#### In the Matter of The “California College.”

In an application for an order to incorporate a college under the act of 1850, it is necessary that subscriptions of real estate should define the boundaries or situation of the lands proposed to be given; and where an endowment of a proposed college consisted of real estate, and the situation of the lands proposed tobe donated, could not be ascertained and determined from the subscription papers, the application was denied.

*Query* ? Whether the subscription under the act must not be a *cash* subscription.

This was an application for the incorporation of a college. The statute required an *endowment* of $20,000, and the subscriptions, by reason of which the charter was asked, consisted almost entirely of lands ; but they were not sufficiently definite to enable any one to locate the lands.

*Frederick* Billings, for the application.

[\*330](#p330) *By the Court,*

Bennett, J.

This application is made under an act of the legislature of which the first three sections are as follows ; “ Section 1. Any college may be incorporated in this “ state according to the provisions of this act by the supreme “court of the state upon application. Section 2. The founders “ or contributors of any proposed college within this state shall “ make to the supreme court an application in writing under “ their hands, requesting that •—--College may be incorpo- “ rated, specifying the first trustees and the name by which the “ corporation is to be called. Section 3. In case the court “ shall be satisfied that the proposed college has an endowment “ of twenty thousand dollars, and that the proposed trustees are “ capable men, then the court shall, by an instrument under its “ seal, declare the College incorporated under the provisions of *“* this act, by the name specified in the application, and the application together with the declaration of the court shall be “ recorded in the office of tire secretary of state.”

The application in this case must be refused. To say nothing' of the serious doubts entertained, whether the endowment mentioned in the third section, should not be a *cash* endowment, we are not satisfied that the proposed college has ail endowment in cash, in real estate, or otherwise, to the amount required by the statute. A very small proportion of the subscription is of cash. By far the greater part is of real estate ; and we have no evidence that the subscribers have any title to the lots they have subscribed. The most serious objection, however, to the application is, that the persons who have come forward so liberally to forward the cause of education in this state, have neglected to designate in their subscriptions the particular description of the lands which they are willing to bestow upon the contemplated institution. Tims, there are some subscriptions of village lots in San José and Alviso, without any designation of the numbers of the lots, of their natural boundaries, of their natural monuments, or other marks, by which it may be determined where they are situated, and whether the land is worth five dollars or five hundred dollars. It is true that there are affidavits that the lands subscribed are worth more than the amount re[\*331](#p331)quired by the statute; but the inquiry naturally arises, how can the deponents know the value of lands, of the location of which they have no definite idea. A man subscribes a lot without any other description than that it is in the city of San Francisco. Some lots here are worth thousands of dollars; others, not worth hundreds of cents; and as no man can tell, from the subscription papers, where the intended lot is situated, so no man can fix the value of the endowment. If individuals wish to endow a college with real estate, under our statute, they should, in their subscriptions, give such a description of the village lots or farming lands, as will enable the trustees of the college to call for a specific portion of land; so that, if the subscribers refuse to give a deed, the trustees may be in a situation to compel them to execute one, not merely for *some* village lot, or *some* tract of land, but for a parcel which is ascertained and determined by the subscription.

Application denied.