire it &  
have petitioned for it. -

Then refer to Church Petitions & the  
Lexington Petition - M.C. Johnson Frank  
Hunt &c

3 - Show the propriety and reasonable nature of the amendment desired -

Only two are asked

1<sup>st</sup> To make the Curator or Trustees elective by delegates of the Church and the donors, in the proportion provided in the Charter. -

Even if the 8<sup>th</sup> Sec does not confer any beneficial interest or equitable title on the C. Church of Ky, yet it certainly requires  $\frac{2}{3}$  of the Curator at least to be selected out of her members - This being so, who so proper to select her representatives as the Church which is to be represented. - Who so proper to select the Representatives of the Donors as the Donors themselves. - The 19<sup>th</sup> Sec gives them a right of representation. -

The University  
into the as  
much under  
control of these  
of the Curator  
elect them  
as if Church  
elects out  
in one case  
the best man  
in Church will  
set in with  
who have the  
confidence

Col B says all Colleges have failed through Ecclesiastical Control - Exactly the reverse is well known to be true - Between the Catholic - Presbyterian Baptist & Methodist Colleges all over the Country. -

By University cannot flourish except it has the support of the C. Church & their sympathy with them. -

Here answer Col B's language on Bowman & show that if he is all right he will be re-elected - our people are not only generous but they are just. -



2 - That the Treasurer shall not be a member of the Committee that was created by the Charter to watch him & guard the Treasury -

Col Brockbridge says why trouble the Legislature, go to the Courts -

Show that the Courts can give no remedy -

Explain that as to certain abuses the Courts can give a remedy, but not as to the points covered by the Amendments. If these are granted we can remedy the evils ourselves & save the University - Should the Amendments be resisted in the Courts by threatened the contest would be short & the University not suffer -

Lexington Petition against amendments - Show that many signed never read & many have retracted - Most of these Petitions has no interest & but very few of them are patrons of the University -

Note Unanimity of Church Petitions which were gotten up by parties without fair full consideration - Reply to what he said about Paris, Frankfurt, & Louisville -

Radical preaching in Paris & Frankfurt & all protestants at Louisville Radicals -

Line of Argument  
before Judiciary  
Committee of  
House Senate

Kent 2 Vol 307 says "If the Charter be granted and accepted and that  
repealing there seems to be no ground to question the efficiency of the  
repealing."

4<sup>th</sup> The Legislature has full  
power to make the amendment.

State general rule that private  
Corporations are Contracts & cannot  
be impaired &c

Then state the general rule that  
the Legislature may reserve the power  
to amend, modify or repeal by making  
it part of the Act or by general law.  
When power is reserved, it becomes a part  
of the Contract & its exercise is in no  
sense an impairment of the Contract.

This case is covered not only by a  
special reservation in the original Charter  
(see Sec 7) but also by the general Statute  
of July 14 1856 (2 Statutes 121) and  
re-enacted in the General Statutes.

Read from A & A on Corporations  
§ 767 pages <sup>766</sup> 878 & <sup>768</sup> 881 Note the cases  
cited. - Reports 2<sup>nd</sup> Kent 306-307 -

Wales vs Stetson 2 Mass R 146

Dartmouth College vs Woodward 4 Wheaton 708

McLaren vs Pennington 1 Paige Chy 108, 109

Empire Toll Bridge Co vs Canal River Co 7 Conn 53

Pratt vs St. Louis Bank vs United States  
1 Monis Iowa R 482

Erie & N. E. R. R. vs Casey 26 Pa State 287

Providence Bank case 11 Peten 443-451.

Saydau by Mon & Barbour 19 R <sup>365</sup> 358  
 Read by Frankfort Bank 23 Maine 318  
 Tomlinson by Jessup 15 Wallace 454  
 Miller by The State 15 " 478  
 Nolyota Co by 15 " 500  
 Sherman by Smith 1 Black 587 -  
 Reference in 15 Wallace page 495.

Pennsylvania Collyer Case 13 Wallan 213  
 Here discuss Sage by Holland 15 B Monro  
 page 340 & show that it was really  
 no amendment, but an actual Exercise  
 of a franchise of the Corporation

That the part of the case which is  
 against our view is a mere dictum &  
 in conflict with all the authority, State  
 & Federal & that the dictum is also  
 directly opposed by following Ky Case  
 Griffin by Ky Insurance Co 3 Bush 592  
 which cites A & S as read & approves  
 the text & says it is sustained both by reason  
 & authority.

353 - Simpson County Court by Arnold 7 Bush 353

Hamilton by Keith 57 Bush 458 fully  
 recognizes right after Act of 1836 to  
 change tolls.

Forythe by Big Sandy R Road 2 Met 321

Rail Road by Dudley

Review Labadie by MacKenzie & St. G.  
N. A. Co. - 18 & I Equit N - 78 State facts  
off his own rear from 182 - Rear from  
186 - 187 - 192 - 193.

The general tendency of the age is  
to keep Corporations within bounds  
Witness great uprising all of the  
Country against these powerful monopolies  
Granges &c have been established in self  
defense by the farmer & mechanics.

\* The Reciprocity Bank 22 New York (14)  
White by N. A. Co 14 Barbours 559 ✓  
Plankroad by Thatcher 11 New York 110  
Oliver Lee & Co Bant 21 N York 9  
" " " " 19 N Y 146

State by Adams 44 Missouri 570



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These Charters of incorporation however which are granted not as a part of the Machinery of the government, but for the private benefit or purpose of the Corporators are held to be contracts between the Legislature and the Corporators, ~~based~~ for their consideration, on the liabilities and duties which the Corporators assume by accepting them; and the grant of the franchise can no more be resumed by the Legislature, or its benefits diminished or impaired without the consent of the grantee, than any other grant of property or valuable thing, unless the right to do so is reserved or reserved in the Charter itself.