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*The Earl of Lauderdale*  
*From the Author*

A  
VINDICATION, &c.

0356

*From the original  
of the Quarterly Review*

A

VINDICATION

OF

The Enquiry into Charitable Abuses,

WITH AN EXPOSURE OF

THE MISREPRESENTATIONS CONTAINED IN

THE QUARTERLY REVIEW.

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*Panis egentium est vita pauperum, et qui defraudat eos homo sanguis est.*

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## VINDICATION, &amp;c.

THE importance of affording to all classes the means of literary instruction, has in all civilized societies at times occupied the attention of the philosopher and the politician, and a conviction of its operation in producing an enlightened obedience to the dictates of morality and religion, and to the laws, was strongly impressed on the minds of our ancestors. At early periods in our history, individuals were led by such motives, to found establishments for imparting the blessings of knowledge to their fellow creatures.

But, however the memory of these charitable persons is to be revered for their beneficent intentions, it can scarcely be disputed that the poor have as yet derived little benefit from such institutions, and that ignorance, with the evils inseparable from it, is still generally their lot.

The extraordinary events of the last 30 years, appear to have awakened in legislators and statesmen the reflection, that an accumulation of sanguinary laws and the strong arm of power are not the most safe instruments to wield in the government of a people, and that the diffusion of education, knowledge, and morality, may perhaps, be a better security for the reasonable obedience of mankind. That such opinions are widely prevalent in the well informed classes of society in this country is beyond a doubt, and they now appear in the conduct of every collective body known to our constitution, where public opinion has any weight.

Such sentiments, however general, are apt to be repressed

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by the distrust of the timid in their own reasoning and experience, by the deference that others may properly entertain for established laws and customs, and by the discountenance manifested by governments to all innovation, however necessary; and were it not that sometimes men arise whose capacities, courage, and station, enable them to avail themselves of such fortunate inclinations in the people, the opportunities of improvement would probably be for ever lost.

To such men, we owe the abolition of the Slave Trade, and the commencement of a reformation of our Penal Code, and let us hope that the individual, who with such distinguished ability and courage has undertaken the more important cause of the Education of the Poor, will persevere with the fortitude that animates his competitor for the title of the Defender of the Slave, the indigent, and the oppressed.

Mr. Brougham in the pursuit of views so legitimate and honourable, has been accused of attacking unwarrantably, establishments and persons unconnected with the professed object of the Committee of which he was chairman, and an attempt is making with singular assiduity, to undermine the foundation of every practicable plan for ameliorating the condition of the wretched, by discrediting the principal agent marked out by public voice for its execution.

It is not unusual with those whose charitable dispositions have led them to examine by close inspection the origin of the misery of the poor, to find the causes linked to some abuse of power, to some advantage taken of the defenceless state of the distressed, to stumble on corruptions disguised by age, and revered from their utility to the rich, and finally to suspect that the sentence pronounced, that man should live by the sweat of his brow, is much aggravated in its execution on a large portion of mankind. What has happened to others has now occurred to Mr. Brougham, but as he has ventured to express his indignation at such

practices, he must consent to pay the usual price of temerity.

His opponents are persons of various ranks, descriptions, and characters. Some of them are possessed of lucrative situations held under the establishments, the objects of which have been supposed to be perverted—they are men whom the irritation of expectancy does not exasperate, whom enjoyment has softened, and they defend themselves with learning, decency, and candour. In their discussion on the statutes and laws which regulate their foundations and describe the persons for whose benefit they were instituted, they have not contended that by the expressions of the *poor and indigent scholar* as used in these documents, the rich are obviously designated, but only that such terms, when interpreted by practice and explained by inference and construction, point at the powerful, the favoured, and the well connected.

There are other opponents whose peculiar business it is to defend all usages that are ancient, all established power, to repress every liberal opinion, and to strengthen all the boundaries that separate the classes of mankind. Upon this occasion, however, they have departed from their usual caution, and with a magnanimity that exceeds all praise, have admitted they have no desire to see any abuse screened from enquiry, and they only endeavour to defeat the purpose, by objections to the means proposed for remedying the mischief.

In estimating the enormity of any crime by the rules of morality alone, and without reference to the importance which may be annexed to it by the severity of legislative enactments, we are acquainted with no offences, that exceed in atrocity the robbery and oppression of the poor. They are frequently the immediate and more often the remote cause of the restless jealousy and suspicion that exist between the different orders in the community, and lay the groundwork of those convulsions that shake states to their founda-

tion. Whether this sin appears in the shape of insufficient wages for their labour, of unjust distribution of taxation, of direct perversion of funds destined for their use, or of evading the imputation of abuses, by confounding the meaning of clear expressions, by the help of ingenious distinction, and the acute commentaries of learning and of talents, the result is equally dangerous and revolting.

But however great these transgressions may be, it by no means follows, that the laws intended for the security of the innocent and for the defence of the guilty until conviction, should be suspended to remedy such evils, or that those against whom no crime shall be eventually proved, ought to be harrassed, insulted, and oppressed, without redress. Such expedients are odious. A charge, however, of attempting something of this abominable nature seems to be insinuated against the persons who principally attended, and suggested or advised the proceedings of the Committee on the Education of the Poor, and it is highly proper to examine whether so heavy an imputation rests on any authority.

The object of the following pages is to discuss the measures pursued by the Committee for enquiry into the Education of the Poor, and of the charities devoted to that purpose, and also to canvass the different charges which have been brought against the Committee, and more particularly Mr. Brougham, the chairman.

Some time previously to the year 1816, investigations in the metropolis respecting the Education of the Poor had taken place, and it had been discovered, that in different parts of the town, many thousands of children were totally destitute of instruction, and that, as may be naturally supposed, this state of ignorance was accompanied by crime and misery.

In 1816, a Select Committee was appointed to enquire into the Education of the lower orders in the metropolis, and to report their observations thereon, and the minutes of

evidence. [*And to consider what might be fit to be done with respect to the children of paupers, who should be found begging in the streets in and near the metropolis, or who should be carried about by persons asking charity, and whose parents, or other persons whom they had accompanied, had not sent such children to any of the schools provided for the education of poor children.\**]

This Committee met and heard a vast variety of evidence on the several points thus referred to them for examination, and they came to the conclusion in their report to the House "that a large number of poor children were wholly "without the means of instruction, although their parents "appeared to be generally very desirous of obtaining that "advantage for them; that they observed with satisfaction "the beneficial effects on that part of the population which "was assisted in whole, or in part, by various charitable "institutions enjoyed from the benefit of education, and "they recommended that measures should be taken to supply "the deficiency of means of education; and the institution of "a Parliamentary Commission for enquiring into the management of charitable donations and other funds for the "instruction of the poor, and into the state of their education generally, especially in the larger towns"

No one who has taken any interest in these questions, can be ignorant of the importance of the evidence procured by this Committee, both as to the state of education of the poor, and the nature of the Charities by which it was

\* This additional instruction, it is generally known, was moved by the late Mr. George Rose and acceded to by Mr. Brougham, some time after the Committee had been sitting on the subject of enquiry, for which they were originally appointed. It is material that the reader should bear this fact in mind, as it is one of the *strong grounds* of the writers in the Quarterly Review, for shewing what was the real nature and object of the appointment of the Committee: is it to be supposed, that writers so well informed, could have been *really* ignorant of the fact above stated?

supported; up to this period, even the writers in the Quarterly Review can find no blame.—They admit that the Minutes of the Committee in 1816, so far as they relate to the Poor, “are interesting and important in the highest degree, “and trust that none of the remarks which might arise “upon the subsequent measures of the Chairman, would “be considered as detracting in the least from the applause “to which this part of the investigation is entitled.”

In the succeeding year, Mr. Brougham's illness, prevented the Committee from proceeding in their enquiries\*, they merely recommended in their report, that the subject should be taken up at an early period of the ensuing Session, expressing an opinion, that from the information communicated to them in the preceding Session from various parts of the country, touching the state of education, and more particularly the misapplication of funds destined to that purpose, it would be expedient to extend the instructions under which they acted, so as to embrace an inquiry into the education of the lower orders, generally throughout England and Wales.

Early in the Session of 1818, the Committee was again appointed, under the title of “Select Committee on the “Education of the Lower Orders,” and proceeded in the further consideration of the subject referred to them, and they so reported on the 17th of March, and recommended that in the mean time, before their enquiries were concluded, and to prevent delay, a Bill should be brought in for appointing Commissioners to enquire into the Abuses of Charities, connected with the education of the poor.

A Bill was brought in by Mr. Brougham for the above

\* It may perhaps appear from the expressions in the Quarterly Review, that it is doubted whether this was the *real* cause of the Committee not proceeding, but it is hardly to be supposed that the writers of the article quoted could be ignorant of the fact of Mr. Brougham's illness. But the value of insinuation of design and artifice is fully known to the Editors of this Journal.

purposes, which after such alterations as in a great measure restricted its effect, passed into a law.—Before the dissolution of the Parliament, the Committee made a third report, accompanied by an Appendix, containing the evidence which they had collected respecting the abuses in different charities, which they had been enabled to select for examination, either from the parochial returns, or from other information afforded to them. An abstract of the most material parts of this Report is subjoined\*.

\* The Committee stated, that since the report in 1816, they believed the exertions of charitable individuals and public bodies in the metropolis had increased, and that the discussions had operated very satisfactorily in improving the administration of the institutions for Education, and that since the enquiries of the Committee had been extended to the whole Island, they had reason to conclude, that the means of educating the poor were steadily increasing in all considerable towns, as well as the metropolis.—A circular letter had been addressed to all the clergy in England, Scotland, and Wales, requiring answers to queries relating to the nature of the Schools, the children educated, and the mode of teaching, and the nature of the foundations of the charities for their support; that it was impossible to bestow too much commendation upon the alacrity shewn by those reverend persons in complying with this requisition, and the honest zeal which they displayed to promote the great object of universal Education; that from the returns, it appeared, as well as from other sources, that a very great deficiency existed in the means of educating the poor, wherever the population was thin, and scattered over country districts. The efforts of individuals combined in societies, were almost wholly confined to populous places.

The report proceeds:—

Another point to which the Committee considered it material to direct the attention of Parliament, regarded the two opposite principles, of founding schools for children of all sorts, and for those only who belong to the Established Church. Where the means exist of erecting two schools, one upon each principle, education is not checked by the exclusive plan being adopted in one of them, because the other may comprehend the children of sectaries. In places where only one school can be supported, it is manifest that any regulation which excluded Dissenters, deprive the poor of that body of all means of education.

The Bill, as introduced by Mr. Brougham, passed through the House of Commons without any very material alteration,

The Committee, however, observed, that in many schools where the national system was adopted, an increasing degree of liberality prevailed, and that the Church catechism was only taught, and attendance at the established place of public worship only required, of those whose parents belong to the establishment; due assurance being obtained, that the children of sectaries should learn the principles and attend the ordinances of religion, according to the doctrines and forms to which their families were attached.

The Committee found reason to conclude, that the Roman Catholic poor were anxious to avail themselves of those Protestant schools established in their neighbourhood, in which no catechism was taught. That in all the returns, and in all the other information laid before them, there was the most unquestionable evidence, that the anxiety of the poor for education continued not only unabated, but daily increasing; that it extended to every part of the country, and was to be found equally prevalent in those smaller towns and country districts, where no means of gratifying it were provided by the charitable efforts of the richer classes.

Two plans were suggested by the Committees, as advisable for promoting universal education, adapted to the opposite circumstances of the town and country districts.—Wherever the efforts of individuals could support the requisite number of schools, it would be unnecessary and injurious to interpose any parliamentary assistance. But the Committee had clearly ascertained, that in many places, private subscriptions could be raised to meet the yearly expences of a school, while the original cost of the undertaking, occasioned chiefly by the erection and purchase of the school-house, prevented it from being attempted.

The Committee conceived, that a sum of money might be well employed in supplying this first want, leaving the charity of individuals to furnish the annual provision requisite for continuing the school, and possibly for repaying the advance.

In the numerous districts where no aid from private exertions could be expected, and where the poor were manifestly without adequate means of instruction, the Committee were persuaded that nothing could supply the deficiency but the adoption, under certain material modifications of the parish school system, so usefully established in the northern part of the Island, ever since the latter part of the seventeenth

(except as to the appointment by the Crown of the Commissioners) and it was not till it went to the House of Lords that some of the Ministers, (more particularly the Lord Chancellor) altogether opposed the measure.

century, and upon which many important details were given in the Appendix.

The more extended enquiries of the Committee, amply confirmed the opinion which a more limited investigation had led them to form two years before, upon the neglect and abuse of Charitable Funds, connected with Education. The report adds, that although in many cases those large funds appeared to have been misapplied through ignorance, or mismanaged through carelessness, yet that some instances of abuse had presented themselves, of such a nature, as would have led them to recommend at an earlier period of the Session, the institution of proceedings for more promptly checking misappropriations, both in the particular case, and by the force of a salutary example.

That as the Universities, Public Schools and Charities, with special visitors, were exempted from the jurisdiction of the Commissioners, the Committee occupied themselves in examining several of those Institutions, and it unquestionably appeared, that considerable unauthorized deviations had been made, in both Eton and Winchester, from the original plans of the founders; that those deviations had been dictated more by a regard to the interests of the Fellows than of the scholars, who were the main object of the foundations, and of the founder's bounty; and that, although, in some respects they had proved beneficial upon the whole to the institutions, yet that they had been, by gradual encroachments in former times, carried too far.

That the Committee were fully persuaded, many great neglects and abuses existed in Charities which had special visitors; and it so happened, that the worst instance which they had met with, belonged to that class; and that no visitatorial power was exercised, until a few months before, although the malversations had existed for many years.

The Committee further recommended, that as the Commission about to be issued would be confined to the investigation of abuses, and as the information, in the parochial returns, was not sufficiently detailed respecting the state of education generally, a Commission should also be issued for the purpose of supplying that defect. And they concluded their report, by observing, that in the course of their inquiries, they incidentally observed, that charitable funds, connected with education, were not alone liable to great abuses. Equal negligence and malversation appeared to have prevailed in all other Charities.

As the exertions and conduct of Mr. Brougham have been the subject of misrepresentation and animadversion, as every remark that has been made by him on any individual has been asserted to be personal satire, or to have been made from motives of political hostility, or for the purpose of attacking the national system of education and the Established Church, it is the more necessary that whatever may tend to rectify the false impressions attempted by these means should be stated, even at the expense of being tedious.

The Bill, as originally brought in, was entitled "*a Bill for appointing a Commission to enquire into the abuses in Charities connected with the Education of the Poor in England and Wales:*" but when in the House it was altered to "*an Act for appointing Commissioners to enquire into the Charities in England and Wales, and of the Education of the Poor;*" extending its operation to all Charities.

The preamble states "the necessity of enquiring into all irregularities, breaches of trust, or the management of estates devoted to the education of the poor, and other charitable uses; and that an enquiry should be made into the state of the education of the poorer classes;" for which purpose eight Commissioners were to be appointed, with directions to report to both Houses of Parliament an account of their proceedings; and they were authorized to divide, for the purpose of prosecuting their enquiry, into four bodies, each body having the same powers as the whole Committee, with power to hold meetings at various places, and summon any person, and to call for any deed or other document, relating to estates or funds, &c. which in their judgment should be necessary for the due execution of the purposes of the Act, and to examine on oath, and commit persons summoned for disobedience, until they might submit to be examined, or make production.\* The two Uni-

\* In the bill, as originally brought in by Mr. Brougham, the Commissioners, in case of death, &c. were to nominate three persons, of whom the Crown was to select one.

versities, Westminster, Eton, Winchester, all Cathedral and Collegiate Churches, Jewish and Quaker Establishments, were excepted from the Act. The appointing the Commissioners in the Bill was given up, and the Bill authorized his Majesty to issue a commission to fourteen persons for the purposes of the Act, of these, six were to be honorary.

In the Committee a clause was inserted, excusing purchasers who should allege they purchased for a valuable consideration without notice, from answering interrogatories, and no person was to produce *more than an extract relating to the Charity, where the deed also concerned other matters.* And in the warrant of commitment by the Commissioners for refusal to answer, *the whole cause of commitment was to be set forth.* After much discussion and various alterations in the House of Lords, some of which (though the whole preamble stating the necessity of the measure was left just as it came) rendered the effect of the Bill nearly nugatory; it was returned with the powers considerably limited, to the Commons, and finally passed into a law. The most material alterations in the Lords were—the Act extended to England alone—the enquiry into the education of the poorer classes was left out altogether—the powers were confined to institutions for the education of the Poor only—the precept of the Commissioners was to state that it had been represented upon *oath that the persons summoned were able to give material information relating to the subject matter of the said enquiry*—and the power of committing for refusal to attend, was omitted (at once depriving the Committee of all power to compel any one to give evidence, who might be unwilling to do so) *three of the eight Commissioners instead of two, (a convenient mode of division,)* were made a board, and to the former exceptions from the operations of the Act were added, Harrow and Rugby, and every charitable institution for the purpose of Education, having *special visitors, governors, or overseers,* appointed by the founders, as also all institutions for the education of Roman Catholics; and the duration of the Act was confined to two years.



It has been before stated that the principal opposition to the Bill was in the House of Lords; and as what passed there is of considerable importance, it will be necessary to give a detailed account of the proceedings.

The second reading was moved by Lord Rosslyn, when the Lord Chancellor is reported to have commenced his observations with "expressing a strong sense of the abuses in Charities as any man, but conceived the Bill to be more detrimental to Charities than any mode of proceeding that could be devised, and therefore felt bound to give it his decided negative. If the Legislature," observed his Lordship, "did not protect to the utmost all honorary trustees in the execution of their trusts—if they were to be exposed to suspicious and vexatious enquiries into all the details of their duty, not one man would be found in the kingdom to take upon himself the responsibility of a charitable trust: there were many splendid charities founded by munificent donors, with which courts of justice ought to have nothing to do—*Cujus est dare ejus est disponere*—and such charities ought to be under the *domesticum forum* of the visitors nominated by the founders, unless it were proved that the visitors neglected their trust—he would to the uttermost resist the progress of the Bill—if a more temperate measure were not provided, no man would in future take upon himself such arduous and hazardous tasks. *He admitted that the law upon the subject required amendment, but the alteration proposed was most injudicious.*"

These observations of his Lordship are of the utmost importance, particularly as containing his direct opinion that the present law is defective, and his strong sense and reprobation of the existing abuses—just the two principal points sought to be established by Mr. Brougham—and it is only to be regretted that with such feelings the Poor are still left without the benefit of his Lordship's knowledge and experience, in procuring for them that relief so openly

admitted by him to be wanting by them, and of which they stand so much in need. It might have been supposed that his Lordship's great experience must have shown him how frequently this domestic forum required some other exciting power, than the moral feelings of the special visitors, (whether individuals or corporations,) to compel them to perform their duty. The master of St. John's, on whose indecorous treatment the Quarterly Review descants with such signal eloquence, and who with the Fellows of the College, were the special visitors of Pocklington School—afford a common and intelligible example of the utility of such jurisdictions. When the exertions of Mr. Brougham had awakened their consciences or their fears, these special visitors made their progress to the North, and found in the school they were directed to superintend, a deaf usher, the school room a ruin—only one scholar, and the schoolmaster playing at hide and seek with his creditors, though enjoying, according to his own statement, a nett income of 900l. a year. *Quis custodiet ipsos custodes*, says Mr. Brougham.—So far as to visitors.—And as to trustees on what ground are these honorary trustees (*and all trustees are honorary*), to be more protected by the legislature than other trustees in his lordship's court? Are not all trustees bound to *account*, bound to shew their vouchers for what they have done? Would not the Archbishop of Canterbury be bound before his lordship to produce his accounts, if he was a trustee in private affairs? and is it not admitted that the Court of Chancery cannot, in cases of Charities, afford relief, in many instances, where it is loudly called for? And, after all, is it not certain, that, with the liberal and enlightened spirit which has gone abroad to diffuse knowledge over mankind, there would be found honourable individuals, willing to take upon themselves the responsible office of Trustees, without the special interference of the legislature, with the full knowledge that they were bound to render to the Poor (whose cause they were serv-

ing,) an account of their conduct? it is the past conduct, the fraud, and the negligence of this class of Trustees, that have given rise to the suspicious and vexatious enquiries that are complained of.

In answer to the observations of the Lord Chancellor, it was ably argued by Lord Holland, that no power was given to the Commissioners to judge, but only to enquire, and ascertain the nature and extent of the abuses; that it was an enquiry rather in favour of Trustees and Visitors; for, with the general suspicions of misconduct, it would give them an opportunity of shewing, that they had executed honestly their trust, and honourably discharged their duties. Lord Redesdale supported the opinion of the Chancellor, and with the same arguments; adding, that he had conversed *with many Trustees, who said, they would not have accepted the trust, if they had been aware of such a measure as proposed if the bill was to pass.* On this it may only be observed, that it would have been fortunate for the public if those Trustees, who were unwilling to state how they had performed their duty, had never become possessed of the offices they held.

The Lord Chancellor voted against the bill, and the commitment was only carried by a majority of two. And it is worthy of remark, that when the bill went back to the Commons, Lord Castlereagh defended the alterations in that bill which he had suffered to pass without objection, by asserting, that the Report went beyond the object of the Committee's appointment, and the Bill beyond the object of the Report!

With regard to the Members of the Education Committee, it is a fact perfectly well known, that they agreed in every matter which came before them; Mr. Brougham, as he states in his letter, does not recollect an instance of a division. And although the regular attendants on the Committee, as is usual, were but few, they are stated by Mr. Brougham for the most part to have been gentlemen differing from him in

politics; and, that a constant communication was maintained between those who took an active part in the inquiry, and those who attended but seldom, consequently the least dissention would have led to an assembly of the greater part of the members.

Soon after the dissolution of Parliament, Mr. Brougham addressed a letter to Sir Samuel Romilly upon the Abuses of Charities, with particular reference to the proceedings in Parliament on the passing the Act, and the evidence which had been laid before the Committee.

That Mr. Brougham should address Sir Samuel Romilly on a subject of this nature is matter of no surprize; whatever tended to the upholding the rights of the injured, the poor, and the distressed, against the invasion of the rich and the powerful; whatever led to the general amelioration and happiness of mankind, was nearest the heart of that illustrious statesman: and it is well known that although his other avocations prevented Sir Samuel Romilly from taking an active part in the proceedings of the Education Committee, yet the cause they were engaged in had his most cordial support. In this letter Mr. Brougham has, with irresistible force, pointed out the gross and glaring abuses existing in the administration of public charities applicable to the education of the poor; the utter insufficiency of the present legal remedies to afford relief, and the consequent necessity of creating new powers for the examination into, and the correction of the existing abuses, and a provision for the future wholesome administration of the property of the poor.

Mr. Brougham in his observations on the conduct of Ministers in excepting from the visitation of the Commissioners those Charities which have special visitors, (in which class the Committee in their report had stated they had found the worst instances of abuse to exist,) and in depriving the Commissioners of the power of compelling the attendance of witnesses, and the production of deeds and papers relating to the Charities, has accused Ministers of an unwill-

lingness to allow "a zealous and unsparing investigation of charitable abuses," and has inferred from their reluctance to reformation in general, that they afforded too powerful a shelter for malversation in public trusts.

It can hardly be supposed, that a person of Mr. Brougham's character and importance, and being a leading member of the opposition, could publish a pamphlet on any political subject, without its immediately bringing into the field many opponents; but, in the present instance, on a subject of such general interest, and in a case in which from necessity the conduct and character of individuals and societies were called into notice, and in some instances became the subject of animadversion, it was to be expected that opponents would start up on every side in support of the existing Government, were it right or wrong; the rich and the powerful are not long without apologists.

The most important of Mr. Brougham's antagonists are the writers of an article in the last number of the Quarterly Review, and the author of a letter addressed to Sir William Scott. Messrs. Clarke and Bowles, Wykamists, have also severally addressed letters to Mr. Brougham, respecting his remarks on the foundation at Winchester, and a letter from Dr. Ireland, the Dean of Westminster (and late Vicar of Croydon) has been published, warmly vindicating himself from some imputations ingeniously supposed by him to have been cast on him by the chairman of the Education Committee.

The Quarterly Review is to be considered as the most important, and is the most successful opponent. Every topic usually resorted to, on subjects like the present, by the trained advocates for abuses and their concealment from enquiry, has been pressed into the service; and the danger of the church, and the invasion of private property, are, as usual, dealt forth with an unsparing hand.

Wherever the intentions and conduct of Mr. Brougham have been noticed, motives and designs are attributed to him as foreign to his feelings as they were to those of the writers

themselves, and have contributed to form an article of eighty that shook to make a case "as clear as the noon day sun," pages, and the alarmist at the danger passed, and made him reverence the wisdom of the Lords, that thus controuled the ebullitions of virtuous indiscretion in the Commons. It is not safe at any time to assume common report as a foundation for believing a particular individual to be the author of an anonymous publication, or that he assisted in its fabrication; and it is still more unsafe where a band of writers profess a community of opinions, indulge themselves in the same jokes, and apply the same terms of reproach. They are easily mistaken the one for the other. But sometimes a Diana appears amongst these nymphs of the inkstand, taller by the head than the surrounding attendants, and is known by her graceful demeanor. The sarcasms on poverty, the insults on misery, an unbroken chain of wit, and an inclination to buffoonery, on subjects that rouse the best feelings of the heart, here remind us of the speeches pronounced by a distinguished individual to console the ruptured Ogden, and to smooth the passage of the victims of misfortune and justice to the land of their captivity. They present indications of unusual abilities and accomplishments, and imply a rigidity of feeling attained only by a practical politician.

The letter to Sir William Scott, is stated in the Quarterly Review to be written by a lawyer, and "with a knowledge of the legal bearings of the subject evidently superior to that of Mr. Brougham." But without any information beyond that afforded by the production itself, we should hesitate long before we ascribed it to a person possessing either that knowledge of the law relating to the points discussed, or that candour in the statement of the arguments which it is believed are rarely found wanting in gentlemen at the bar.

It is now time to discuss in detail the principal points relating to the question.

As the bill was first framed, the Commissioners were to be

named in it; the first material alteration was, that the appointment should be vested in the Crown; to this, Mr. Brougham states, the Committee with extreme reluctance assented. Every thing, it will be instantly seen, depended on the fitness of the persons who were to be selected to carry on the enquiry.

The acts authorizing the naval and military enquiries, nominated the members composing the boards established by them, and these precedents were followed by the Education Committee in the framing the bill. The analogy, however, is flatly denied by the correspondent of Sir W. Scott, p. 11—12. “By reason of the palpable difference “between an enquiry by the House into the proper expenditure of public money granted by the House, and an “inquisition into the proper administration of funds in no “way originating with the House, that the abuses of “Charities is properly an abuse of administration, not of “Parliamentary trust—all officers of administration are part “of the supreme magistracy of the country, and as such “therefore belong to the Crown. And by Parliament “taking the business out of the hands of the Sovereign, “they superseded *pro tanto* the king’s authority.” This argument, the Quarterly Review considers has set the question at rest. Not thinking it worth while to consider that the duties of the Commissioners were in fact in nowise *administrative*, but were imposed for the purpose of enquiring into abuses, not to reform them. They were to be the servants of the two Houses of Parliament, and though selected by the House of Commons, yet appointed by the Constitution (the three Estates) for the purpose of procuring information to be furnished to both Houses of Parliament, on which they might or might not take steps at their pleasure: but the opinion of the law assessor to the Quarterly Review has gone forth—and the question is at rest for ever.

In the Committee, the extreme importance of a public appointment was felt, the qualifications of several gentle-

men proposed were canvassed, and a list was prepared by the Committee, who must have been supposed competent to judge of the fittest persons; in which list no one was to be found, in the remotest degree connected either with the Chairman or any other of the Committee, and with one exception, all were in political connections adverse to Mr. Brougham; but although such list was made by the Committee, it was presumed, of course, that the persons so nominated were selected by Mr. Brougham, and by an easy deduction of consequences, were to be *Viceroy*s under him, in the administration of all public and private property whatsoever.

It may be deemed a sufficient answer to the sneers at the assumption of power proposed by Mr. Brougham for himself and friends, that the appointment of six honorary Commissioners proposed by Ministers, was cheerfully adopted by the Committee, and was looked forward to with gladness as furnishing a security against the consequence of any defects in the selection of the stipendiary Commissioners. But it is worthy of remark, that neither Lord Rosslyn who brought the question forward with such signal ability, nor Lord Holland, nor Lord Carnarvon, who powerfully supported him, were included in the list; and Mr. Brougham and Mr. Babington, (the one with whom the measure originated, the other whose whole time and attention had been devoted unremittingly to the subject,) were also excluded! and the only members of the House of Lords appointed to be honorary Commissioners, were the Bishops of Peterborough, and St. Asaph, one of whom had actually voted against the commitment of the Bill, and the other had retired before the division on it, in which the bench of bishops took so active a share.

As to the absurdity of changing the quorum from two to three, leaving the number of the Commissioners eight, no defence appears to have been made to this mode of increasing the activity of the commission.

The important change made in the Lords, by refusing to the Commissioners the power of compelling witnesses to be examined, disarmed them of all effectual authority. The report which was to be the result of these inquiries, might, indeed, expose the disobedience of those who were summoned; but such fears would be feebly felt, by persons hardened in peculation and abuse.

We, observes Mr. Brougham, had originally given the Commissioners the same authority which rendered the Naval and Military inquiries so effectual. Imagining that persons concerned in any abuse might be unwilling to give evidence against themselves, or to produce documents which made them liable to refund large balances due to the poor, we had armed the Commissioners with the power of compelling the production of papers, and obliging every one to answer such questions as did not criminate himself. The ministers in the House of Lords peremptorily insisted upon this provision being struck out. They said it was harsh—but why should any one complain of being forced to do what it is every one's duty to do, and what no one can refuse to do unless with the design of concealing some malversation? They represented it as indelicate to respectable trustees—but can any respectable trustee complain of being called upon to disclose the particulars of his conduct in the execution of his trust? They described it as unconstitutional—yet the same powers are possessed by all courts, even by commissioners of bankrupt. They called it unprecedented—yet they themselves, when in office with a truly great minister, the renown of whose naval exploits alone eclipses the glory of his civil administration, had furnished the precedent which we followed; had passed the very act from which we copied verbatim the clause in our Bill. They attempted, indeed, to escape from this dilemma by various outlets. My Lord Chancellor said that he had always disapproved of that provision in Lord St. Vincent's act; yet he suffered it to pass without a division, and was, with my Lord Ellenborough, the principal advocate of the measure. My Lord Sidmouth contented himself with observing, that many persons had objected to Lord St. Vincent's bill; but assuredly his lordship, then minister in the House of Commons, was not of the number; for he strenuously defended it against Mr. Canning, who alone, of the present cabinet opposed it. A feeble effort was made to distinguish the objects of the two inquiries. But as to their importance—can any one maintain that the expenses of the dock-yards, demand more rigorous investigation than the disposal of funds destined by benevolence for the relief of wretchedness; or that the conduct of the person who uses a

sum of the public money, without authority, and then replaces it, shall be sifted by every means of examination which can wring the truth from interested reluctance; while he who pockets thousands a year belonging to the poor, shall only be *invited* to disclose the state of his accounts in order that his undue gains may cease, and his past accumulations be refunded? Then as to the nature of the two inquiries—can it be contended that the power of examining all private merchants' accounts, in substance possessed by the Naval Commissioners, was less liable to abuse, or in itself less vexatious, than the power of examining the accounts of trustees, filling a public office? As for the clamour excited against the clause respecting title-deeds, no one who had read our Bill could be deceived by it for a moment; because the possessor of a deed was only obliged to produce it, in case it related wholly to the charity; if any other matter whatever was contained in it, he was allowed to produce a copy of the part relating to the charity.—*Letter to Sir Samuel Romilly, p. 10—12.*

The foregoing observations of Mr. Brougham, enforced with such singular power, as yet have remained without the shadow of an answer; the necessity of the enquiry was admitted, and still remains in the preamble of the Act. And yet the sting was to be taken out, the reality was to be taken away, and the Commissioners have only leave to invite or solicit inquiry, instead of demanding explanation wherever they might find it necessary.

On referring to the printed debates in 1802, in the passing the Bill for appointing the Commissioners for Naval Inquiry, the Lord Chancellor is reported to have expressed himself as unwilling to offer any thing like opposition to a measure, which, like that of the Bill, was directed to the great ends of correcting flagrant abuses of the public service, and although he disapproved of the manner, as to the want of time for deliberation in which the Bill came before the House, his Lordship was far from desiring to instil in the minds of the House any prepossession against it, only wishing to recommend its particular consideration in the Committee: and in the subsequent stage of the Bill, his Lordship moved the amendment in the clause, by which it is provided that no person should answer questions tending to criminate himself.

The observations of Lord Ellenborough, on the propriety of compelling persons to answer questions, in enquiries into abuses, are particularly important on this occasion: "He hoped that it was not intended to be established, that, if the Bill did not answer the purposes for which it was framed, the legislature could not adopt other means to attain the object; if abuses could not be removed by mild measures, it would be the duty of the legislature to have recourse to such as would wring from the guilty the lurking secrets which were to the great injury of the country concealed: this Bill was only an inception of reform; but, as enormous frauds existed, the legislature certainly owed it to the public to resort to other means of correction, if this lenient proceeding should not produce the desired effect." And Lord Sidmouth observed, "that in every Act which had been passed for the preceding 18 years, for appointing Commissioners, for the enquiry into abuses, powers, as great, or greater had been given to the Commissioners."

An objection has been made by some of the opponents of the proposed enquiry, who shudder at the idea of any searching into abuses, who suspect that the most temperate vindication of, or attempt to uphold the rights of the poor, is the signal for the destruction of the rich, that the powers given by this Bill are an infringement on the rights of private property. It is impossible to comprehend how any person, however wild or fantastical his notions of danger, can call the property vested in Trustees for the poor, *private* property; unless, indeed (as in too many instances is the case) their dishonesty or negligence may have made it so. What, if a bill is filed in Chancery against a Trustee for an account, is this to be called invading his private property? And yet the difference between the case of a Trustee of a Charity and any other Trustee is not very distinguishable, except that the cause of the poor is not so eagerly defended; what principle of

legislation or maxim of law has ever treated charitable funds as private property? Can the Statute of Elizabeth, or the registry acts be considered as regarding the property as private? The inheritance of the poor is regarded by the law as a matter of public, not private, custody and administration, as was expressly admitted by Lord Castlereagh, and indeed as is proved by every legal principle, and every enactment relating to Charities.

Who, indeed, would be the guardian of the poor, if the law did not expressly cast that duty some where? It is said that the founder in the selection of trustees or of visitors, points out the manner in which his private property is to be administered, and by placing it in the hands of trustees, has expressed his desire that it should be confided to their sole controul, or to that of the superintending visitor, and that any infringement on this arrangement, is an infringement on the disposition of private property,—but how is there any infringement on private property, in appointing guardians to see that the trustees fulfill the intentions of the founder, that his laws are well observed?—it is not to alter the disposition, not to take away the property from the trustees appointed by the donor, that the Commissioners are appointed: it is to see that this is not done by the trustees themselves, it is to stand in the place of their founder, and to watch over and call to account the defaulting and the fraudulent trustee, not to impeach or interfere with him who has been the good steward.

The having given the Commissioners power to call for deeds, &c. relating to Charities, is one of the points mainly relied on by the correspondent of Sir W. Scott, as shewing the mischief and the wildness of Mr. Brougham's views.

The powers of the Bill, he observes, were "too large both for the Committee and its objects, *they trespassed too much on the rights of property, the obligations of confidence, and the courtesies of life.*" It may not perhaps be so easy to understand what is meant by this subversion of the

moral obligations of confidence, and the finer courtesies of life, in the requiring trustees of Charities to render an account of their trust, and where they have any deeds in their possession solely relating to the Charities, to produce them; and where they relate to the Charities and something else, to produce a copy of that part only relating to the Charities; it is difficult to see how property is to be more trespassed upon, in this case, than in any other case in which it is necessary to enquire into the rights of property. The greater part of the trusts, says the correspondent of Sir W. Scott, are merely honorary, and strictly offices of benevolence in those who undertook them, and *consequently* such persons are not the proper subjects of such an account. Now what account is it that they would be subject to? Why, to the production of deeds, charters, and papers relating to their trust, whereby it might appear what the rights and the possessions were. Who, having acted uprightly, would have objected to this? Is not the office of every trustee in common affairs honorary, in the strictest sense? Is it not a known principle, that he shall derive no benefit from his trust; and would any one have the slightest delicacy in requiring a Trustee to produce his deeds and accounts relating to the execution of his trust, to convince the person for whom he had acted, that he had performed his honorary office properly; and where is the difference between the office of a Trustee of a Charity, and a Trustee under a will? if persons of rank and character, when they become Trustees of Charity Funds, are to be regarded with such exclusive respect; it may be adviseable to make the selection from less important personages, less fastidious and nice than those alluded to by Lord Redesdale; and besides, in effect, little or no increased publicity could arise from the production of deeds relating to the titles to lands belonging to Charitable Institutions. Since the last Mortmain Act, all conveyances of land were of necessity inrolled, and before that act, wills, which were public documents, (except in very few instances,) were the

most usual instruments whereby property was given for charitable purposes.

With respect to powers given to the Commissioners of Naval Inquiry, it is said,\* the object was of a different nature; the papers required could only be a matter of account; could extend to no inquisitions of title, and muniments of indifferent parties, it was matter of *ledger*, and no more! Has the writer read the clause in the acts which give these powers? and if he has, is it possible he should not perceive that as far as regards all real and practical inconveniences, the power of examining every ledger in every merchant's counting house in the city, and every contract or dealing, was more likely to destroy the moral obligations of confidence, and the courtesies of life? What but the terror of detection, could make it irksome to a Trustee to court enquiry, and to lay before the parliamentary Commissioners his accounts and papers; for if the Charities suffered by any flaw in their titles when produced, this would in no wise affect the trustees; and private property never could be invaded nor affected, as no deed relating to private property was ever to be produced. It might as well be said, that it was indelicate and hurtful to the feelings of men, to compel them to register deeds relating to their private property, in Yorkshire or Middlesex. And yet this is one of the great points made by the correspondent of Sir W. Scott, and no pains have been spared by him, either in the misrepresentation of Mr. Brougham's positions, or of the law.

It is an error, this writer observes, to maintain, that powers of this nature are possessed by all courts and commissioners of bankrupts, (as was asserted by Mr. Brougham): that there in fact exists no such compulsory unqualified production by third parties of any papers or documents, and least of all of that highest description of papers (*titles, muniments, and*

\* Letter to Sir W. Scott.

*deeds,*) which were the subjects of the clause in question. And further he observes, that Mr. B. has mistaken the scope of the 46 Geo. III. c. 37, in the same manner as he appears to have mistaken the rules of evidence; that the 46 Geo. III. merely refers to the obligations of witnesses to answer questions, though such answer might make them civilly responsible for debts, and that the production of muniments and title deeds are not included in the words, to *answer questions*. Is this irony, ignorance, or misrepresentation? what has any thing said by Mr. Brougham, to do with the act 46 Geo. III. which he had neither noticed nor referred to? it was the power given to the Commissioners of the Military and Naval Enquiry to which he alluded; a power which, he said, was possessed both by Commissioners of Bankrupts, and all courts. And is this to be questioned? is not every witness bound to answer to what does not criminate himself. And under the writ of subpoena duces tecum to produce all papers which do not tend to criminate himself, although he may withhold a document under *which he derives title*;—just the powers given to the Commissioners and no more;—but the cases are entirely different, as to the production of papers in courts, it is by interested parties, and before the naval and military commissioners the same, the things to be produced were by parties themselves interested, whereby their own property, might be injured, but in this case nothing of the sort could arise; what could be the nature of any paper or document which a *trustee* not the owner of the estate could be called on to produce? It must have been a foundation deed, endowment, or some deed relating to the transmission of the property, or the administration of the funds, or the title to the Charity estates, the rules of the Charity, or the trustees' accounts, or the accounts of other trustees, what else could it be? and what possible mischief could arise from such a production: how otherwise was, as Mr. B. eloquently observes, the truth to be wrung from interested reluctance;

how else were the undue gains to be made to cease, and the past accumulations to be refunded? Still the real state of the question has been purposely misunderstood and misrepresented. "What," observes the correspondent of Sir W. Scott.

"What in fact would not be the mischief of such a matter of course production of the securities upon which property rests; many of those securities, prepared perhaps in remote parts of the kingdom, and by insufficient conveyancers; and therefore, not impossibly, wanting in some of those forms and technical niceties, which, however necessary to the exactness of law, might invalidate real titles, to the overthrow of ancient families? Was it not already within the memory of many noble lords, that the careless exposure of a title-deed in the office of a solicitor, had led to a discovery of a flaw of this kind, which, in its effects, had divested a noble peer of what he had deemed, and with good right, his established property, and had enjoyed for upwards of twenty years?"

What has this to do with the production relating to charitable foundations, in what can individuals be concerned? What becomes of the invalidated real titles this learned lawyer writes of, or the overthrown ancient family? As for the allusion to the case of Lord Cholmondeley and Lord Clinton, how can that be considered at all applicable; some solicitor, or one of higher rank, it is said in the investigation of the title of Lord Clinton, on a treaty for a sale or mortgage, observed, that by the construction of the will, under which Lord Clinton pretended to hold, the property, according to his view of the case, belonged either to Lord Cholmondeley or Mrs. Damer, and he sold this important secret to Lord Cholmondeley; and he, as every other man in his senses would have done, took immediate steps for the recovery of the estate, which, according to the rules of law, (as the decision turned out,) *was his own*. And where would be the objection, if in consequence of the enquiries of the Commissioners it should turn out that some of the estates held by the Charities were in fact the property of some needy, or neglected descendant



of the grantor, and wrongfully withheld from him; and no other inconvenience could arise.

“ \* So sacred, indeed, are muniments of property held, that where a lessee sells his term, and the vendor objects to the deficiency of title upon the inspection of the lease, the Court of Chancery (though a court of equity) will not assist the vendor in requiring the original landlord to produce his title;”—that is, where a landlord has granted a lease to a tenant, (who it is to be presumed is satisfied with his title,) and the taking of which lease implies an admission of it, and without any stipulation for further production of title, the Court of Chancery *though* a court of equity, will not allow the landlord against his will to be called upon to produce his title to all the subsequent assignees of his tenant, who claiming only through the tenant cannot have any claim to stand in a better situation than the tenant himself. And yet this absurd case is put in the letter to Sir W Scott, erroneously, as it is to be hoped for the credit of the profession, ascribed to a lawyer by the Quarterly Review, and of superior legal abilities to Mr. Brougham.

The objects of the Education Committee have been divided into 1. the present condition of the lower orders of the Metropolis—2. plans for promoting education amongst them—3. the propriety or impropriety of connecting the national religion with national education—4. the nature and state of all charitable endowments—5. the circumstances and administration of the great public schools, and of the two Universities of England; and lastly, sundry charges of malversation and robbery of the poor, adduced against some personages of exalted rank and character in the country.† That part of the division which states the object to be, as to the propriety or impropriety of connecting the national religion with national education, is in a great measure a mis-

\* Letter to Sir William Scott. † Quarterly Review.

representation of the report of the Committee, which recommended the House to consider, whether some plan could not be devised in those places, where there was only one school, (and the rules of which were so framed as to exclude all dissenters,) to enable the dissenters to send their children to the school, and who would otherwise remain altogether without the means of education. Now this is a very different statement of the case, than if Mr. Brougham or the Education Committee had argued either for or against the propriety of connecting the national religion with the national education, but this is brought in for the purpose of reviving the Bible Society contest; the effect to be produced is too imposing to be omitted; and the Authors well knew the assistance which would be derived from once imbuing the minds of the public with the conviction that the great aim of the Committee was to disconnect religion from the general system of education; besides it was important to prepare the mind of the reader for that which was to follow, “ *quand les esprits sont échauffés plus une opinion est impertinente plus elle a de crédit,*” says Voltaire, speaking of the absurdities which were put forth and believed at the time of the Popish plot.

With respect to the personal attacks so loudly complained of, if Mr. Brougham was correct in the view of the Evidence which was given before the Committee, what terms can be too strong to express the reprobation of those, who, as visitors of Charities have been content to suffer the inheritance of the poor to be wasted and perverted, without stirring a finger in the execution of their offices; of those Trustees and sinecurists, who unblushingly wring from the poor their scanty pittance. It should first be shewn that they have been wrongfully accused, before any complaint is made of personal attacks. It has been one of the great objections that the cases brought before the Committee, were invidious selections for mere party purposes: a slight inspection of the returns made by the parochial clergy, will shew that the Com-

mittee, in the selection of cases, were in fact, embarrassed only by their riches. It is absurd to suppose that this invidious selection could have happened, in a Committee consisting of 39 members, 16 of whom constantly voted with Government, and two of whom were in no wise connected with the opposition.\* Well aware of the importance of the subject, every nerve has been strained; wit, law, satire, all styles; from the moral and didactic, to farce and satire, have been called into action—for what—to screen the fraudulent Trustee, and the slumbering Visitor, from the punishment and exposure which they merited, and which they will yet meet. For this, acts and expressions, the most usual and simple, have been misrepresented and tortured, that they may aid in the cause; but we trust that it is too late—that the die is already cast, and although there are some well meaning persons who may conceive, that a part of the enquiries made by the Committee, were hasty, or perhaps beyond their immediate powers, if their authority is to be construed strictly, yet, this in no wise affects the real question, which is, whether an effectual enquiry should be made into all charities and endowments—that such as are found to have been originally destined to afford light and education to the poor, should not be devoted to the advancement of the rich, nor suffered to decay altogether by the profligate dishonesty of the masters.

It is foreign to our present purpose to enter into the subject of the benefit of education of the poor: at this enlightened period none will be so hardy as to deny that it is an object of national polity of the most vital importance. We cannot but hope, that neither the misrepresentations contained in the libels on the proceedings of the Committee, or Mr. Brougham, nor any errors committed by them, will prejudice the great object in view. That notwithstanding their weakness, if it be, they may be the humble workers of great good.

\* In the Quarterly Review, the Committee are represented as being composed of two-third opposition members.

Already indeed, the benefit of their enquiries have been felt, far and wide; numerous proceedings have been commenced for the discovery, and revival of Charities long neglected or perverted: and if it were not for the dreadful and ruinous ordeal necessary to be gone through, much more would have been done long before this, but the spirit has gone forth; and not the powers of ministers, nor even of the House of Commons, nor the present imperfect means of redress, will be able effectually to screen charitable foundations, so long perverted, from a visitation more just and more searching than that domestic forum, the conscience of the Special Visitor. Let not the delinquents rest safe in the protection of the House of Lords, nor the leaden vigilance of their Special Governors.

Already is new vigour beginning to be infused into establishments long languishing in decline, whilst others are silently restoring, whilst a hope remains of escaping detection, the plunder of the poor: it is not the warnings, nor the allusions of Lord Redesdale to the proceedings of the parliamentary Committee in the reign of Charles I., nor the comparing the Chairman of the Committee, examining the Trustees of Charities, to Bradshaw and Charles:\* that will be sufficient to “clamour down,” to use the phrase of a modern statesman, those who stand forward to maintain the rights of the poor. What single syllable is there in Mr. Brougham’s speech, or his Letter, that can be fairly represented, as disparaging the most “reverend institutions” of the country; or, as shewing “a disposition to subvert and discredit every thing that is familiar from custom, or venerable from antiquity.” Is it the objecting to the notorious and admitted abuses which have silently and slowly crept into these institutions for education, (or rather merely the demanding inquiry for the purpose of ascertaining what is the

\* “Thus England’s monarch once uncover’d sat,  
“While Bradshaw bullied in a broad-brimm’d hat:”

practice, and whether or not abuses do exist,) when applied to any institution, connected with the Universities, or public schools, that is a disparagement of these venerable institutions? Is it to venture even to cast a glance towards them, or to mention their very names, that is a crime? we assert that there will not be found one single observation in all that Mr. Brougham has said or written, either as Chairman of the Committee, or otherwise, that can be fairly construed in the slightest degree hostile to any of the public schools, the Universities, or the Church. Why are not abuses, if they occur in these bodies, to be noticed, as well as in every other place? Are not private individuals, public officers, and courts of justice, the subject of perpetual animadversion? And where is the cause of complaint, if what has been asserted is true? And why, if it appears, that the vast revenues possessed by the public schools and the Universities, are in many instances designed for the poor, and yet are swallowed up by the rich, is it not to be even hinted at? What peculiar protecting shield is to be thrown over these bodies, more than any other corporation or institution in the state? Why, if from the foundations of Winchester, Eton, the Charter House, and the other public schools, it plainly and directly appears, that these institutions were founded for the purpose of educating the poor, and in all respects give preference to the poor, and that throughout the words, *inops*, *pauper*, *indigens*, are emphatically used; (and it turns out that these directions are totally disregarded,) what is there so peculiarly to be revered in these institutions, that their very faults and perversions are not even to be alluded to? There is nothing venerable in the age of these establishments, so long as it appears that their administration is faulty. What veneration is there to be paid to an institution founded in a remote age to assist the poor, which should now be discovered to be appropriated to the support of the rich, and from which the poor were excluded? and what did Mr. Brougham in the Education Committee propose beyond en-

quiry? it was left to the wisdom of Parliament to point out what should be done. All that was required was that a fair and searching enquiry should be instituted—and that was the sole object of the bill, which was so cramped and confined by the amendments of the Lords, as to preclude all hope or expectation of any great benefit resulting from the enquiries of the Commissioners. Amidst the host of opposers to the measure of appointing Commissioners of Enquiry, two contrary objections have been started: one opponent has turned the proposed Commissioners into “an ambulatory tribuneship, all powerful and irresponsible, gradually growing in strength and extent, the constitutional principles, and the maxims of the common law departed from, for any purpose of their expediency; all bodies holding their property, not by the common law, and the known and fixed administration of the ordinary tribunals, but their titles slurred and canvassed at the will of a Parliamentary Commission, acting under an equity as general as the discretion, information, and public and private feeling of the gentlemen who compose them.”\* It is well to lay such passages before our readers. Even those who may have read the work from which the preceding passage has been taken, may not have considered it so accurately and dispassionately as this extract will now enable them to do. We consider such statements as these our firmest and best support: what in truth are the real features of this monster which has been shadowed forth to strike terror into the hearts of all who have an interest in the constitution,? what, but “a commission in the nineteenth century composed of eight gentlemen at the bar selected by the minister with power to examine all persons respecting Charitable institutions, and their funds, and they are empowered to call for all documents respecting Charitable Estates, and to enforce the presence of witnesses by com-

\* Letter to Sir William Scott, p. 32.

“ mitment, in the usual manner; the result of the enquiries  
 “ of such Commissioners are to be by them laid before both  
 “ Houses of Parliament, and the Crown.”\* Such is the real  
 picture, and how utterly unfounded is it to represent these  
 commissioners as possessed of the power to slur the titles of  
 private individuals, when they had not the slightest power  
 to look at a line, or ask a single question relating to the  
 possessions of any private individual whatever. “ It is a  
 “ sophism to suppose that the reports of these Commissioners  
 “ would not be followed up,—the first stage is to report,  
 “ the second to act.”† And the Correspondent of Sir W.  
 Scott, can find no parallel case, but in the commission in  
 Hen. 8. for examining into the property of abbies, mo-  
 nasteries, &c. which *last* was followed, as he says “ by a  
 “ profligate and unprincipled robbery of the Church, abo-  
 “ minable to all times.” This writer, at least, deserves the  
 praise for ingenuity and research, he has gone a long way back  
 for a parallel. But we hope that when the second stage of pro-  
 ceeding is arrived at, no such similarity will be found. And  
 that the report of the present Commissioners will not be fol-  
 lowed by a profligate and unprincipled robbery, but by a com-  
 plete and radical reform of the profligate and unprincipled rob-

\* It is impossible to read the letter to Sir William Scott, without  
 perceiving that there is not even an attempt on the part of the author  
 to disguise his general prejudices. As to the gross mis-statements of the  
 legal points of the case, we are still in doubt whether to attribute them  
 to ignorance or design; but it has been one of our principal objects to  
 expose these defects, as the Writers in the Quarterly Review have on all  
 law points contented themselves with quoting his authority. “ *Il y avoit  
 alors un ces hommes qui, aux vœux étroites de la médiocrité, joignent toutes  
 les hauteurs du despotisme; insultent à ce qu'ils ne comprennent pas; couvrent  
 leur foiblesse par leur audace, et leur bassesse par leur orgueil; intriguans fa-  
 natiques, pieux calomnieux; n'affectent de la religion que pour nuire, ne font  
 servir la glaive des loix qu'à assassiner; et ont assez de crédit pour inspirer des  
 surcurs subalternes.*”

† Letter to Sir William Scott, p. 33.

bery of the trustees and schoolmasters, as abominable to all  
 times, to the full, as the robbery of the Church, in the time  
 of Henry the 8th. We trust that the streams of former  
 bounty and benevolence will then again flow in their right  
 channels, from which they have been so long diverted by the  
 dishonesty and negligence of Trustees and Special Visitors.

Another, and a more formidable opponent of the measure,  
 the Lord Chancellor, makes it one of the principle objections  
 that the measure was indefinite and incomplete; it was en-  
 quiry without a remedy, and it pointed at nothing. Mr. Parry\*  
 has adopted his lordship's objection, and at the same time  
 has taken care to avoid incurring any risk of subjecting  
 himself to the like imputation in his own project, which he  
 has brought forward; one which may be pronounced, without  
 hesitation as inefficient as it is absurd.

Mr. Brougham having alluded to the romantic attach-  
 ment of the English gentlemen to the scenes of their early  
 instruction, as preventing them from being willing to  
 concur to the full in his proposed measure, the discus-  
 sions, which some years back took place in the Edin-  
 burgh Review, on the system of Education at the Univer-  
 sities, are immediately recalled by the Quarterly Review,  
 to the reader's attention; and although it is well known that  
 Mr. Brougham took little or no part in them, the Report  
 and the Edinburgh Review are immediately identified, and  
 they remark it is as impossible to peruse Mr. Brougham's  
 Letter and Speech, as it is to read the productions of a  
 certain northern school of critics without observing a *con-  
 tinual eagerness* to censure the conduct of the Church of  
 England, and to speak of its distinguished characters with  
 expressions of bitterness or derision.† We have not under-  
 taken to defend the Edinburgh Review nor its doctrines, but

\* Objections to Mr. Brougham's bill, &c. by F. Parry, Esq. A. M.  
 1819.

† Quarterly Review.

we have already asserted that no such expressions appear in Mr. Brougham's Letter, Speech, or the examination of the Evidence. Nor can any such tendency fairly be shown or inferred.

One of the principal objections to the conduct of the Committee is, that they transgressed the limits appointed for their enquiry, by examining into the foundation of some of the public schools; let us see how this is made out. The Committee of 1816 were appointed to enquire into the Education of "the lower orders" of the metropolis, and in addition to an enquiry into the state of a vast number of Charity Schools, the Committee "of their own accord," as is stated, examined evidence respecting Westminster, the Charter House, and St. Paul, "schools which have ever since their foundation, been appropriated to the classical education of the higher and middling orders of society."\* Well, the Committee, having done so of "their own accord:" on the presentation of their report, Mr. Brougham, in remarking on some deviations which had taken place, expressed his satisfaction as to the establishment of Westminster School. And not a single observation was then made, in reprobation of this proceeding of the Committee, for indeed these schools were as much within their province, as the meanest Grammar School in the metropolis, and although they may have been appropriated of late to the education of the higher and middling orders: still their original destination was for the poor—was for the affording to the poor gratuitous education.

When the Committee was re-appointed with more extended powers, the same examinations into Eton and Winchester took place of their "own accord," and is it not fair to infer, that if in the former examinations Westminster, and the Charter House, had been considered as improperly intruded upon, it would have been noticed, and the

\* Quarterly Review.

powers of the Commissioners more accurately defined; did all sleep in the House of Commons, and Mr. Brougham alone watch?

This has reduced those who contend that the public schools were without the pale of the enquiry, to a dilemma, but it was to be avoided by attributing a mean fraud to Mr. Brougham, and it is gravely suggested that by expressing his approbation of Westminster on the presentation of the first report, he had purposely lulled\* the suspicions of the House and the country, that his game might be more sure the next time. How far the public may be willing to give credit to slanderous imputations of base motives to Mr. Brougham, coming from these anonymous writers, we cannot judge—but it is futile to do any thing more than state the plan and the object of attack, so long as they consist in such arguments and suggestions as these; it may be fair to observe, that Mr. Brougham at least, continued consistent, and having once praised Westminster School, no subsequent abuse of it is to be found; nor after the benefit has been obtained, was the ladder on which he mounted kicked down. The entire ignorance which existed as to the real nature of the foundations of the public schools, and some of the foundations connected with the Universities, was the chief cause of the prejudice against the examination into their establishments: it was the ignorance that the Charter House was originally destined to the educating the poor, that the vast revenues of Winchester and Eton were (if justly applied) to be appropriated to the poor and indigent, that caused the surprise and doubt which arose on seeing these institutions (so long devoted to the upper and middling classes) ranked amongst the establishments for the education of the *poor* and of the *lower orders*; much stress has been laid on the term *lower orders*, as pointing at a class composed of beggars, and those only just above them; while in truth, the poor and the lower orders are convertible

\* Quarterly Review.

terms; indeed the Committee themselves, in their Report, use the one for the other.

The Appendix to the Third Report, contains the evidence taken before the Committee on the abuses supposed to exist in charities connected with education, these cases were not invidiously selected for party purposes just before the election, and only those places pointed out as containing abuses, where some particular ministerial influence was supposed to reside, as is suggested in the journal so often referred to.

Nor is it likely that Mr. Brougham as chairman, if he had been inclined, should have been able to do so; had he attempted, it is not too much to suppose that the Government party in the Committee, finding all the corruption and abuses connected with their own partizans, would have been active in discovering some cases equally flagrant, in which some of the opposition members or their adherents were connected. But no such selection was made; parties who knew of the existence of abuses, or who conceived them to exist, came forward and offered their evidence.

And if it so happens, that a violent presumption of abuse at St. Bees, within the precincts of the Lonsdale influence, or at Huntingdon, so intimately connected with Lord Sandwich, did arise, it is hard to throw the blame either on Mr. Brougham or his friends, who assisted him in the Committee; but neither the absurdity nor the injustice of such an accusation, has prevented its being asserted most roundly in the Quarterly Review.

"We wish not to see a single abuse screened, but every case fairly and impartially examined," such is the sentiment of these journalists, who confess "they do not pretend to be amongst the number affecting to doubt the existence of abuses;" it is not that they "doubt the abuses, or wish to screen them," it is only, however, that when the frauds are exposed, or the abuses are to be enquired into, the one becomes a personal attack

on individuals, the other becomes a prejudiced and partial enquiry into a few cases, for the purpose of casting odium on the connections of Government, and libelling and insulting the church.

It happened, that the Bishop of Lincoln was patron and visitor of one of the charities, into the administration of which the Committee enquired. And in stating what Mr. Brougham conceived to be a perversion of the charitable funds, he added, that this was done by the permission of the visitor and patron. The very fact of the mentioning the name of the illustrious prelate, is the signal for exclamation.

And he is represented as the first visitor, whose character is immolated at the shrine of Mr. Brougham's vengeance. And after having ingeniously discovered this assault, which, perhaps, the Right Rev. personage would not himself have felt; the next object is to discover a motive for the attack, which was soon found to exist in this Prelate's having stepped forwards on various occasions as vindicator of the doctrines of the Church of England, which is set down as quite sufficient to account for the hostile spirit supposed (without any reason) to have been displayed against him by Mr. Brougham.

The two cases we shall first mention are Mere and Spital.

Mr. Dawson proved he was *agent* to the warden of the Hospital of Mere, near Lincoln, and as such, received, in respect of the estates belonging to the charity, the annual sum of £32 rent, £8 of which he paid to the warden, and £4 each to six brethren; the brethren are nominated by the warden, though it appears, that in fact it was left to this very agent to recommend fit objects—the estate consisted of about 650 acres, freed of tythe and poor's rates, five miles from the city of Lincoln; 224 acres, part of this property, were occupied by Mr. Dawson the witness, and though ill cultivated, he paid after the rate of 10s. an acre for what he occupied. No foundation or other docu-

ments appeared, from which it could be collected on what authority the money stipend to the six poor men, called Beadesmen, was fixed; no chapel or church of any kind existed in this parish, nor in fact any poor; the rent of £32 of course was not the real rent, but only the ancient reserved rent, the estate being let on a 21 years lease, and renewed every seven years, and the whole *fine received by the warden for his own use*. The Rev. Dr. John Prettyman, son of the Bishop of Lincoln, is the warden, and was appointed by his father; the witness being asked, whether the late warden had resigned on being presented to the living of Cardington? he answered in the affirmative—he was further asked, whether that living was given him by the Bishop of Lincoln, to which he replied, “he believed it was.”

As to the Hospital of Spital, the Rev. John Prettyman, son of the late Dr. Prettyman and *nephew* of the Bishop of Lincoln is master, and the dean and chapter of Lincoln are the patrons. The estates belonging to this charity are very extensive, part stated to produce a rental of between 600 and £700 a year, and others also very considerable, let out on leases for lives, (one of which is a lease of the seat of the Monson family), the amount of the real value of these leases could not be ascertained. The charity was endowed the twenty-second of Richard II. the foundation was by Thomas Aston, the words of the grant are,

“Habendum quatuor mesuagia, &c. et advocacōes ecclesiar̄ de Skeldynghop eidem magistro sive custodi et successoribus suis magistris sive custodibus domus sive hospitalis predictae, divina pro salubri statu nostro dum vixerimus, et anima nostra cum ab hac luce migravimus, necnon animarum omnium fidelium defunctor̄ in hospitali predicto, juxta ordinacōem ipsius Thome in hac parte faciendam celebratur̄ in augmentacōnem sustentacōnis sue ac *auxilium sustentacōnis quorundam pauperum in eodem hospitali sive domo degencium imperpetuum.*”

It concludes,

“Ita semper quod *quedam competentes summe argenti de fructibus et proficuis ecclesiar̄ predictar̄, per prefatum magistrum sive custodem pauperibus parochianis earundem ecclesiarum annuatim solvantur et distribuuntur.*”

Notwithstanding these express words, the whole profits of all the estates are received by the Master, except £27 4s. paid to four pensioners *and half a pensioner*, and about £30 to the vicar, and the expenses of the repairs of the chancel, (a mere trifle).

On these two cases Mr. Brougham remarked, and it must be admitted rightly enough, that

“at Mere there was an endowment for a warden and poor brethren of very ancient date, and that the warden and lessees were well provided for, whatever might be the lot of the brethren, (and their lot was to receive £4 a piece as has been seen), that the bishop of the diocese is both patron and visitor, and had given the wardenship to his nephew, and that the former warden resigned it, on being promoted by the same prelate to a living in his gift, and the son of that right reverend person is master of Spital Hospital, enjoying besides other landed property, an estate of 600 or £700 a year, and all he pays to the poor is £27 4s. to four or five pensioners.” pp. 14, 15.

Again,

“The Dean and Chapter of Lincoln have the patronage as well as the superintendance of Spital charity: yet they allow the Warden, son of their Diocesan, to enjoy the produce of large estates, devised to him in trust for the poor of two parishes as well as of the hospital, while he only pays a few pounds to four or five of the latter. The Bishop himself is patron and visitor of Mere, and permits the Warden, his nephew (for whom he made the vacancy by promoting his predecessor) to enjoy or underlet a considerable trust estate, paying only £24 a year to the poor.” p. 25.

It may be proper here to state an error Mr. Brougham has fallen into: first the Rev. J. Prettyman, master of *Spital*, is not the son of the Bishop of Lincoln (but the nephew) and the Rev. J. Prettyman, Master of *Mere* is the son of the Bishop. As to the living of Cardington being given by the Bishop of Lincoln to the late Warden of Mere, that living is not in his gift, and the chairman was misled by the statement of Mr. Dawson *the agent*. The mistake as to the nephew and son, of the same name, is easily accounted for. Our readers may be already puzzled on this point: as to the living there does not seem to be any reason

why Mr. Brougham should have suspected the accuracy of the statement of the witness. If Mr. Brougham's malice towards the Bishop of Lincoln were greater even than is suggested, it would be allowing little for his ingenuity to suppose that he intentionally made these mis-statements, which in no wise tend to alter the case sought to be established by him.

The case of Mere is discussed in a few words by the Quarterly Review, and its law assessor, "it is let by the Warden as ecclesiastical or collegiate property frequently is on renewable leases, this *preferment* being like many others in the kingdom an ecclesiastical estate burthened by a fixed money payment." Now the reader must bear in mind as an answer to this, that it no where appears that this is an ecclesiastical estate; nor how it is burthened with any fixed money payment. No endowment or statute being shewn, it only appears, that an estate (left, according to current report for the support of six poor men, and a poor warden, who was to read to them) is enjoyed entirely by the Rev. J. Prettyman, on the presentation of the Bishop of Lincoln, subject only to a yearly payment of £24. Why it is asked is this case selected from 2 or 300 benefices similarly circumstanced in different parts of the kingdom?—Just, because there was such a number so situated, is the obvious answer; and there are few readers who will not readily agree that all similar cases of property, evidently designed for the poor, and usurped without any apparent right, by the rich, should at least be enquired into.

There are some trifling remarks attributing ignorance to Mr. Brougham, as to the modes of letting leases on fines. These may pass; it has not yet been shewn, that the Chairman puts every question which appears in the minutes; indeed, we know that in some cases the greater number of questions were put by other members of the Committee: and the present is the first instance of a Chairman being held answerable for all the questions as well as all the answers in the evidence.

The Spital case is also dismissed like the other, "the circumstances of *this benefice* not differing materially from those of Mere." But the reader must judge from the misrepresentations about to be exposed, how far this question has been fairly canvassed by the antagonists of Mr. Brougham,

"It appears that the property was expressly given to the Master of the Spital-in-the Street (*called by the learned gentleman Spital Hospital\**) annexing only the condition of aiding in the maintenance of certain poor persons. And that, accordingly, he (the Master) does give the usual pensions to the usual number of poor taken, according to the directions of the original deed from the neighbouring parishes. To call it 'an estate devised in trust for the poor,' is an unfair representation, the payment of competent sums of money to certain poor, is not the main object, but only a condition of the grant."

Now, it is not very probable that many of the readers of the Review, referred to the grant itself, though the Reviewer has noticed it, and we have given the most important words of it, from which it will be seen, that the estates are expressly given, as well for the usual prayers, as for the support of the Master of the Hospital, and *certain poor persons* for ever. And what hospital does the Master support? or what part of his large revenues is applied to the *support of certain poor persons* according to the express words of the endowment? Not one halfpenny, therefore, goes towards one of the main objects of the Charity. This is not, as is contended, an *ecclesiastical benefice with a fixed money payment*; it is a charitable endowment, one of the objects of which, namely, the support of certain poor persons, is entirely neglected; and the whole revenues go to swell the income of one who enjoys a complete sinecure. To say that there is a condition annexed, of aiding in the maintenance of certain poor persons, and that, accordingly, *the*

\* "Magister domus sive Hospitalis de Spital-o-Strete," are the exact words of the letters patent before quoted, the very words used by Mr. Brougham, and prove this lively sneer introduced no doubt *ad augendam invidiam* to be rather misplaced.



*usual* pensions to the *usual* number of poor are paid, is a gross and intentional perversion of the words, and the intent of the endowment, because the aiding in the support of the poor, and the fixed money payments, are two distinct parts of the endowment, *both* of which are to be performed, whereas according to the construction pretended, the payment of the fixed money payments, is made to satisfy the direction to support the poor. It is said the attack might as well be directed against every ecclesiastical property in every diocese, or all property belonging to every chapter, college, or corporation in the kingdom; but this is untrue; the attack, as it is called, may indeed be fairly made on every endowment, like that in question, where one of the principal objects is charity, where, like the present, a flagrant abuse exists, flourishing unchecked by the patron and visitor.

We now leave the cases of Spital and Mere, trusting that every person who has read the foregoing statement, is completely convinced, that both the properties which were evidently designed originally in part for the relief and support of the poor, are now with the exception of some trifling payments entirely diverted from their original destination, and that they fully warrant the remarks made on them by Mr. Brougham.

The Appendix to the third and fourth report contains the evidence with respect to St. Bees School in Cumberland. This school having a special visitor is excluded from the intrusion of the Parliamentary Commissioners, although from the facts disclosed, Mr. Brougham conceives it to have been exactly one of those cases which demanded their interposition. From the evidence it appears that part of the property belonging to the school is now held by Lord Lonsdale one of the trustees, under a lease granted to his *ancestor*, who was himself a trustee.\*

\* The correspondent of Sir William Scott has devoted nearly sixteen pages of his work, to the examination of Mr. Brougham's remarks on this case: the Quarterly Review, although not so prolix, has been no

St. Bees School was founded by Archbishop Grindal, in pursuance of letters patent from Elizabeth, in the twenty fifth year of her reign. The provost of Queen's College, Oxford, is the visitor. The school is managed by seven governors: the present Lord Lonsdale, the provost of Queen's, and five others, chiefly clergymen, holding church preferment of which Lord Lonsdale is the patron, are the present governors.

The endowment is of the manors of Sandwith and St. Bees, otherwise Kirkby Beacock. From a letter of one of the governors, written to the visitor in 1721, it appears that the tenants of part of the property, claiming probably some tenant right of renewal, had persuaded Archbishop Bancroft to compel the Governors (but by what right is not shewn) to grant leases to the then tenants for 999 years, of seventy tenements at small rents of about 15s. each—and the same Governor in answer to an enquiry by the visitor, whether the income of the Charity could not be improved by opening coal pits in the manors belonging to the school, says, that the Trustees did not know of any person who would farm the coal pits, except J. Lowther, Esq. afterwards Sir James Lowther. This is important, as shewing that in 1721, there appeared to be no doubt of the title of the school to the coal in these manors. A lease (of the coals) in 1742 was granted to Sir J. Lowther, (who was a Trustee of the Charity) for 867 years, (to correspond with the existing term of 999 years already created in the surface) at a rent of £3. 10s.

wise sparing either of contradiction, or of ingenious suggestion of the particular motives for Mr. Brougham's remarks, not forgetting by the way, his opposition to the Lowther interest at the last election. It was to be supposed for obvious reasons, every nerve would be strained to prove that the case of St. Bees had been overstated, or misrepresented by Mr. Brougham; how far this was the case will appear. It will be useless to oppose contradiction to assertion. Mr. Brougham's remarks will be best defended by a statement of the effect of the evidence before the Committee.

As this lease was not produced before the Committee, it cannot be positively shewn what part of the coals is granted though from the whole tenor of the evidence there can be no doubt but it was of all the coal belonging to the school endowment. Dr. Satterthwaite, the *Rector of Lowther*, and an active governor of the charity, asserts that the lease was of the coal in the manor of *Kirkby Beacock* only, and that he considers Kirkby Beacock to be a manor *within* that of St. Bees,—the contrary, however, is positively asserted by Mr. Wilson, the late Master, who distinctly says he saw the lease, and copied the indorsement. It is to be remarked it is in evidence that in the leases of the surface, the coals and other manerial rights were reserved, (as is usual in like cases,) and indeed one of the principal revenues now left to this school is an alabaster quarry worked in one of the manors.

From the evidence it appears, that Lord Lonsdale is now procuring coals from under the manor of Sandwith, (which is part of the school lands) and the governors of the Charity in 1816, in answer to the enquiry of the visitor, state that there is in the school chest a counterpart of a lease of "the coals, seams of coals, &c." granted to Sir J. Lowther. And as they do not specify of what parts, it is fair to infer that it is a grant of the whole. The present Lord Lonsdale has succeeded to the possession of this lease, and to the collieries adjoining the school property, and now worked by him, and of which Sir J. Lowther was also possessed at the time he caused his co-trustees to grant him the School lease.

The first person examined before the Committee, was Mr. Brooks, a solicitor in London, who had been employed to make enquiries as to the validity of the lease in 1742; it appears from a letter produced by the provost of Queen's, that Mr. Hodson (now the legal agent of Lord Lonsdale as is stated) had, before he became so, (in 1807) informed the provost that he was directed to enquire of him whether he

was aware of any document by which Lord Lonsdale was entitled to the coal lying under lands in a township, called Sandwith, near St. Bees, part of the manor of Kirkby Beacock, alias St. Bees, the property of the Governors of St. Bees school.—Mr. Brooks' evidence was only obtained as a clue to the other evidence, and nothing material turns on it, but as he professed to "speak conjecturally," much is made of this admission as tending to discredit the other and more important evidence. The next evidence is the Rev. Mr. Wilson, who had been treated with considerable harshness by the Governors, and at last, after a hard and painful struggle of six years, was driven to the necessity of resigning his situation. Mr. Wilson, early in his mastership, it seems (and laudably enough) made enquiries as to the property of the school, and the validity of the lease of the coals. And a plan was set on foot for bringing the point before the Court of Chancery: however, on Mr. Wilson mentioning this to a neighbour, the fact was disclosed to the governors, and from thence Mr. Wilson dates the opposition and harsh treatment he experienced from the Trustees.

It is not necessary to go into his case with minuteness—it seems, however, that some complaint was made against him for giving too many holidays, and some objections in consequence of that, and of his supposed Calvinistic principles, together with an informality in his appointment, prevented the Bishop of Chester from licensing him to the school, though the same Bishop did not scruple to countersign his testimonials on his quitting the diocese.

From the evidence of Dr. Satterthwaite, it appears, that he had enquired of the Coal Steward of Lord Lonsdale, and that he stated he *believed* there were not any workings whereby coals were procured from out of the manor of *St. Bees*. Nor does it appear that there are any pits in the manor, the nearest pit being Wilson's pit, now worked by Lord Lonsdale, and adjoining Sandwith manor, the pro-

perty of the School; and coal immediately under the School land is now being got from Wilson's pit; the fact, then, is established beyond a doubt, that Lord Lonsdale is now in possession of a lease of the coal belonging to the school land; is working coal from under the school lands; whether it be a lease of part, or of all the coal, it is not shewn, because the lease was not produced, nor (notwithstanding the ingenious suggestions of the Quarterly Review,) could it have been procured by the Committee, had they been ever so willing; but, if a single fact could have been produced to shew the lease was a mere piece of waste paper, not trenching on the revenue or property of the School, it is probable that so studious a defender of his Lordship, as the correspondent of Sir William Scott, would not have been in possession of it, long before his work arrived at the fifth edition.

It is true, it appears the School estates are so situated, that at present there are no immediate means of working the collieries under them, without being possessed of roadways over adjoining property; but is this a reason for alienating the property of the school for eight or nine centuries to come, at a mere quit rent? Might not some future possessor of that very adjoining property now possessed by Lord Lonsdale, in pious charity to the School, afford means of working these very collieries, instead of wringing from the poor their possessions at an under price?

The defences made for the possession of this lease are various and opposite; sometimes, the lease was taken by Sir James Lowther out of charity to the School, as no one else would take it, and that it was worth nothing;—(it is a singular fact, that even the rent of £3. 8s. does not appear in any of the accounts as being paid)—at others, it was a lease of the coals in the manor of Kirkby Beacock, which is supposed (without any evidence) to be a manor within that of St. Bees: and that, in fact, there are no coals the property of the School.—Again, it is ingeniously suggested, as an after-thought, in

one of the new editions of the Letter to Sir William Scott it is to be presumed (without any reason, however,) that all the coal was granted out by the Crown, when the manor of St. Bees was in the possession of the Crown (which it is not proved ever to have been); and the lease from the School was only taken to avoid question—in fact, that Sir James might have two strings to his bow;\* that the title of the School to the collieries was, in fact, very doubtful, of which not a shadow of evidence ever appeared. At others, Lord Lonsdale is represented as willing to throw up the lease altogether:—then again, the law is to take its course;—that is, if any individual can be found hardy enough to question Lord Lonsdale's right to the lease, he must look forward to being engaged, perhaps for the rest of his life, in a Chancery suit.

With regard to the defence, that in this case there is a Special Visitor appointed by the Founder himself, to guard over the property destined for the poor, it is absurd even to suppose that the Special Visitor would ever take upon himself this laborious task, though it appears from the evidence that the Provost (now 80) had an interview with Lord Lonsdale, and did not seem satisfied with his Lordship's explanation.

When it was rumoured that a legal enquiry was about to take place, it is said that Lord Lonsdale first offered to give up the lease, but then, regard being had to its value, said, the law might take its course: but who was to set this powerful engine in motion? Was it his Lordship, one of the Trustees? No. Was it the Visitor? No. It appears clear enough, that there was no great activity on the part of the the Provost of Queen's, (and when the delay and vexations

\* It will be recollected, that in 1721 there appeared no doubt (notwithstanding this convenient doctrine of presuming a grant,) of the property of the School in the collieries. And, notwithstanding this grant is to be presumed as far back as Elizabeth, still the leases of the surface expressly reserved the coal to the School!

of a Chancery suit are contemplated, who can wonder!) Was it the Schoolmaster? No:—the example of Mr. Wilson who had been scolded of his salary; reprimanded; his “wings clipped,” as the Rector of Lowther observed, his licence refused by the Bishop, and at last driven from the office altogether, was sufficient to deter his successor.\* And Lord Lonsdale still is in the quiet possession of the lease, and selling the coals, for aught that appears to the contrary: and no effectual enquiry has been yet made, because no one is found hardy enough to bring down the whole vengeance of the Lowther interest on his head, and to plunge at the same time into a Chancery suit. And the Charity having the full benefit and advantage of a Special Visitor to protect, defend, and recover its rights, is amply guarded from all enquiry by the Commissioners.

On the foregoing case, Mr. Brougham observes, in his Letter to Sir S. Romilly:—

“It should seem, too, that St. Bees school is equally exempted. But that its affairs merit investigation clearly appears by the evidence; for we there find, that leases of its land were granted at a remote period, for 1000 years, at a very low fixed rent; that at a more recent date, the valuable minerals were leased at a mere trifle, (£ 3. 14s.) for the term of 8 or 900 years, to one of the Trustees; that one of the present Trustees now enjoys the lease; and that a decided majority of the others are clergymen, holding livings under him, and supporting him in his management of the concern. As none of them have made any attempt to set aside a lease which every one must perceive to be utterly void, and as one of their number has expressed his apprehensions of engaging in a contest with so powerful an adversary, it may be presumed that such considerations alone could deter them from what was ob-

\* The correspondent of Sir W. Scott believes there is not the slightest moral imputation in the character of Mr. Wilson.

“viciously their duty to the Charity; and the inference is irresistible, that this was exactly a case which demanded the interposition of the Commissioners. The rent is about £ 100, the value of the tenements being above £ 8000 a year.”—Letter to Sir S. Romilly, p. 17.

“We were equally unable to ascertain how much in value of the St. Bees School property remained in the hands of the noble lord, who sustains in his own person the double character of Trustee and Lessee.” p. 22.

“Not to multiply instances, the venerable head of a College at Oxford was deterred from exposing the St. Bees Case, by the dread of a conflict with his powerful colleague, before a tribunal where a long purse is as essential as a good cause.” p. 28.

“So determined was I to avoid every thing which might lead to such imputations, (*i. e.* of political feelings,) that I interfered at the Westmoreland election to prevent any allusion from being made to the case of St Bees School, and uniformly refused access to the evidence touching that extraordinary affair, to persons who might use it for the purposes of the contest.” p. 42.

These remarks of Mr. Brougham have called forth the strongest animadversions from his opponents: first, it is more than insinuated, that the Chairman purposely did not call for the best evidence.\* As it appears, that Lord Lonsdale had offered, “in a letter to the Rev. F. Bradley, to produce to the Committee all such papers as he should require; the writer laments, that Mr. B. did not avail himself of this offer, as he has a strong belief that it would not only have removed his doubts on the 1000 years lease, as also that Lord Lonsdale was not, as was insinuated, working valuable coal mines, the property of St. Bees School, of which he continued to possess himself by an illegal lease.” This is, indeed, a serious charge against

\* Letter to Sir W. Scott.

Mr. Brougham; and it is important, that he should be entirely freed from it; a slight attention to dates will do this.

On the 23rd of May, Mr. Bradley, then at St. Bees, (who though the nominee of Lord Lonsdale, and entirely unknown to Mr. Brougham, yet for the sake of effect is harmlessly called his friend and correspondent, merely because he very incautiously expressed his approbation of Mr. Brougham's exertions,) received a letter from Mr. Brougham respecting the production of the deeds, &c. relating to St. Bees School. And it must be observed, that Mr. Bradley must have been written to the very day the examination of the St. Bees case commenced, viz. the 20th. Mr. Bradley wrote to Lord Lonsdale, then in Rutlandshire; who, on the 28th of May, returns an answer to Mr. Bradley, stating, "that the presence of three Governors was necessary to open the chest, according to the statutes; that he could only speak for himself, but was ready, when required to do so, to attend himself, or to depute some other Governor to attend on his behalf, to open the chest, and to deliver such papers as might be required, as far as he was, in conformity to his duty authorized to do, to such person as might be directed to receive them." Well, this letter of the 28th of May was to go to Mr. Bradley in Cumberland, before Mr. Brougham could learn this extreme willingness of his Lordship (although a little incumbered with the formality of office,) to produce all papers, and it is only sent to the Committee in a letter from Mr. Bradley dated 15th June, Parliament having been dissolved on the 10th of June, how, therefore, was it possible, that the Committee could have availed themselves of this offer to produce all papers?

It may be observed that this very formal mode of opening the School chest seems only to have been adopted, on state occasions, as will appear from the evidence of Mr. Wilson, who states, that one of the Governors, possessing all the three keys, accompanied by Lord

Lonsdale's own attorney, entered the room in which the box containing the School muniments were kept; and by force, and contrary to the express statute of the School, took away the lease of the coals, granted to Sir James Lowther, which was given to Lord Lonsdale's agent, who put it in his pocket and walked off with it, and kept it in his possession for more than an hour!

Hitherto it has been taken for granted, that a lease of the minerals for 867 years at a mere nominal rent, is such a lease as the Court of Chancery would set aside; but in the Letter to Sir W. Scott, this point is considered as *doubtful*; and a distinction is taken between a long lease of lands (which is admitted to be voidable,) and a long lease of minerals, which, by reason that they may be soon exhausted, is not always beneficial to the tenant, leaving him subject to the rent. This opinion is very ostentatiously set forth in the Quarterly Review: and, they say, as the authority of the learned Author's opinion is not so great at the bar as in the Select Committee, and, as Sir William Scott's correspondent has *doubted whether the lease is void*, they are content to remain in suspense on that subject: and, indeed, no attempt would be made to disturb their equilibrium, were it not of importance to shew that Mr. Brougham's authority as a lawyer is at least equal to that of the correspondent of Sir W. Scott.

It will be superfluous to cite authorities to shew that a lease for nearly 1000 years is in fact to all intents, an alienation, and putting the rent at 20 years purchase; the lease to Sir James Lowther was nothing else than a sale of all the collieries for about £70.

It is said, that from Mr. Brougham's letter, it would be supposed, that Lord Lonsdale was *personally* concerned in this, and that he was implicated in what may be considered as little less than a fraud on the Charity; but that the fact is, "Lord Lonsdale is in no wise concerned in it, the lease was made, not even to any one of his ancestors, but to

“ Sir J. Lowther, on the failure of whose immediate issue, this lease passed into the line of which the present Earl is the representative.”

Notwithstanding this, we maintain that Lord Lonsdale is personally concerned, for Lord Lonsdale is in the enjoyment of a lease, (amounting, to all intents and purposes, to a perpetual alienation) of part of the school property, and according to the best evidence that could be procured, this lease is very valuable; Lord Lonsdale is actually getting coal from under the school lands, and at the same time, is a trustee himself of this very property, consequently swayed on the one hand, by his interest to preserve his valuable lease, and bound by *his duty* on the other, to maintain to the uttermost, the interests of the Charity, by every means, and amongst the rest, by the impeaching all fraudulent and improper leases. And will it be maintained, that a lease which was to endure for nearly a thousand years, could be a proper mode of administering the property; that a sweeping grant of the minerals of an estate, for 1000 years, (the value of which was unascertained,) at a quit rent, was a lease beneficial to the Charity, and made in due administration of its property; is not such a lease, just the one for the examination of a trustee, the very circumstance that should rouse the suspicion of the supinest special visitor; and yet it has existed in full force for the last 80 years?

In the letter to Sir W. Scott, there is no part so laboured as the defence of Lord Lonsdale and the St. Bees Charity; a new argument of a page and a half has been inserted in the latter editions of this work, which goes to maintain, that after all the lease of the collieries under the circumstances stated, must be taken to have been granted on the most *advantageous terms that could be gotten*, and that a trustee may be a lessee as well as any other person, where it is *manifestly* for the *benefit* of the trust estate; the doctrine of the Court of Chancery only tending to make the con-

tract *fast and loose*, and to be set aside if bad; if, what has been before said, has not produced conviction of the invalidity of the lease, it is useless to attempt any thing further by way of argument.

Both in the letter to Sir W. Scott and the Quarterly Review, it is taken for granted that every question put to all the witnesses came from Mr. Brougham; the absurdity of which is manifest, particularly as to the examination of the witnesses in the St. Bees case, for previously to the Evidence in that case being gone into, Sir James Graham (the late solicitor of Lord Lonsdale) was put on the Committee, as is said, at his own request, and he attended all the sittings, and himself cross-examined the witnesses; the intimate connection that subsists between Sir James Graham and Lord Lonsdale is well known, and is it to be supposed that his Lordship's interest, when watched by so active and experienced a friend, was neglected or betrayed; is it not fair to suppose, that all evidence necessary to the defence would be procured; that every fact advanced against Lord Lonsdale, capable of being denied or disproved would have been so; is it not also fair to presume, that if there was any evidences to disprove the statements made, and the inferences drawn by Mr. Brougham, that they would have been long ere this before the public; at least his Lordship's interest amongst the trustees is well represented, is it probable that there should be any want of a "holy poet" to sing forth his Lordship's praises? seeing what a patron of church preferment he is?

It may be fair to state that Lord Lonsdale has expended from £600 to £800 on the school house, although in truth, his private bounties have nothing to do with his conduct as a trustee.

With regard to the examining the best Evidence, Mr. Hodgson being Lord Lonsdale's attorney, it would have been improper to have called him. Dr. Satterthwaite was examined, and being intimately connected with Lord Lonsdale, it must

be assumed all questions necessary for his defence, and which could be satisfactorily answered, were put to him.

The Dambrook case was not even alluded to by Mr. Brougham in his pamphlet or speech, and therefore his antagonists were not strictly called upon to discuss it, and they have not even noticed it; it was understood at the time this singular matter came before the Committee, that some satisfactory answer would be furnished—as yet we have heard of none. It should seem indeed, that Lowther and its neighbourhood is fertile in cases of this sort.

The following is an extract from the will of John Viscount Lowther, dated 1698.

“Also I give and devise to my executors hereinafter named, their heirs and assigns, the manor and lordship of Dambrook in the county of York, with the appurtenances, together with my capital messuage and tenement of and in Dambrook aforesaid, and all other my messuages, houses, lands, tenements and hereditaments of and in Dambrook aforesaid, with the appurtenances, (the mynes of leed, coale, and all other minerals royalties and franchises within the same, always excepted and reserved;) and also all that my rectory and parsonage of the parish of Hale, in the said county of Cumberland, together with the glebe lands there, and all manner of tythes or tenths, oblations, obventions, profits, advantages, emoluments and hereditaments whatsoever to the said rectory parsonage and glebe lands belonging, and all my proportion, part or share of the tythes, tenths and other profits yearly coming, growing, renewing and increasing within the territories, village or hamlet of Brisco, within the parish of Saint John, in the said county of Cumberland, heretofore had and enjoyed together with the rectory of Hale aforesaid, in trust nevertheless to be a Fund, or to employ and dispose the rents and profits thereof, for the maintenance and salary of the Schoolmaster or Schoolmasters of the Free School, for which I have erected a house at Lowther aforesaid, and for the management of the same, and upon such trust and for such purpose to settle the aforesaid manor or lordship of Dambrook aforesaid, and the aforesaid rectory and parsonage, glebe lands, tythes and premises, with the appurtenances, upon trustees, in such manner, and under such laws statutes and constitutions, as to my said executors shall seem meet and expedient, or otherwise upon such other trusts, and for such other purposes, as my said executors shall think most conducing to the good of the county

of Westmoreland, and especially of the parish of Lowther aforesaid.—*Report, p. 124.*

It will be a matter of some surprize to learn that there is now no school at Lowther, though there exists a tradition that one did exist.

The estates in Yorkshire which appear to be charged with the support of the school, were bought about 1806 by Lord Ribblesdale, and a considerable portion of land is now in the possession of Lord Lonsdale, allotted under an act of Parliament in lieu of the tythes of Hale.

Such is the remarkable evidence of Dr. Satterthwaite:—this case has received no answer; not a syllable of explanation of any sort has been offered; the inference at present, till the contrary be shewn, is, that in addition to the lease of the collieries at St. Bees, Lord Lonsdale has sold one estate and enjoys another, both of which were expressly devised for the poor. Is not this a case that demands enquiry? Is the law in this case as in the case of the collieries, to take its course? Or is Lord Lonsdale to give up the estate and the by-gone arrears to the use of the poor?

It may be well to remember that this case was not alluded to by Mr. Brougham, no doubt, because it appeared impossible, but that some explanation must be given, and yet what can be said in defence of Lord Lonsdale, should it turn out, that in fact he has sold one large estate, the inheritance of the poor, and enjoyed for a series of years another, unless it can be clearly shewn he was ignorant of the fact?

Mr. Brougham just before the dissolution of Parliament, aware probably of the delicate situation in which he was placed with regard to the Lowther interest, which he was about to oppose, states, “that to avoid all imputation of his having been actuated by political feelings with regard to the enquiries to be made respecting the abuses of St. Bees, interfered to prevent any allusion being made to the case of St. Bees school, and uniformly refused access to the evidence touching that extraordinary affair, to

“ persons who might seek it for the purpose of the election.” Now we can well guess what would have been said in the Quarterly Review, and by Sir William Scott’s correspondent, if Mr. Brougham, or any person through his means, had just before the Cumberland election, published the whole statement of the St. Bees and the Dambrook cases, but it would be difficult to imagine how the line of conduct actually pursued by Mr. Brougham could have been fastened upon as the means of reproach, but so it is : first, it is remarked with an ingenious and ironical simplicity, it may be well to hand it down to posterity that, whilst the inquiry relating to St. Bees was going on, Mr. Brougham’s friends were canvassing Cumberland against the Lowther interest ; this may be an important fact in history, but as it is to go down to posterity, it may as well go coupled with the fact, that the exposure of the curious history of the administration of the St. Bees charity, arose entirely from the suggestion of a member of the Committee, whose political opinions were opposite to those of Mr. Brougham, and not from any suggestion of the Chairman or his friends.

As to the charge, that Mr. Brougham after the *dissolution of Parliament*, executed a dominion over the archives of a *dissolved* House of Commons, and treated as his private property, that evidence which had been once presented the House, and that it does not appear when the expiring House appointed Mr. Brougham *custos* of its suspended functions and authorities. It is hardly credible that such a point could have been seriously made, as the answer, if it is worth it, is obvious ; the evidence being presented to the House was ordered to be printed, and from the moment the evidence was presented, each member was entitled to it, although Parliament was dissolved before it was printed ; still it was competent to any member to have possessed himself of a copy of all, or of any part of it, although, of course, it was not probable that any member should do this, yet Mr. Brougham as chairman of the Committee was differently situated, and although, strictly

speaking, he may have possessed no power “ *over the archives of a dissolved House,*” yet he possessed a power over the copy of the minutes of the evidence which was his own private property, taken by him or by his direction during the proceedings of the Committee, and of course he was entitled to admit or to deny access to this his property, just as he would to any other minutes or notes he might have been possessed of, and it was to those notes that Mr. Brougham of course is to be taken to allude.

But in fact, if the writers of the Quarterly Review had enquired of any of the clerks of the House of Commons, he would have found that Mr. Brougham was not the sole member who exercised dominion over the archives of a defunct House, but that partial evidence, affecting the character of an individual, was expressly impounded till the opening of the new Parliament, by an order of the person who had been chairman of the Committee before which it was taken, with the concurrence of the Speaker.

There is another point which is treated of at great length in the Quarterly Review, namely the inserting in the minutes of the House, a letter in fact received after the Committee had ceased to exist. Every reader of the article above quoted will remember the wild and absurd construction put on this : the simple fact was, an answer on a matter of form, which composed part of the necessary materials of the report could not be received in time to insert it, whilst the Committee was actually sitting, but it was agreed that when received, the answer, should be considered as part of the minutes, and so printed accordingly.

*Pocklington School.*

We have alluded to this case before ; as one disclosing the grossest abuse in the disposition of the funds, and as establishing the utter insufficiency of Special Visitors, under whose harmless interference the most remiss Master, the



most fraudulent perverter of the property devoted to the poor, may sleep in the calmest security; but, that no loop hole may remain for an answer, nothing shall be left on mere assertion: the following is an abstract of the evidence relating to this case:—

The Master of St. John's College, Cambridge, is the Visitor of Pocklington School in Yorkshire, founded by Dr. Downman: the authority is stated by Dr. Wood, the Master, to be "if the Master should happen to be in the neighbourhood of Pocklington, or should send any Fellows of the College thither (they having estates near), they might go to the School and examine the Master, and see if he was doing the duty or not; and if not, then the original power was to remove him."

After the Reports of the Education Committee, in 1816 and in 1817, and after repeated notices both in debate and out of doors, that such abuses were no longer unattended to, two of the Fellows of St. John's College made a visitatorial progress to the north, and examined the Master and parishioners, relating to this School; they found the school-room in a dilapidated state, the floor of the lower room up, and the windows broken, and no appearance of its being used as a School, although it was stated to be about to be repaired; and it was mentioned to the Visitors, (as they admit,) that it had been used as a saw-pit; *one scholar* was found in a room not in a very good state, yet habitable. It appeared from the time the Master had entered the School, in 1809, there had been in the whole sixteen scholars, previously to which time there had been none for eleven years, and only three or four for twenty years.

It would be absurd to state the times of attendance stated by the Master, or the school regulations, when in effect there was neither teaching nor scholars; the usher was deaf, and it appeared from the answers to the questions by the parishioners, that due attendance was not given

by the Schoolmaster, that but for want of due instruction, several would have sent their children there, which had been sent elsewhere, and that the inhabitants and neighbours would have sent a large number to the school (which is admitted by the Master to be a free grammar school, open to other than the inhabitants of Pocklington, which is itself a considerable market town of 2000 inhabitants):—the revenues as rumoured in the parish, are £.1200 a year.

The Master admitted, although part of the property was in Chancery, that he made from 800 to to £900 a year. He had been entirely absent from home more than 10 months at a time by his own admission, playing at hide and seek with his creditors, leaving the single scholar to the administration of the deaf usher.

"Volo et ordino ac firmiter statuo ut quicumque de collegio predicto magister aut socius per magistrum ejusdem collegij missus dictam villam de Pocklington appropinquare contigerit, eandem villam adeat, dictam scolam meam ibidem intret, magistrum ejusdem scole salutet, aut absentem ad scolam venire faciat diligenterque examinet; que si moribus aut scientia culpabilem aut minus idoneum reperierit infra terminum amovere faciat, aliumque eo peritiorem aut moribus ornatorem per dictum magistrum ac gardianos dictam gilde eligi, ordinari, et institui cum omni celeritate perficiat, tam in sui collegij utilitatem et decorem quem in hujus mee voluntatis firmitatem et vigorem, ut qui sui incuria aut negligentia id minus fieri animadverterint."

So says Dr. Downman the founder of the school, who it must be remembered, was a munificent donor to that college, which was thus entrusted with the watching over it, and it was from this school that the scholars of Dr. Downman's foundation at St. John's were to be first chosen; and this is particularly important, because it completely establishes a connection between the school and the college:—at the same time there appears to be no instance on record of any visitatorial power exercised by the Master of St. John's, although the college enjoyed the benefit of a

foundation of five scholarships of the founder, and it also affords a sufficient reason for the enquiry into the value of part of the revenues of St. John's, made by the Committee, and which has been ingeniously perverted into a studied insult to the whole university of Cambridge.

It is remarkable, that this same Master of Pocklington, notwithstanding the subsequent visitation of Dr. Wood in person, which took place in May last, when the number of scholars had increased to *eight*, still has the controul over the school: the visitor, however, having thought proper to issue some new regulations for the future government of it, transmitted, nevertheless, to the Master, in the most friendly terms, without being mixed with one single syllable of complaint or animadversion on the past!

Well, upon this evidence what were the remarks of Mr. Brougham? Why, that gross abuse of large funds had been permitted to exist, notwithstanding the visitatorial power assigned by the founder to St. John's College, nor does it seem that any one has attempted to deny this, though the *vigilance* and *early care* of the Master of St. John's, in investigating the abuses of the School, receive the highest praises from the Quarterly Reviewers.

But there is another part of the proceedings connected with the Pocklington School; namely that some questions were put to the Master and Fellows, as to the value of the possessions of the College; which it is asserted had nothing to do with the enquiry before the Committee, (and strictly speaking it had not): and also, that Dr. Wood and the two Fellows, were insulted by questions respecting the possibility of some preference having been shewn in the election of certain persons as Fellows, who were connected with the Duke of Norfolk: (the patron of five livings, which the Fellows alone of that College might be presented). In the first point, it needs only be remarked, that the statutes of St. John's enact that in the election of scholars, the *inopes* are to be preferred: and further, that the objection-

able questions were in truth put for the purpose of enquiring into the value of the benefit received by the College, from the donation of Dr. Downman, the founder of Pocklington School, and over which he had in a manner paid these very persons to watch, and who were ready to accept the bounty, without performing the duty.

On the other point, (respecting the livings) notwithstanding the assertions in the Quarterly Review, it is a piece of scandal long rumoured abroad, that some preference had been given in the election of the fellowships of St. John's. And on this being mentioned to Dr. Wood (not as appears either by way of studied insult or of cross-examination) he was much surprized; and on it being suggested to him that an advantageous opportunity occurred of putting on record an utter denial of the accusation, he very readily assented to this, in consequence of which, the questions alluded to were put both to him and also to the two Fellows present, that the denial might be as pointed as possible, and for no other purpose whatsoever, as far as either the evidence shews, or as has ever transpired during the course of these discussions.

It may be well to remark once for all that in examinations of this nature, it frequently happens, that some interlocutory remarks (which are not recorded) lead to questions, the motives and objects of which, when written down without the previous conversation, are not apparent, and this is said to have happened in the present instance, but nothing was to be omitted that could in any wise tend to heighten the effect; and the cruelty and insolence of these examinations, form a very conspicuous object in the foreground of the picture so skilfully composed by the Quarterly Review.

The Yeovil case is similar to many of the others; the persons examined were the former churchwardens of the parish, who have been involved in a Chancery suit with the Trustees and the parish ever since 1804. Allowing that

the parties giving their evidence were led away by their prejudices, and stung by the recollection of the vexation and misery they had endured, during the prosecution of a ruinous law-suit of fourteen years, without the prospect of its termination; it nevertheless is incontestable that at Yeovil there are Charity estates to the value of about £2000 a year, very little of which can be ascertained to reach its original destination: almost all the same persons are concerned in the different trusts, and part of the estates are let to the Trustees themselves, or to their relations. There appears a similar abuse at Romsey, and nearly to the same extent.

We are unwilling to enter into the detail of the present state of these Charities, it is sufficient that every one who reads the evidence, will be satisfied that they are not administered so as to afford the relief and the education to the poor, for which they were unquestionably destined. The examination of the three churchwardens, respecting the issue of their proceedings in Chancery, has been quoted, as well by those who strive to shew the prevalence of abuse, and the inefficacy of the powers of the Court of Chancery to repress it, as by those who are well satisfied to let things remain as they now are, and are content to the full with the relief afforded by the Court of Chancery; the latter have brought forward this part of the examination as forming part of one of the supposed grand designs of Mr. Brougham, namely an attack upon the proceedings of the Court of Chancery, and the noble Lord who presides there. We should be unwilling to aid Mr. Brougham or any other person, either in the one or the other: we do not think that there is any likelihood of rendering the administration of justice more perfect by a virulent attack on the Court, nor by a studied philippic against the judge who presides there. But if the statement of these three unfortunate persons bears any resemblance to truth, we have but to extract it, to deter every one of our readers, who may be concerned in any charity, from venturing to approach the very threshold of the Court of Chancery as a suitor.

The three witnesses, whose answers we shall give indiscriminately, were directed at a vestry meeting in 1804, at Yeovil, to prosecute any suit for the maintaining and re-establishing the Charities and rights of the town, and were authorised to reimburse themselves all expences by rates in the usual manner. In consequence of these directions proceedings were commenced in the same year.

We are not out yet says one—we have paid £1200 or £1300 and have only received about £300 from the town—it has ruined me—I have a thousand times wished myself out of the world—I had a nice business of 4 or £500 a year which is ruined, and I have a wife and family.

My heart is almost broken—my nerves are so shook by the losses I have sustained by this proceeding, that I scarcely know what I am speaking of—I have a wife and eight children, and I was only churchwarden two years.

It has cost me about £500 and I fear I do not know the worst, &c. &c.

It seems that by their statement, the three churchwardens were turned out by the opposite party in the parish, who were principally Trustees, and implicated in the supposed abuses, and the successful party will not now grant a rate for the reimbursing them the law expences: and the recollection of what is past, effectually prevents the sufferers from attempting to procure any redress by the institution of fresh legal proceedings. The conduct of these witnesses may have been violent, and the case stated by them, may have been overcharged. But the fact of the expences incurred, and the protraction of the suit, and the persecution they have endured is undeniable. At the time of the examination last year, it will be remembered the suit was then pending; it was not even set down in the paper for decision, it had yet to scramble up to the top of the judgment paper, and then the expectant suitors “dupes of to-morrow” will have (suppose their existence to continue so long) to linger on through the space allotted to the final judgement of a Chancery suit.

The Charities at Yeovil are of a mixed nature, a part only being applicable to education, but all appear as far as can be collected from the evidence (which certainly is not

to be considered as satisfactory, or impartial) equally the subject of abuse and mismanagement. But the present confined power of the Commissioners, will only enable them to enquire into that part which relates to education.

Of the Wellingborough Charities, little has been said, in the letter to Sir W. Scott, except to furnish some extracts of the Evidence, from which it appears, that estates of about one thousand a year, according to the evidence of a Mr. Goodall, the solicitor to the parish, have been let at small rents, and that till lately no accounts were rendered by the trustees, and that these trustees, heretofore, let out the Charity estates to their sons and relations; but some enquiry having taken place in the parish, the accounts which before were withheld, are now submitted to public inspection. This is just the case of half the Charities in the country, the correspondent of Sir W. Scott, however, observes, that Mr. Brougham has (without any consideration of the nature of the leases) inferred fraud from the actual rent not being equal to the conjectural value, and that this error pervades his whole argument, and has insensibly led the honourable Chairman into groundless deductions, particularly in the case of lands let upon church leases.

Now we think, that the *vice* is in the leases, not in Mr. Brougham's argument.—It is just his cause of complaint, that it every where appears, the feoffees and trustees are letting their trust property to their sons, and friends on nominal rents, and perhaps not accounting for the fines, when they are let to strangers, from which the difference between the conjectural value, and the actual rent arises, and whereby the Charities are defrauded.

*Huntingdon.*

The only person examined before the Committee, relating to the supposed abuses of the charitable funds at

Huntingdon, is Mr. Wells, a solicitor, who had been employed for four years, in prosecuting a suit against the corporation of Huntingdon, in order to compel a due administration of the charitable funds under their management, and supposed to be by them misapplied.

It may be fair to presume, that some prejudices, and some feelings of anger, may have influenced the statements of this witness; and that his assertions are to be received with caution—few persons, when their feelings are strongly excited by a continued series of insults, and whose temper has been exasperated by wilful and unmerited misrepresentation and injury, can be supposed to be in a disposition fit to give impartial evidence, in a case in which they are so deeply interested; but with all these qualifications respecting Mr. Wells's evidence, if indeed it should be necessary, it is well to remark, that he has won the race, and triumphed in the fight, as will be shewn in the sequel.

We must trespass on the patience of our readers, while we give the substance of his evidence, and of the report of Sir J. Simeon, the Master in Chancery, to whom the cause against the Corporation was referred.

“ I had occasion, says Mr. Wells, some years ago, to look into the Charity of St. John's Hospital, at Huntingdon; it is a considerable Charity, endowed by Edward II. or III., and it was found, by an inquisition taken in the reign of Elizabeth, that the hospital was endowed for the purpose of a *free Grammar School* for the town of Huntingdon. I filed an information in 1810, against the Mayor, &c. at the relation of T. Alnutt, Esq. and others. They sent me, the relators, and the Rev. Mr. Bagley, a respectable and conscientious clergyman, to *Coventry*, one of the aldermen dismissed one of the relators, a tradesman, from his employ. The conduct of the corporation was infamous in this respect, and the town being generally of a different way of thinking, they treated us with every possible mark of disgrace. I was under the necessity of seizing the corporation's mace to get an answer to the bill, they swore by their answer the rent never exceeded £163—it appeared, however, the improved rent was £791. Many parts of the property were not set forth in the answer.—We were driven to an issue at the next assizes,—the lands

were chiefly let to the parties themselves, there were not two tenants, not corporators,—the rent of the land called the new pasture (75 acres, 3 roods, 15 perches) was stated at £20 at the time of the filing the bill; they then raised it to £60, and I proved under the Commission it was worth £334, it lies close to Huntingdon,—other land equal to this was let for an equal rent, though this is still more valuable, being added to commons, used by the burgesses and corporation exclusively, they have added it to their commons, and that increases the privileges of a burgess, and the consequence is, that this Charity has greatly aided in returning two members for the borough, for they have increased the value of their commons by it,—the other burgesses have been suffered to build upon the Charity estates, and retain the same as tenants at will, at rents inferior to the value—substantiating this enquiry, it has already cost me £1200 out of my own pocket. The Rev. W. Edwards is master of the school, he teaches no boys on the foundation of the hospital; they have suffered him to build chambers, and other things to make it convenient for a boarding school. He contends he has nothing to do but to teach Latin; and then he charges for the other things. It is a free grammar school; the Master is a burgess and voter; £30 a year has been taken out of the rents of the hospital for the mayor's feast. Mr. Dawes (who pays £14 a year for property, valued at £40,) is a burgess, who has built upon this land, as tenant at will; and if he did not follow what the corporation wished, they would turn him out with all his money on his head. The burgesses hold the property as tenants at will of the Corporation; the Corporation ought to appoint a Master, in whom the estates would be vested: the Corporation are the special visitors of the hospital; they always appoint the Mayor for the time being Master, and he applied £30 a year towards his entertainment:—the Master receives the rent—I know nothing what is done with it—the hospital was founded, as well for a school, as the support of poor persons who were travelling through (pilgrims and others), and the Corporations instead of applying this money to the poor vagrants, levy constables' disbursements on the inhabitants for more than the rents of this estate—the £160 admitted rent is applied in payment of the Schoolmaster's salary, which I suppose, with profits, altogether £120 a year. Two old women have 18*s.* a week, out of the Charity; the Corporation are all under the influence of Lord Sandwich; it is the report of the town, that the members sent by Lord Sandwich pay the rent of the new pasture. Indeed, I have old letters proving that members were asked to pay for it. Lord Sandwich's interest consists in land near the common, when they take stock off the common, they turn into Lord S.'s land for wintering—the influence is exerted by the accommodation of that land to these burgesses who have

the town common exclusively. The Corporation have occupied 80 acres of the town common—the town common belongs to the burgesses. They had usurped 80 acres in right of the hospital, and laid this to their own common, defacing the metes, and boundary stones. I consider the leasing of the lands belonging to the Charity, influences the election of members, by increasing the value of their commons, and they are more desirous to have the privileges of a burgess, and being a burgess, are obliged to have Lord Sandwich's land, because they could do nothing in the winter, when their commons are short; but there are other burgesses, who live in the centre of the town, who rent these lands as tenants at will, and who would be turned out if they did not go as the aldermen chose. All the leases and permissions to occupy at will, &c. granted by the mayor and aldermen—(the evidence to shew the influence of Lord Sandwich in the borough need not be given of course,)—the object of the present suit is to have the land let for the benefit of the inhabitants. In addition to the enormous expences of the proceedings in the Court of Chancery, attempts have been made to render me miserable: my life has been rendered very uncomfortable during the proceedings."

In addition to some remarks on other Charities in the town, Mr. Wells observes, that there are other Charities, of which the Corporation are Trustees, they having got more or less into all the trusts; and that, though the funds may be applied according to the uses of the foundation, it is with favouritism whenever it can be done.

These, probably, may be the observations of a man in anger; one whose life had been rendered miserable by persecution, and who had suffered so severely in his pocket; but, as far as analogy served, Mr. Wells, in reasoning of the administration of trust funds, was justified in openly attributing to the Corporation the grossest mal-administration of any Charitable Estates over which, unfortunately, they might have the controul.

We think, also, the sufferings disclosed by Mr. Wells, will be a sufficient beacon to warn any person from attempting to seek redress against a Corporation in the Court of Chancery.

On Mr. Wells, and his evidence, it is remarked in the

Quarterly Review, "to stifle the conversation of this person "evidence," is an abuse of terms, it is intemperate rage, "venting itself in the language of clamor and scandal." No part, however, of the evidence of the gentleman is extracted, except the two or three concluding sentences as to the general supposed favouritism in the distribution by the corporation; none of the prior facts are stated, nor the persecutions he had undergone, alluded to; the extract is made by the Quarterly Review, as exhibiting a *fair sample*, and at the same time, as being the *last scene of the last words of the Education Committee*.

Whether the evidence relating to the supposed influence of Lord Sandwich, over the worthy and independent burgesses of Huntingdon, is mere clamour and scandal, vented in intemperate rage by Mr. Wells, we shall not for an instant stop to enquire. We presume our readers are too well aware of the peculiar independence of these electors to require any further remark.

Mr. Wells's character, hitherto, we believe, has been as unimpeached, (except by the members of the independent corporation of Huntingdon) as Dr. Ireland's, or any other respectable gentleman whose name has been brought forward in this controversy.

We are fortunately enabled to show from the report made by Sir J. Simeon, that all the material points stated by Mr. Wells, relating to the school and the Charity Estates, were established before him to the full, and if it were not for the purpose of entirely preventing any attempt at denial or misrepresentation, we should stop at this assertion, for in truth the report of the Master as to the value of the estates and their administration is but an echo of Mr. Wells's evidence.

"The master finds that the estates consisted of valuable houses in the town, and 75 acres of rich pasture near it, very convenient for the inhabitants; and of certain other estates, all of which had for several years been greatly mismanaged, many parts having been for upwards of

20 years, and then were let to persons who were burgesses, or members of the corporation, at rents considerably less than the real value, the new pasture which had been let at the time the Corporation put in their answer at £20, afterwards was increased to £60, and was really worth £344 7s. if the same were not commonable, (as was questioned by the Corporation) if it was, then the value was £200 12s. 6d. and that the value had been rendered still greater to the defendants by being laid to and enlarging their commons, which they claimed the exclusive right of stocking; part of the property was let to an arderman at £20 and by him underlet for £63. Other of the property had been for many years let to burgesses at small annual rents, considerably less than the real value. *No scholars were gratuitously educated at the Grammar School.* The master's salary and emoluments, £120. The rental of the estates admitted by the Corporation to belong to the Charity at the time of putting in their answer, was £163. When they put in their examination it was £230 2s. the present value £791 16s. 9d. And the master has stated in a schedule to his report, estates found by him to belong to the Charity, *but which were omitted by the Corporation in their answer, they not admitting them to belong to the Charity.*"

Here let us pause for one moment, to mark the gross misrepresentations of the Quarterly Review, and Sir W. Scott's correspondent. Their charges against Mr. Brougham, and the Education Committee, almost all resolve themselves into that of resting on *ex parte* evidence; and the Huntingdon case is the principal ground of this accusation. No one, with the feelings of an Englishman, says the Quarterly Reviewers, could rest on such testimony as that of Mr. Wells. Now, having shewn that the master's report confirms Mr. Wells, we shall add, as a proof, that the authors of these charges must have known them to be entirely groundless, that Mr. Brougham's statement that the charity estates are underlet by the corporation to its own members, rests on the *schedule annexed to the master's report*. This paper was only *delivered in by Mr. Wells*. Any one who reads the evidence must see that it is so. But further—its title states it to be taken from the particulars, "*as set forth in the answer;*" that is—as the admission upon oath of the corporation itself.

Thus the case stands: if this is not a gross case of abuse of Charitable funds, both as far as the school or the town of Huntingdon is concerned, we must admit that Mr. Brougham did overstate his case; and that they are right who represent the suit against the Corporation as a trumpery party squabble; and who contend that the fraudulent abolition of the Grammar School, and the subterfuge (if he uses it) of the master, in refusing to teach gratis any thing but Latin, and charging for the rest, is in fact only a specimen of the finery or fastidiousness of the inhabitants of Huntingdon, who not content with the institution of a Grammar School, must have something better.

Of what ought to be taught by Grammar Schools, we have in another part expressed our sentiments, observing, that this and the Croydon case are only amongst hundreds where the same stratagem is adopted by masters, who pretend that the statutes, give them this loop hole for evasion.

#### *Croydon Charities.*

At Croydon there is an Hospital founded by Archbishop Whitgift, for certain poor, of which the Archbishop of Canterbury for the time being is visitor; a school was annexed by the founder.\*

For half a century past there have been no scholars, although there is a schoolmaster appointed and paid on the

\* The master of which was freelye to teache suche of the children of the parishe of Croydon, without exacting any thinge for theyre teachinge, as were of the poorer sorte, such as that be so accounted by the Vycar or Curate of Croydon, and two of the better sorte of the inhabitants in Croydon, but yet it shall be lawfull to and for the said schoolemaster to receive that which is voluntarily bestowde upon him by any of the saide poorer sorte of Parishioners, and for the children of such as be of the better sorte of the Parishioners of Croydon.

establishment, who is allowed to keep a private school for his own emolument, and performs no public duty whatever.

When in 1812, a new school was opened in connection with the national institution, the present Mr. Justice Park, Mr. Justice Best, and Mr. Sergeant Taddy are stated (but it is hardly credible) to have advised, that it was both meritorious and legal that the Archbishop of Canterbury should permit the Hospital school-room to be perverted from its original destination and used for the new institution, and accordingly, Dr. Ireland, now Dean of Westminster, and then Vicar of Croydon, states, he applied to his Grace for the old room, which was instantly and cheerfully granted, and a new school room was afterwards (with the consent of the Archbishop) built on the *hospital land*, for the scholars of Archbishop Whitgift, if they chose to come.

Such is the plain case of this school now grown into disuse, either with the sanction of the visitor, or without his knowledge; if it is with the sanction of the visitor, it is in direct contravention of his duty, for the statutes say, that the school room shall be for ever employed for that use only, and that the ordinances of the Archbishop shall not be contrary to those of the founder—if he is ignorant of it, it is a complete confirmation of what Mr. Brougham has throughout sought to establish, namely, that there is quite as much necessity for enquiry where there are special visitors, as where there are none.

Dr. Ireland throughout his pamphlet, which we shall presently particularly notice, states this school to be a *grammar* school, whereas by referring to the words of the ordinances, it will be seen that it is there ordered to be a *common school*: but many of the poorer people were led to believe that only Greek and Latin would be taught, and therefore abstained from attempting to send their children. But suppose it should be admitted that this is a *grammar* school, why is it not taught. Dr. Ireland says, that notice has been

given, and the parents did not send their children; in other words, he desires us to believe, that in the whole parish of Croydon, containing above 8000 inhabitants, there are none who desire to have their children taught free, at what ought to be a excellent grammar school.

The revenues of this Hospital it appears in 1812, were £336 7s. 9d.—in 1818, £360 4s. 1d., but the real value is stated at £2673 2s. 6d., this arises from the improvident mode of taking fines for the renewal of the leases; the former schoolmaster it is distinctly admitted, embezzled large portions of the Hospital money; at last the Archbishop of Canterbury was prevailed upon to dismiss him, and the money was recovered from him by course of law.

The evidence relating to Whitgift's Hospital and the other charities was furnished by Mr. Harding, who states himself to have been engaged eight years in searching into the abuses of the Charities of Croydon, and it may be well to observe here, that there appear to have been considerable disputes and lawsuits carried on respecting these Charities, and much ill-blood subsisting on both sides. He was confirmed by the two church-wardens, but the evidence of underletting produced by him, was the account of estates prepared by the Surveyor "appointed under the hand and seal of the hospital officers," another proof of the *fairness* of the clamour raised about ex parte evidence.

Mr. Brougham in his letter, without mentioning Dr. Ireland's name, observed on the Charity of Whitgift's Hospital, that, from the evidence, it was full of abuse, although, as only a small proportion of the foundation related to education, the Commissioners under their restricted powers are debarred from all enquiry—and speaking of the abuses, asserts, "he believes them to be unknown to the distinguished Prelate who is visitor of the Hospital, adding, that whoever fills his station in the church, has beside the ordinary functions of his province, the super-

"intendence of a vast number of Charitable institutions in various parts of the kingdom, and it is quite impossible that his eyes should always be fixed upon the abuses which silently creep into each."

It seems that the Archbishop, according to the opinion of Sir Samuel Romilly on a case, stated to him, some years since, has not any authority as visitor, to interfere in the administration of the property of the Hospital, and therefore so far as he is concerned, he is relieved from all imputation of dereliction of duty, as to the abuses in the disposal of the property of the Hospital; but it leaves the case just where it stood—and, that which is worth £2673 a year, is now let for £860—and with respect to the school, the Archbishop is undoubtedly the sole person who has controul over the master: and how is it that His Grace has thought it proper to let the school die away, to permit the master year after year to enjoy a salary as a sinecure, when he at the same time encourages a subscription for the maintaining a school on Dr. Bell's plan in the very town, and in the very house, devoted by the founder to be used as a school-house for his Charity *for ever*.

Does this not sufficiently shew, either that it is impossible the Archbishop's eye should be always fixed on the abuses which creep into the different Charities under his inspection; or, what it is impossible to assume, namely, that his Grace intentionally winked at the fraud which has been committed by the present master, in taking the salary and not performing the office, but keeping a school for his own benefit.

It is absurd to say, the inhabitants who are so well convinced of the necessity of educating the poor, as to subscribe for the master of a school on Dr. Bell's plan, would not gladly avail themselves of a foundation expressly provided for the Education of the Poor, if impediments were not thrown in their way; it is true, Dr. Ireland states, that notices were stuck up at the church



door, inviting the inhabitants to send their children, but it was the interest of the master, that his boarding school should be undisturbed by the intrusion of the "lower orders," it was unseemly that the sons of the Patrician order of Croydon, should read out of the same book and be jostled by any of their plebeian townsmen, and so the master was content to accept the school house and the salary, without troubling himself with the duty annexed to it, notwithstanding the vicarial attention of Dr. Ireland.

In addition to the evidence relating to Whitgift's Hospital, some evidence was given, as to what was conceived to be the state of another Charity in the hands of the trustees of the parish, let, as is supposed, for £143 a year for a long lease, though worth from 1000 to £1500; but this was only stated as a conjecture, and it appears from a printed statement of the agent, of Mr. Drummond, a solicitor, of Croydon, that the property was in fact let out on a building lease, which was beneficial to the Charity.

In mentioning this Charity and Whitgift's Hospital, Mr. Brougham alluding to their being let so very far below their real value, (as he was led to believe in both instances from the evidence,) says, "there are two estates belonging to the poor of Croydon, which ought to bring in between 1000 and £1500 a year," and yet are worth nothing from being badly let "on long leases," and an outcry is raised about the word *nothing* here used, as if any one could misunderstand it, or doubt that it meant "comparatively nothing;" followed as it is by the words, "from being badly let on long leases," which plainly admit that the letting was for *something*.

In addition to the questions put to the witnesses in the Committee were the following, Was the Dean of Westminster, Dr. Ireland, Vicar of Croydon?—Yes, he was for 20 years. Has he any official connection with the Charities?—He is trustee of the farm at Mitcham belonging to the Hospital, which he will not give up.—Is he lessee?—No. Had he

any thing to do with Archbishop Whitgift's Hospital?—Yes he had, for 20 years as Vicar.

It does not appear who put these questions, nor indeed should we (but for the consequences) have thought it very important.

We have before observed, that many questions in these sort of examinations arise out of interlocutory conversations not reported, and that many members put questions besides the chairman. The reader is in possession of all the material part of the evidence relating to Croydon, and to all that was said of Dr. Ireland; it is supposed that he will be as much surprised as we were at the following exordium of an address from the Dr. to Mr. Brougham.

"If you have ever started at the sound of unexpected and unmerited reproach,—if you have ever felt the glow of shame, that your character and actions had not secured you from the imputation of crimes, of which you were incapable; and if your bosom has ever swelled with indignation, that any bold accuser had dared to charge you with practices equally abhorrent from your nature and your station in society;—you will know how to judge of the feelings which have been excited in me by your letter to Sir Samuel Romilly, and by the evidence on which it professes to be founded. But if you have never experienced this moral tenderness, these observations will be lost upon you; you will be a stranger to the injury of which you are the author; you will smile at the pain which you have produced; you will have scattered your "firebrands," and be at ease while others burn in the flames kindled by your cruel sport.

"There are those, however, who will peruse this remonstrance with suitable emotions; and I shall be secure of the protecting feelings of all who know the charm of pure character, and, therefore, shrink from the attempts of unsupported and unprincipled slander." *Dr. Ireland's Letter, p. 5, 6.*

It took us some time to find out, what in the examination, Mr. Brougham's Speech, or Letter, had excited the sensibility of Dr. Ireland thus strongly; but after a minute search, we find nothing more than the questions put to one of the witnesses in the Committee above noticed. The Quarterly Review, who have most studiously laboured to produce a striking effect, to deck out innocent victims one after ano-

ther, cruelly sacrificed to Mr. Brougham's vengeance, without going at all into the facts, bring forward in the most pathetic manner the case of Dr. Ireland, and by an ingenious fiction, join with the Doctor in an assumption, that his character has now been for the first time in the decline of a long life questioned, and that only when Mr. Brougham thought fit to publish his pamphlet and his minutes of evidence; but the Doctor's name is not once mentioned, nor is he in any way alluded to in the Letter of Mr. B., though in the minutes of evidence, the questions we have quoted did occur: and it is very natural that it should be asked, whether Dr. Ireland as vicar had any thing to do officially with the Charities, because it was known that he was trustee of part of the Charity estates, that a sum of money was invested in his name, and that of others, in the funds, which it was contended ought to have been in the hospital chest; and it was also apparent, that he was or ought to have been officially concerned, (though he denies it, or perhaps was ignorant of it) in the administration of the school, which seems to have drooped so much during his residence at Croydon. But in asking these questions, not a syllable was said to impeach Dr. Ireland's character or his conduct; and it will be absurd in us to enter into his gratuitous defence of them. After all the explanations given, and information furnished, as to the management of the funds of the poor, every impartial observer will see how materially intercepted they are in their destination towards the support and comfort of the indigent.

We can have no doubt but that Dr. Ireland is exactly the person mentioned in the Quarterly Review, "reflecting honour upon the high situation he fills." And that his character solely, to use his own words, which was long his only possession, has thus raised him to his present "affluence and honour."\*

\* Dr. Ireland was Chaplain to the late Lord Liverpool, and it is said, author of a political pamphlet, signed *Fabius*, addressed to Mr. Pitt.

It is pleasing to see a good man thus raised high in honours and the world's esteem, without having paid the base price of political subserviency so often however bartered for that affluence and honour, but though it may have been most praiseworthy in the Doctor, instantly to have taken the alarm, when his character was attacked, it seems to us, that in this instance, his injuries have their creation merely in the day-dream of his own imagination.

It is true, that considerable party animosities have existed at Croydon, relating to the Charities, and it may be possible, that some imputations, however groundless, have been cast upon Dr. Ireland, respecting his conduct as a trustee, but what shadow of evidence is there to support the idea, that Mr. Brougham has lent himself to the dissemination of these imputations, or that they were alluded to, when it was simply asked, if Dr. Ireland was vicar of Croydon, and as such connected with the Charities.

And may it not be with justice complained of by Mr. Brougham, that by Dr. Ireland thus coming forward and assuming that his character was attacked; and without even alluding to the evidence taken before the Committee, or having the justice to state, that no mention of his name was made by Mr. Brougham, that *he* has been unfairly dealt with, that Dr. Ireland has joined in adding one, to the host who are striving to raise clamour and prejudice against Mr. Brougham, and through him, its chief support, to strike deep at the root of the cause he has so much at heart; a cause which is worthy of the support of the most enlightened statesman that ever graced any age; and which its numerous and interested enemies in vain attempt to obscure and confound.

Dr. Ireland concludes his address to Mr. Brougham in the following terms.

"While the calumny was confined to the persons with whom it began, it was too contemptible to be noticed. But your adoption of it compels me to address you thus publicly. It may appear to you, perhaps, that I have spoken with too much warmth. I cannot do less. You have at-

tempted a serious injury to my name. For a considerable part of my life, character was almost my only possession. By the blessing of Providence, it has raised me to affluence and honours: but, valuing them highly as I do, I would cast them from me, and return to any station of privacy or humbleness, rather than wear them with such stains as you seek to throw upon me.

"In taking my leave, I will add a general declaration concerning my conduct as to those Charities, to which I call your serious attention.

"I was never treasurer, or receiver, in my own person, of the income of any of them.

"I have never rented any of the property of which I was trustee.—And

"From no part of them have I ever received, directly or indirectly, to the best of my knowledge and belief, any gain or benefit whatever.

"I am told indeed, that, in private, you have disclaimed all imputation of this kind to me, and that you have expressed all the respect which I could desire from you, for my character.

"I am not satisfied, however, with these personal acknowledgments; nor indeed can I reconcile them with the ambiguous position in which you have thought proper to place me before the public.

"I have been impelled, therefore, by feelings which I cannot resist, to address you in this open manner."

Now, if it had been established, that there was any cause of complaint, any attack, or misrepresentation of character, if he had been placed before the public by Mr. Brougham at all in an ambiguous position; every one must have admired the manly and open manner with which he had come forward: but take away the ground of complaint, the whole character of the production is at once changed, and we turn with contempt and disgust from the paltry artifice of courting an inquiry where no blame was cast, for the purpose of an officious exhibition of independence, and a demand for redress of injuries which never were inflicted. Then as to the impulse of irresistible feelings, to which he ascribes his violence; how happened it that they remained dormant exactly four calendar months, and were roused into into action only as the meeting of Parliament approached.

Before taking leave of this case, it may be well to observe that Dr. Ireland has expressly asserted that his situation of vicar gave him no controul over the hospital

of Archbishop Whitgift, or the School; by referring however to the ordinances, c. 21, it will be seen the vicar of Croydon

"for the time being is to have the oversight of the warden and poor in the hospital, and to direct them in the observing the ordinances, and to punish them according to the laws and statutes of the hospital, if they in their several places and offices do not their duties accordingly, —and the vicar is to determine amongst the children of the poorer sort of inhabitants of Croydon, who are to be sent to the school at the Hospital." c. 7.

This at least shows, that the vicar of Croydon is, (if he performs his duty) concerned both in the administration of the hospital and the school. We shall not attempt to enter into the cases which have been circulated in Croydon, respecting the actual interference of the vicar in the administration of the hospital, they may be grounded in ex-parte or prejudiced evidence. And we are unwilling to give cause of complaint on this head.

In the examination of this case, we have in a great degree omitted the remarks of the correspondent of Sir W. Scott; in this instance we have had the principal, rather than the second, to deal with.

In the Letter to Sir W. Scott, it is as usual lamented that this case was taken up on *ex parte* evidence, as if examinations before a Committee of this nature, could, in any instance, be any thing else but *ex parte* evidence; nothing was meant to be conclusive; a case for inquiry was made out, and it was sufficient. It is not, as is suggested by the learned writer, the churchwardens *versus* the Archbishop of Canterbury and Dr. Ireland, nor is it that by a 'perverse mode of reasoning peculiar to the honourable chairman,' the rank and appointments of the supposed culprits, which ought to put them above suspicion, have constituted a presumption against them, and because the churchwardens are the accusers, and the archbishop and dean are the defendants,

the charge is inferred to be so final and conclusive, that he does not even desire to hear the defence.

We shall fatigue our readers no further with this mawkish nonsense, the author should have confined himself to his "final and conclusive law statements;" the department of general accusation and misrepresentation is by far more worthily filled by the Quarterly journalists. The reason was obvious for augmenting party clamour by the addition of a personal topic. May it not be suspected that the Rev. Doctor having through life found his *character* so useful to himself, thought he might make it serviceable to his own or his party's purposes, by pretending that it was attacked, and making a swaggering defence against a man of straw?

It is sufficient to remark, that the abuses are admitted; and that they do not in fact all rest on *ex parte* evidence, in a very small part.

There are some expressions or phrases so much in common use, that their meaning is supposed to be generally understood. When the terms of rich and poor, high and low, are introduced in the intercourse of mankind, it is not usual to ask for their explanation. It is only when they are employed by Reviewers or Fellows, that any doubt occurs what ideas they are intended to convey, or whether any whatever can be annexed to them. Petronius has, indeed, in a dialogue, introduced a person at a feast, who commences the narrative of a story, by the words: *Dives et pauper erant inimici*; and it is represented, that he was immediately interrupted by his opulent host, with the interrogation of surprise: *quid est pauper?* of which no explanation was there attempted to be given. Since that period, it does not appear that the difficulty has been suggested, or its solution undertaken until the present times, and it is believed very satisfactory reasons might be given for this omission.

It is not requisite in the present instance to examine minutely the nature of poverty, it is sufficient for us to esta-

blish that under such denomination riches are not comprized. The poor cannot be so accurately defined as some mathematicians have defined a point, by affirming they are without parts, and the nearest approximation to this abstract perfection, may perhaps be, that the poorest man is a human being without one necessary of life. From the lowest degree of poverty, as we proceed to add one necessary, or (if it be divisible) a portion, we introduce gradations in its scale, until it ascends to the freezing point of comfort and of ease. The particular line of graduation which would contain the objects of our observations, might be distinguished by the expressions "of a person who by want of substance "of his own, or by the defect of ability in his natural protectors, cannot be sufficiently instructed in the rules of "religion and morality, in writing and reading, and such other "useful knowledge that may be acquired consistently with "his indispensable avocations." An attempt to describe this gradation has been made in the instruments executed by Founders of Colleges in the Latin of those days, by the words *indigens et pauper scholaris*. In some instances a portion of previous education is required in the subjects to be chosen for such establishments, and sometimes their future destination for the higher branches of learning is announced.

These terms of *indigens et pauper* (from some cause which it is not now important to examine) convey to the mind images of misery, wretchedness, and hopeless despondence. To dispel this gloom, a great variety of learning and expedients of interpretation have been most charitably employed, and it is suggested, that when such words are united to *scholaris*, their malignity is considerably abated, and that not only *indigens et pauper*, is raised in rank and riches by its union with *scholaris*, but that even *scholaris* is improved by its connection with the profitable title of *indigens et pauper*.

An eminent critic and philosopher has observed, that

Mr. Brougham was not aware, that the epithet pauper is attached to Scholaris, with the same reference to his situation in life, as pauper Episcopus, pauper Rex, a poor *Bishop*, or a poor *King*. It is to be wished for the sake of these exalted personages, this comparison or illustration had not been introduced. These attempts to level all distinctions, is the most ominous symptom of modern times, and every lover of regal dignity and episcopal rank must rejoice, that this resemblance only exists in the imagination of the writer. By the expressions of a poor King, or a poor Bishop, no more is really intended, than that the individual is poor *for* a King, or poor *for* a Bishop; or as the author of the Divisions of Purley would have explained the preposition *for*, *cause* he is a King he is poor, *cause* he is a Bishop he is poor; but as a man without such title, his possessions may enable him to be considered as rich. The reference is here made to some average quantity of wealth such persons are presumed to possess; *poor* cannot be here used in its literal sense, and implies none of the consequences which attend on a plague, to which neither philosophy nor religion quite reconcile mankind. Is it thus with *scholaris*, can his poverty be so contrasted with the riches of the man? his title has no reference to wealth, nor excites any idea of enjoyment. The epithet of poor sets closely and naturally on him, and suits well the meagre image; indeed when thus united, they appear to form a hard and tenacious mass, and it is only by processes known to particular societies, the members of which are sometimes sworn to secrecy, that they are made to combine with any considerable portion of wealth. The phrase of a *rich* scholar would be no impropriety of language, but with the name of King and Bishop, splendour and ease, and comfort start up in their most admired forms, and glowing colours, poverty in their company is resolved into a metaphor, and loses all its simplicity and truth.

It is not pretended, that the definition of the poor and indigent scholar we have proposed, may not be liable to

nice objections. If the founders of colleges were restored to life, and desirous to recast their statutes and rules, we should not recommend it as a nostrum to prevent their charitable objects from being defeated. Wherever endowments of this nature are established, sufficiently valuable to attract the attention, and excite the desires of the powerful, attempts on the purity of these Institutions are generally made, and rarely fail of success. The batteries of intrigue, solicitation, influence, and power, soon reduce their laws, and the paper on which they are written, to the wind and rags which compose their elements. The casual and unassuming care of the special visitor, and the expensive friendship and ambiguous powers of the Court of Chancery, afford little protection, and it is only in Charities to which great degradation, disease, or pestilence, are unalienably annexed as a condition of enjoyment, that the rich will not intrude in the garb of the poor, or unload into the cells destined for the friendless, the burthen of their relations and dependants, and by one and the same exertion, which necessity seldom fails to excite, ease their conscience of its compunctions, and their property of an incumbrance.

Swift has said, that a man is sometimes punished for offences in Westminster Hall, of which he will not hear in the day of judgment. But in the case of the abuse of Charities, the observation may be reversed, and the consequences are easily foreseen. Who but the unexperienced will set the machinery of a court of equity in motion, or offer to any court on the behalf of the poor, a problem for solution, of which one of the conditions is to reduce all the parties to the same denomination?

As the jurisdiction of a court of equity cannot be resorted to, even to settle the doubts of tender consciences on questions of Charities, without hazard both to the plaintiffs and defendants, it may not be improper to offer some consolation to such persons, who as visitors or

trustees, have unadvisedly misconstrued the intention of the founders of endowments for the Education of poor and indigent Scholars; it is the duty of a Christian to correct the mistaken, not to heap coals of fire on the head of the unwary sinner.

For the purpose of illustrating our case, let us suppose that the trustees of a College founded for the Education of poor and indigent scholars, were accused before *the highest tribunal* for malversations in their office, and that the charge was, for having selected objects for Education on these endowments from the lower orders of mankind, the poor, the naked, the destitute, and oppressed, and for not having introduced the rich and high born, whereby the founder's prohibitions of *comparationes generis ad genus, nobilitatis ad nobilitatem, vel ignobilitatem* would have no elements on which to work, and that one main object of the donor's intention would be thereby defeated. Such being the charge, what would be the defence?

They would perhaps plead the excuse, that *pauperes et indigentes scholares* were very powerful expressions, that they were introduced in the commencement of the grant, as describing the main objects the founder had in view, that the poor and the indigent were the favourites of the Author of our religion, in whose holy name\*, *in cujus visceribus*, the donor obsecrates and implores obedience to his directions, that in all the records that remain of the sublime doctrines of this divine personage, we find but one meaning of the word poor, as it respects physical enjoyments, and that in no instance can it be interpreted as pointing at the rich. They might also alledge, that all the words in an instrument should be construed consistently with its chief design, expressed in clear and unambiguous terms, and that no inferences from rules which admit of various constructions ought to defeat this end, and if they cannot be re-

\* See Mr. Clarke's Letter to Mr. Brougham.

conciled to it, they ought to be rejected. It is not said, that their defence before *the highest tribunal* would be complete, but if such was their guilt, what would be their punishment?

We have been led to make the foregoing observations, by the particular class of cases, next about to be considered.

It is curious to remark the violent and virulent activity, which takes place on the slightest encroachment on the property of any chartered or incorporated body, and the alarm which electrically spreads throughout the whole mass. Mr. Brougham in his letter, has treated the foundations of the great public schools and certain parts of the funds of the two universities as designed for Charitable purposes, as well as the advancement of learning; but these bodies seem to have taken the alarm at once, and all strive to do away the stigma of being Charitable foundations, as a libel on their constitutions, and to throw off the odious appellation of poverty and indigence, taking the estate, as Mr. Brougham observed, but unwilling to take the name. And yet in this assertion, Mr. Brougham has only followed Lord Coke and the other judges of England; for Lord Coke, in his report of a decision touching a Charity School, says, that the judges all held it applied to Oxford and Cambridge, and mentions their foundations as works of Charity, and speaks of their members as *poor scholars*. It is because the Committee have scathed the proud towers, as well as dived into the recesses of the pitiful frauds of the village schools, that the clamour has been raised; that the well-fed and rich members of the great institutions, have proceeded militant from the gates of their palaces, to resist enquiry as encroachment, as they would even death itself, and government is called upon to protect the chartered bodies and corporations, lying at the mercy of an arbitrary and overweening House of Commons.

Their secret laws, however, have been given to the light, and at least the public will hereafter judge of the plain import of the statutes of the foundations, now and for ever hereafter before their

eyes; they will not be content to adopt the nice distinctions, and follow the fellows through the subtle and antiquarian researches, into the relative value of money; now ransacking this chronicle and then the other to support their liberal construction in their own favour, and their strict construction against the poor. They will no longer be guided by assertions, that the lower orders in early times were forbidden to receive the blessings of education; no, not the richest monk of these foundations would now dare to express (whatever he might feel) a wish to keep the poor in darkness, the public will be content to come to a plain sober understanding of the whole case, they will find the interpreters of the statutes busily engaged in the relative value of money for two purposes, one to raise and extend their own payments with the most perfect accuracy, according to the advance of the price of necessaries, and next, striving with care to keep distinctly to the letter of the founder's law, in the distribution of the alms directed to be disbursed, or the price and the quality of the provisions to be furnished; but is not all this a matter of perfect notoriety? it is only the defence of such practices that makes it necessary any thing like a restatement of them should be made.

Some observations of Mr. Brougham in his Letter, p. 53, on the foundation at Winchester, have given rise to the answer of Messrs. Clarke and Bowles, it will be our aim to shew, that he was in the main justified in all his assertions, and that no intentional error was committed.

Mr. Clarke, it seems, is willing to appease the fury of Mr. Brougham's thirst of enquiry by a sacrifice of the Charter House, and Mr. Bowles wishes him "*good luck in the name of the Lord,*" so that he come not near "*St. Marie Winton.*"

This power of seeing faults in others, and all virtues in their own establishments, is in nowise uncommon, and it might, perhaps, be no difficult task to reform the abuses in these great establishments by a sort of interchangeable enquiry, and find the Charter House guilty by a jury of Wykamists; and the Carthusians perhaps would be willing that the fat revenues of the Winchester

fellows, should in part go to enrich the impoverished and stunted scholars.\*

Mr. Clarke has not, any more than the rest, let slip the opportunity of spreading the alarm about the titles of private property being shaken. His letter opens with a rhetorical enumeration of views inimical to the national education, and public schools and universities, attributed by him to Mr. Brougham, without, we contend, the slightest foundation; Mr. Brougham has no where said, that it is enough to employ funds originally destined for particular charitable purposes, in general charity, where it can be better done than in the following the will of the donor — a position of this sort would be pregnant with evident danger: but the position itself has only been supposed, that the consequent fear of its effect might be excited.

The report of the Committee states, that unauthorized deviations from the plan of the founders, had been made in Eton and Winchester, and recommends that the fellows should do themselves honour by the correction of the abuses which had thus crept in, and it is Mr. Brougham's remarks respecting these abuses, that have excited so much anger, and the tenor of which were, that the statutes of Winchester required the selection of persons answering the words of *pau-peres et indigentes* to be admitted on the foundation, while the children of parents in easy or opulent circumstances were in fact admitted. That the boys are made solemnly to swear at the age of 15, that they have not £3. 6s. a year to spend, and yet the whole seventy, (with a few occasional exceptions,) give the masters 10 guineas each a year as a gratuity, as it is called, and

\* The object of these gentlemen is pretty clear, though not very ingenuous, each desires to fix public attention on a case worse than his own, rejoicing that in the punishment of his neighbour, his own back escapes the blow.

— Quæ sibi quisque timebat,  
Unius in miseri exitium conversa tulere.

that their average expences exceed £60. and that it is ordered, when a boy becomes possessed of £5 a year, (which is now construed £66. 13s. 4d. regard being had to the diminished value of money) he shall be expelled the College—that the fellowships are augmented in revenue by a liberal interpretation of the terms describing the money payments, whilst the strictest interpretation is adopted in the payments to scholars, including even the founder's kin.

In answering Mr. Brougham's letter, it has been assumed, that he has maintained, that all persons above the *lowest classes* should be denied the advantages of a liberal education, conducted on the plan of our public schools—by Mr. Clarke it is contended, that in using the words *pauperes et indigentes scholares*, and by omitting the remainder of the sentence, he has attempted to shew what is not true, namely, that this is evidently the statutable designation of the scholars.

The words of the statutes in which the founder expresses his views in founding both his Colleges, are, (speaking of Winchester,) *quoddam aliud Collegium perpetuum aliorum pauperum indigentium scholarium CLERICORUM grammaticam addicere*;—*clericorum*, is added, merely because every one who was to be admitted to the school was designed for the church, no one who did not immediately take the tonsure was to be admitted, and does the reader think that *clericorum* has added any thing to Mr. Clarke's argument, or subtracted somewhat from Mr. Brougham's? it was after they became scholars that they would be clerici. *Pauperes et indigentes* remain, and how was Mr. Brougham wrong in affirming, that only the poor and indigent were by the express terms of the statutes to be admitted. But the absurdity of Mr. Clarke's argument is carried to the very height of its bent—when he further infers, that although *pauperes et indigentes* stands first, they were not to exceed the other qualifications in importance. The statute “in scholares eligendis” after enjoining that they must be *pauperes et indigentes*, enjoins also that they must be *benè moribus et conditionibus perornati*, they must be *ad studium habiles conversatione honesti*—

*in lecturâ plâno cantû et antiquo Donato* (a Grammarian of ancient times) *competenter instructi*.

Can it be maintained for a moment, that these directions as to choice, controul the words *pauper et indigens*, or are inconsistent with them. Is it not reasonable, that the founder should say, let the choice at all times fall on none but those who are poor, and in need of my bounty, none who without it could get a good education, but take care that you only select such as are distinguished from the rest by their good conduct, and who may have already made a competent proficiency in reading, the rudiments of Latin and of chaunting.

“And here,” says Mr. Clarke, “I will ask, whether the state of general education or the history of the times in which William of Wykham lived, authorize us to suppose, that boys thus qualified were to be sought *only* from a class of parents who did not possess even the means of maintaining them, much less of bestowing a portion of their goods, however small it might be, on their previous education.”

The question may be asked—but no such assertion was ever made by Mr. Brougham, that the scholars were to be taken from the lowest class; from paupers, as we now use the word, from parents entirely unable to afford assistance to their children—neither would these scholarships be within the means of such persons, nor desirable as such; but he contended, that by the statutes the *poor* were to be chosen, and with the exception, perhaps, of the sons of a few clergymen not in affluence, this direction is now totally disregarded.

It cannot for a moment be contended, that there is any preference given to poverty, it is well known that presentations to scholarships are too much sought after to be ever attained by the poor or the friendless, nor indeed would the gift be of much service to any one who could come within the meaning of poor and indigent, for his parents would have above £60 a year to disburse, which includes a shameful exaction of 10 guineas annually wrung from his pocket by a master already amply paid, and this, by the connivance of the fellows, also en-



joying considerable incomes, owing to their skilful calculations in the relative value of money. It is of no avail that this payment is made with the assent of some former special visitor, the special visitor is to decide on the statutes "according to their plain, literal, and grammatical sense and understanding," and no one will attempt such an outrage on the sense and understanding of men, as to contend that their plain intent warrants a payment of 10 guineas by way of forced benevolence from poor scholars, who were to swear that they had not £3. 6s. to spend.

Admitting that education was not common at the time of the foundation as it is now, that in fact, according to law, the lower orders were forbidden its blessings, yet it is clear that it was the intention, that the selection should be from the poorest of those who were then in a situation to accept the benefit, and now, as education is become more general, and as the lowest are in a situation to accept the benefit, it becomes the fellows to regard their oath, to observe the statutes, to cut off these sources of patronage, to cease to make a traffic of it by its sacrifice, either to private friendship or public influence; and in the words of the founder, only to select the poor and indigent, of good character and morals, and not to let the sacred bread of charity go to enrich those who want not, but who are willing unblushingly to snatch it from more deserving objects. Names have been furnished to us without number, of persons of considerable property, whose children have eaten the bread of charity at Winchester, but who would have scorned to be told, that they were placed on the foundation, only because the guardians of their benefactor had, in the conscientious exercise of their sacred duty, selected them from the poorest they could discover, as fit objects of eleemosynary education;—it is the perpetual robbery of the scanty rights of the poor, the constant and eager encroachment on the inheritance of the needy, who are unable to keep watch on the land marks and boundaries of their property, that leads to the disgust and the hatred the poor bear to the great.

Nobody contends that *pauper* is to be used in its modern sense; no, that wretched class of beings, the melancholy inhabitants of our workhouses, now rivalling our palaces in size, had not then crept into existence. It will be remembered that the sum fixed by the founder as the *maximum* which a scholar may have, is £3. 6s. a year, and if any scholar comes into possession of property of the amount of £5. a year (now made £66. 13s. 4d.) he is to be expelled. With that spirit which pervades Mr. Clarke's argument, he infers from this, that the founder contemplated a class far above the lowest, but this was the *maximum*, this was to be the utmost extent of the richest scholar (a boundary beyond which no one's possessions were to extend) and it is easy to imagine that in fixing it, the founder might have gone beyond his first meaning, by leaving in the discretion of his trustees a power, in particular cases, of selecting even from those who were rich, compared with his general description of pauper et indigens. According to Mr. Clarke's argument, the bulk are to be made up of those who are in fact only at the extremity of the rule; it would be as just an inference to maintain that the general class of voters were to be poor, because the qualification required them to have a freehold of 40s. a year. There is another passage quoted, as shewing that the scholars were not all to consist of persons of the lowest order\*, but before this could be made to answer the writer's purpose, he must have shewn that the *nobilitas* did not allude to the founder's kin, who were to be always preferred, or to *poor* and *indigent* children of noble families, who

\* "Item quod non ero detractor, susurro, seu faciens obloquia, aut provocans odium, iram, discordias, INVIDIAM, contumelias, rixas, vel jurgia, aut SPECIALIS, vel PRÆCELLENTE PRÆROGATIVAS NOBILITATIS, GENERIS, scientiarum, facultatum, aut DIVITIARUM alegans, nec inter Socios Presbyteros ejusdem Collegii, aut alios DICTI COLLEGGII SCHOLARES, Australes, Aquilonares, seu Boreales, aut Patriæ ad patriam, GENERIS AD GENUS, NOBILITATIS AD NOBILITATEM, vel AD IGNOBILITATEM, seu alias qualitercunque COMPARATIONES, quæ odiosæ sunt, in verbo vel in facto, causâ commovendi malitiosè socios vel SCHOLARES, faciam quovismodo tacitè vel expressè." Mr. Clarke's Letter, p. 20, 21.

had ruined themselves in following the sovereign in the wars, or whose estates were forfeited in the civil troubles, or even to the children of the nobility and neighbouring gentry who were allowed to attend the school for education, so long as they did not interrupt or interfere with the welfare of the foundation. It may be well to remark here, that both at Winchester, as we learn (and at Eton, as the master tells us himself, in his evidence) there have been a few instances in which the gratuities have not (from shame, we suppose) been exacted from the parents, in which case it has been found *necessary that it should be kept secret from the other boys*: that is, for fear of a breach of their oath, by any *comparationes generis ad genus, nobilitatis ad ignobilitatem*; this we consider as conclusive of the real state of these charitable institutions; when by chance a fit object of the charitable institution is admitted, his situation is considered so degraded, that to save him from the scorn and contempt of his more aristocratic schoolfellows, his poverty is concealed by the governors themselves! With respect to division of ranks, in the sense of modern society, they cannot be considered as having any real existence in these days. As far back as when Sir Thomas Smith wrote on our constitution, he marked, as one of its features, the intercommunication of ranks, and the facility with which honest exertion is rewarded by an advancement in social reputation: considering a boundary between classes as a thing unknown to us.

Much stress is laid by Mr. Clarke on the words, *cujuscunque gradus status vel conditionis,—absque personarum generis, &c.*; the fact is, that the vassals were at the time of the foundation beginning to receive education\*, and the founder, it is possible, foresaw that amongst these, many deserving objects of his bounty would spring up, and it is as fair to infer, that these words were for the purpose of expressly and guardedly including the ignoble, as that they were for the purpose of comprehending the

\* "Whilst I was master, about ten out of the seventy did not pay for their instruction, but the fact is generally concealed from the other boys.—*Evid. of the Rev. Dr. Goodall, 3rd Rep. 71.*

noble. You shall elect the poor and indigent scholar, let him be of what rank, station, or family soever.\* Is this an argument in favour of exclusion of the poor?

Further, the fact of there being sixteen choristers, who were to perform the menial offices, and who were to be admitted *intuitu charitatis*, is brought forward to shew, that there was to be a lower rank still than the scholars: but this proves nothing. As to the scholars, they were to have a liberal education, were designed for the Church, and it was requisite that they should be versed in the rudiments of education before their admission. The choristers were menial servants, educated from charity, and as a return for their services, but from whom none of the preceding qualifications, either as to education or manners were expected. The principal object of the foundation of William of Wykham, was to found two colleges for students intended for holy orders; this we are willing to admit; but it must be shewn, that the poor were not admitted to holy orders before the object of the Charity will alter the rank of the scholars, who were to be admitted: it seems, according to the arguments of Mr. Clarke, Mr. Bowles, and Messieurs of the Quarterly Review, quite sufficient, if the necessary number of persons receive an education at these schools,—whether they are of the class of persons originally designed to be benefited, signifies little. It has been found convenient to the rich to put up with the fare provided for the poor: and the same number, it is contended, (but not truly) received their education; for if the rich did not usurp the places of the poor, if the Masters did not take gratuities from the students, the poor might be educated as well as the rich; the rich from their own inheritance, the poor from that devoted to them by their pious benefactors, but of which they have now been long disseised by more powerful intruders.

\* It is at least a questionable point whether William of Wykham did not himself spring from the lower orders; but we are quite unwilling to advance any position on this subject, which might bring down the anger of the "founder's kin."

We shall not go into any further detail on the passages adduced by Mr. Clarke, to prove that the founder contemplated that the scholars might not be entirely destitute: such as that if any friend of the scholars came to them at the College, he might be entertained, but that it was to be at the scholars' expence: that only one gown was allowed, &c.

*Ego (A. B.) juro quod non habeo aliquid de quo mihi constat unde possum expendere annuatim ultra quinque marcas sterlingas,* is the oath of every scholar: which Mr. Brougham renders—I have but £3. 6s. to spend.—Mr. Clarke suggests, that from the liberality of his friends, a scholar may have that, and more; and reads, “I have not any property which I can call my own, as to be able to spend from it yearly above five marks.” But this *maximum* was only an additional restrictive caution super-added to the original directing words, *pauper et indigens*. The founder throughout shews the utmost care not to leave any loophole by which his directions might be evaded.\* It is obvious, that the property of children cannot, in most cases, be considered as any criterion of their real situation or expectances, and if the actual possession of five marks a year was the sole ground of exclusion, the first duke's children in the kingdom, might be admitted under the description of indigent and poor scholars, swearing conscientiously they had not £3. 6s. which they could call their own to spend: but these arguments are too trifling to controvert in earnest.

Mr. Brougham in his Pamphlet says, no boy was to be admitted beyond twelve years of age, though this direction was disregarded. It appears, however, that in a subsequent part of the statute there is a provision for the admission of scholars till the age of seventeen, if they are sufficiently advanced in learning. This oversight is not passed by lightly; no allowance is made for the mass of evidence to be inspected, for

\* That the founder was well acquainted with the abuses of governors and trustees there can be no doubt, he having been upwards of years employed as visitor of the hospital of St. Croix, in reforming the abuses which had then taken root in that institution.

hurry or accidental omission, or, indeed, the unimportance of the error, as regards the rest of the arguments: it stands first in array of Mr. Clarke's list of the errors and misrepresentations. And after all, the argument remains the same, for is there any enquiry as to the *sufficient advancement*, when a boy above 12 is admitted?

Again, Mr. Brougham stated in his Letter, that the fellowships were augmented in revenue by a liberal interpretation of the terms describing their money payments, whilst the strictest construction was observed as to the payment to scholars, including even the founder's kin. Now it appears, that there are no money payments made by the statutes, except in a case in which the founder's will is now entirely disregarded, namely, absence by sickness: but Mr. Brougham was led into the error in some degree by Mr. Clarke's own evidence, as that gentleman admits, and by seeing that the founder's kin were never to have more than £20 expended on them in any one year (nearly £300 of present money according to the rule of computation of Mr. Clarke) and observing that an annual payment of £20 was actually made to the founder's kin, it was inferred that this was a statutory payment; it appears, however, that the £20 a year is paid by way of gratuity to these favoured objects of the founder's bounty. A boon granted to them in charity by the richer and more fortunate fellows, who have pared down the allowances of every kind to the scholars, and helped to pay the master by a forced benevolence of £700 a year out of the pockets of the poor and indigent scholars, that they, the residuary legatees, may enjoy the greater part of the bounty entrusted to them for division, and of which they indeed take the Lion's share.

An incautious suggestion of Mr. Brougham's for the lowering the amount of these fellowships (now far beyond those of the universities) and thereby increasing the number and comforts of the scholars, has drawn down (as may well be supposed) the full weight of Mr. Clarke's vengeance. But, perhaps, he has overreached himself in the blow; to prove that no increase is ever to be made, he shews, that the founder has only contemplated

a *decrease*, which is used as an argument that increase was contrary to his will; in case any unforeseen misfortune should arise to the college property, whereby the establishment "*in formâ predictâ non poterit sustentari*," then, and then only, the numbers may be rateably diminished; and when things became prosperous, the numbers were to be restored, and the rubric *de totali numero scholarium* concludes with a direction that the aforesaid number (70) *semper subsistere debet*, and this *semper* is brought forward as a positive answer that the numbers were never to be encreased, because he has said, when by any misfortune You cannot "maintain the scholars as I have directed, "decrease them, for a while," but is it not fair also to infer, that if he had contemplated the vast increase of his property, coupled with the construction *strictissimi juris*, put on the payments to his next of kin, and the antiquarian research into the best mode of preserving the simplicity of the ancient manners, in the accommodation of his scholars, that he would not have wished some further augmentation in the number of the objects of his bounty might be made, and that it might be more equally shared? that if they had more than would support the establishment *in formâ predictâ*, they should extend his bounty. That a princely revenue of £14,000 a year should do more than to educate and partly support 70 boys and the fellows.\*

\* It is sometimes advanced in argument that in fact the property remains the same, and that the depreciation of money considered, the income enjoyed by the fellows, is in reality no more than what was originally designed for them; but this is not so. Every one must be aware, that many properties have from accidental circumstances of locality, &c. encreased in value in a ratio different from that which has taken place in the depreciation of the value of money, and independent of this accidental increase of some landed property, its value has generally increased, and it will not be controverted that a landed estate which was sufficient to maintain seventy persons in the time of Wykham would not now be more than sufficient for the same object: it must be remembered that there was no data when Wykham wrote his statutes, that could lead him

Mr. Clarke's letter concludes with an account of the mode that was adopted by the Committee to procure the attendance of the proper persons, to give an account of the foundation, as usual, the letters written by the Clerk, and signed, we suppose by the Chairman, are printed as specimens of the peculiar harshness and ill will which was borne towards this foundation and its members; but with reasonable people this affected sensibility will have its due weight, and no more. By the statutes they are not to be made public, *nisi causâ necessariâ vel utili*, this claim of exemption was put in, but rejected by the Committee. And the chief grievance, after all, is the giving to the public the contents of these statutes. Were we inclined, as is done in the Quarterly Review, to treat the subject now in discussion with ridicule, the picture drawn by Mr. Clarke of the anxiety with which the fellows watched the phases of the malignant planet, in the nature of which they seemed to have regarded the Education Committee, and their distrust, whether its disastrous influence might not attract them within its sphere, would not leave us without means.

In taking our leave of Mr. Clarke, we are willing to give him credit for all his professions of gratitude to the founder, and his more than pious wish of defending the institution which has been to him so splendid a benefactor, and that as far as in him lies, he has endeavoured to maintain and support the spirit of the founder's institution—but while he as a fellow shares in the receipt of an overgrown residue, and limits the allowance to the founder's kin to a trifling gratuity, and, on the paltry pretence of antiquarian simplicity, deprives the scholars of their rights, and joins in placing the rich where the poor were destined to be, we cannot think his professions are quite borne out by his actions, nor his arguments entitled to the credit on the score of disinterestedness he wishes them to obtain.

to anticipate the vast changes in the value of property which subsequently took place by the discovery of America, and latterly by the establishment of a paper currency.

In addition to the different arguments which have been adduced to prove that the "poor and indigent" scholars now selected for the foundation at Winchester are taken from the class which it was the original intention of the founder should furnish them;\* it is stated that in the time of Richard the Second, the feelings of hostility against "scholares" of any description, was too general in the minds of the lower orders "to incline them to have "a wish to belong to that despised class; nor can we," says Mr. Bowles, "otherwise account for the instantaneous feelings "of indignation so widely excited, and so exclusively directed "to particular objects in the rebellion of Wat Tyler.† If "learning were not offered to the children of the Villani or "Cotelarii (nor would have been accepted probably when "Wykeham wrote his statutes, if it had been,) for whom was "it intended, but for those in the middle classes of life who "wanted assistance in breeding their children scholars?" It is true, that by law it was not till the 7th of Henry IV. that villains, farmers and mechanics, were permitted to put their children to school, and dared not, without a licence from the lord, educate a son for the Church. The nobles by their petition to Richard II. sought to have a law enacted which should repress the desire of acquirement then beginning to diffuse itself amongst the lower orders. But we are of opinion that the conclusions drawn by Mr. Bowles from the facts, relating to the classes, whom he supposes to have derived benefit from learning, will, on consideration, prove unsound; and that the enmity of the lower orders to learning, is no evidence of the appropriation by Wykham of his college, to classes far removed from villenage, and could it even be shewn that his intention was ruled by this barrier of separation, it cannot now be contended that this legal exclusion any longer exists;

\* *Vindiciæ Wykamices*, p. 86.

† The rising of Wat Tyler was against despotism and feudal customs, of which some scholars were in part the contrivers and depositaries.

the unceasing operation of natural causes having long since totally deranged the classifications amongst men, which conquest and feudal tyranny had established. Notwithstanding the laws, when Winchester school was founded, the Church in all its offices was in part supplied from the Bondmen, and it was a maxim that service in the monasteries exonerated the villain from feudal duties, while the secular clergy, taken from that class, were still subject to them. It is not denied, that the entering into the church by the Villains, without the licence of the lord, was strictly speaking a fraud upon him; still a very considerable part of the church was composed of the lower orders. Adrian IV. the only English pope, it will be remembered, was of the lowest origin, and his mother died in an hospital at Canterbury. When it is considered, that mankind are disposed to look forward earnestly to an improved condition, and the oppressed are continually inspired with expedients for escaping oppression, the evasion of the laws in this respect will be easily accounted for; and the conflicting interests of the kings, nobles, and commons, in a great degree promoted this species of emancipation. That learning had early extended itself to the lowest classes, is sufficiently to be inferred from the statute, 35 H. 8. which prohibits the reading the bible privately by "any "women, artificers, apprentices, journeymen, husbandmen, labourers, or by any other servants of yeomen or under." In addition, the following curious picture from Langland's allegorical satire, *the Vision of Peers Plowman*, shows that in William of Wykham's time, the boundaries between the classes, were in some instances, already removed, and in others beginning to be obliterated; and we also see what was felt by some upon these changes in the previous artificial order of things. William being interrogated by "Sir Reason" upon his idle way of life, Peers Plowman answers, that

\* When I was young, my father and friends supplied me with money to put me to school, until I learned clearly the meaning of Holy Scripture, and knew what was best for the body, as that book teacheth, and safest for the soul. In this way, I will persevere; for in good faith,

since my friends died, I never found any way of life, which I liked, but in these long cloths. Moreover, I think, Sir Reason, that men ought to compel no clerk to do labourer's work. Therefore it becomes clerks to sing and to serve, and unshorn servants to cart and to work; for no clerk should receive the tonsure, unless he were come of gentlemen and freemen, or at least of married couples. But slaves and bastards and beggars' children, to these it belongeth to labour, while lords' children should serve both God and good men, in state, as their degree requires; some to celebrate mass, or to sit and keep account, or to read and receive what Reason ought to spend. But, of late the sons of slaves have been made bishops, and the bastards of barons have been made archdeacons, &c. and their sons for money have been made knights, and the sons of lords have become their labourers and mortgaged their rents, that they might ride in defence of the realm, against our enemies, together with the commons and the king's worship. Besides, monks and nuns, who ought to supply mendicants with food, have made their kinsmen knights, and purchased knights' fees moreover, popes, and patrons, and benefices, refuse poor clerks of gentle blood, and take the sons of Simon Magus as keepers of the sanctuary.

From this passage and others in the book, it appears that the *poor* were the decayed gentry, licensed beggars, and indolent labourers, and their children might in every sense have been within the meaning and purview of the statutes of St. Marie Winton; it must be recollected that there was no standing body at all approaching to the proportion which the "paupers" of the present day bear to the rest of the community, the lower orders were then composed almost exclusively of industrious labourers (bondsmen) possessing various degrees of substance and perpetually escaping from that condition and the inferior burgesses and citizens, and they became more or less instructed, in defiance of the prohibitions, and were also in full communication with the Church, adding to its treasures and supplying its vacant stalls. How then can it be maintained, that the founders of schools and colleges had not individuals of their rank and state in their minds, when they framed their statutes, and directed that the poor and indigent scholar should be selected?—Besides, when it is considered what vast numbers of persons were necessary to fill the different offices in the Church, and for whom a learned education was requisite, and

when the martial spirit and prejudices amongst the nobles and gentry are recollected, there can be little question, but that a very considerable portion of the students at the universities, were of the lowest order. In my time, says Richard Fitz Ralph in an oration against the Mendicant Friars (A. D. 1357,) there were 30,000 *students* in the University of Oxford, and now there is hardly 6000, which prodigious diminution is owing chiefly to the Mendicant Friars, who entice away so many of the young scholars to enter their order, that parents are afraid to send their children to the University.\*

One more remark on the meaning of pauper scholaris, and we have done. "For many generations past," it is observed,† "a scholar whether rich or poor, has in England, held the name and station of a gentleman." We are very willing to admit; the becoming a scholar, makes a gentleman of a beggar; but he must first become one. Wolsey, by leaving his father's trade became a gentleman by becoming a scholar; and so did Latimer, the son of an inferior yeoman, and 500 others, down to our own times, who, by quitting their rank amongst the lower orders, became gentlemen *after* they had become scholars, and it is impossible to imagine for a minute that the clergy will endeavour to separate themselves from some of these, the brightest ornaments of their profession, who sprung from the lowest orders of society. Who, in reading the preface to the translator of Jüvenal, can contemplate the pathetic picture of the penury and indigence of the author, without wishing that the new construction put on the words "poor and indigent," had not in fact disqualified him from being enabled to partake of the bounty of Wykham; and how fortunate is it that the hand of private bounty snatched from obscurity one, who by his talents and attainments now fills in society the rank of a scholar and a gentleman. And it must be remembered that the term *pauperes et indigentes* was applied to *scholares*, because in fact, *locupletes scholares* were to be found in every foundation school

\* Henry's Hist. of England, p. 259. † Quarterly Review, p. 259.

in the kingdom, in the same way as they are now found at Eton, the Charter-house, &c. And before the year 1724, Christ's Hospital was resorted to by the rich and noble, but they were wisely forbidden to come, after it was seen that their presence injured the more peculiar objects of the foundation.

The preference to be given to the poor, was not confined to the statutes of Winchester, when the Committee proceeded to examine into the establishments destined, as it is now said, for the *upper classes only*: We found, observes Mr. Brougham, that the objections to our jurisdiction rested upon the very abuses we were investigating, not upon the real nature of the foundation.

"One free schoole for the instructing, teaching, maintenance and education of POOR CHILDREN and Scholars," says the charter of the "Hospital and Free Grammar School in the Charter-house."\* "*Unum Collegium perpetuum PAUPERUM ET INDIGENTIUM scholarium Cantabrigiæ, et quoddam alium collegium perpetuum ALIORUM PAUPERUM ET INDIGENTIUM scholarium "Etoniæ,"* say the statutes which founded King's College, Cambridge, and Eton College. The Westminster statutes, expressly prohibit any boy being elected on the foundation, "who has, or at his father's death will inherit a patrimony of above six pounds." The same poverty is the qualification required by the statutes of Trinity College, Cambridge; the scholars are there called "*PAUPERES*," and in choosing them, where other merits are equal, the preference is ordered to be given "*INOPUM*." In choosing the fellows of St. John's College, a preference is prescribed in favour of the most deserving, "*et inter hos, illis qui INDIGENTIORES fuerint;*" for scholars, the "*INOPES*" are directed to be preferred; and an oath of poverty, similar to that of Eton and Winchester, is solemnly taken." (Letter to Sir S. Romilly.)

In observing on what we conceive to be the mal-administra-

\* Lord Bacon urged as an argument against permitting the foundation of the Charter-house being established against the heir at law, that the Commonwealth would suffer from drawing scholars from the *laborious occupations*. And Evelyn saw a foundation in Amsterdam "like our Charter-house for the education of *decayed persons, orphans, and poor children,* " where they are taught several occupations," and a distinction is taken in the real rules of the Charter-house, between the boys more fitted for trades and the classical boys.

tion of the funds of the public schools, it is necessary to guard against the imputation of general hostility towards these institutions; all we lament is, that it seems to be thought necessary to their well-being that the rich should be partakers of what both the words and the spirit of the endowments declare to be for the poor. We trust, however, that some means may be devised by which the poor may reap the benefits so explicitly bequeathed to them, without detracting from the high character of these institutions, or lessening their utility in the formation of the national character and habits of the upper classes of society. In noticing deviations which have been made from the wills of the founders, we must not be considered as generally reprobating all changes as alterations for the worse; it is obvious that many changes have become necessary by the circumstances of the times, and the alterations of religion. By the statutes of Eton, an abjuration of the heresies of Wickliff was required, &c. We have not thought it necessary to extend our observations in detail, already made too much at length, to the cases of Eton, and other public schools, nearly the same observations which have been made on the administration of Winchester apply to all other similar institutions which were examined into.

In perusing the evidence given before the Committee on the Education of the Poor by the persons, through whose exemplary industry and disinterested charity we are enabled to dive into the recess of want and misery, numerous and important considerations press irresistibly on our minds. When the veil that covered this abyss of wretchedness is removed, and the eye can penetrate undisturbed by illusions, and unimpeded by darkness, to the bottom of the gulph, we are startled with the idea that such scenes should exist in an age in which religion is supposed to have considerable influence, when sciences and arts are advanced beyond all former bounds, and when Government has arrived at such perfection, that every innovation in its measures is resisted as an attempt hostile to the ease and happiness of the community. We hear from authority that ought not to be dis-

puted, accounts of our wealth and prosperity,—their images glide before us on streams of eloquence, whose smoothness tranquillizes our incredulity, and lulls us into unsuspecting belief. When roused from this dream by the reality of human misery, we seek around for the causes of such wretchedness, and naturally enquire, if at this advanced period of civilization such a portion of unhappiness is to be found, what must have been the condition of former ages? Our ancestors have left us many memorials of their wisdom, but gradual improvements and more extended views are supposed to have augmented the convenience and utility of the edifice they had erected. The history of man affords us no grounds to imagine, that at any period a considerable portion of society was not subjected to want and misery, but it is most material to determine, whether in the lapse of ages they have increased or diminished, and examine with care the principles and measures by which such important changes have been effected. He that omits such enquiries will be confined by narrow views and shallow expedients, and soon perceive, perhaps, that he is treading in a path the experience of former times must have taught him, would end in disappointment. Far be it from us to insinuate, that the persons who conducted these examinations were not actuated by the views of accomplished statesmen; we trace throughout the marks of consummate knowledge, and admire the perseverance and courage with which they probed the disgusting sinks of corruption and abuse, and only lament that they were thwarted in a course which afforded any chance of cleansing the impurities.

The governments of early periods appear to have been in the hands of persons generally tainted with the military spirit of the age in which they lived, and who were alternately employed in attempts to invade the rights, or in resistance to the unsettled claims of their subjects. The care of the forlorn and destitute was chiefly abandoned to the pious charity of individuals, and numberless monuments,

founded in conformity to the purest doctrines of christianity, have been left by persons of various ranks, whose virtuous intentions we may yet trace in the mouldering records of the statutes and laws which they prescribed with the hope to regulate their endowments.

They were erected in times when a blind zeal for humanity supplied the place of political science, and experience had not informed the founders of the dangers to which such establishments are exposed from corruption, and of their tendency when abused, to increase the evils they were destined to avert.

It is not our intention to enter into any further details of a comparison between the state of the poor at the present time, and their situation in former periods of our history. We may assume without any hazard of contradiction that misery is now rapidly augmenting. Such is its alarming progress amongst the lower orders, that all that learning and experience can afford of information, all that genius can supply by its invention and resources, and all that humanity and the most exalted virtue are enabled to bestow of assistance and comfort, are accumulated to impede the advance of this dreadful calamity.

It is clear, however, that whatever temporary expedients to which we may resort to alleviate instant distress, no permanent change can be expected in the lot of the poor, without an ardent endeavour on their part to assist the arm that is held out for their protection; it is by education alone they can be taught the duties of industry, patience, forbearance, and resignation; it is by enlightening them they can alone be effectually convinced that the unalterable law imposed by the Creator, that man must live by the sweat of his brow, cannot be evaded with impunity. It is by teaching them to reflect, that they will learn to distinguish between their friends and their oppressors, to assert with firm moderation their right to the fair fruits of their labour, and disarm the powerful and rich of their pretences for terror and dismays.



Before we can determine how far charitable endowments have been available for such instruction of the poor, how far they may have contributed to promote the evils that exist, or have retarded their progress, it is absolutely necessary we should be acquainted with the value of such donations, and the mode in which they have been administered.

The foregoing pages have detailed the means that were proposed to effect this just design. It is mortifying to reflect that the basest interests and most unfounded pretences were successfully combined to shelter a mass of abuse, the enormity and extent of which is the real cause of the protection it received.

It is useless to argue on the probable result of an efficient enquiry, which the most ardent speculator in human integrity may for the present consider as nearly hopeless; but only requires a practical knowledge of the management of an opulent foundation for education to perceive (that with no other means of correction than existing tribunals and visitors afford), the combination of interest and power that protects these institutions must prevent them from becoming a resource for the defenceless and the poor. Of whatever force or clearness the expressions may be which direct the application of the funds—the tendency of those who hold lucrative situations under such establishments, who interpret their rules or influence their construction, is to avail themselves with vigour and sagacity of every ground, to exclude the class of mankind which is not adapted to promote their interests, and to glide with dexterity over the surface of such terms, on which a pause would open a contagious connection with poverty and want. The principle of self-interest which excites so powerfully our industry, and awakens our intellects in the usual pursuits of life, cannot well be brought to act in combination with the proposed objects of such charitable endowments, and is frequently opposed to their intentions. Every investigation of the management of such establishments proves beyond the

hope of contradiction, that wherever a public fund of this nature is raised by compulsory contribution, or originates in fixed property, however sacred the destination may be, it rarely escapes being made the prey of the designing, the powerful, or the impostor; wherever abuses of this description can only be rectified by complaints to the tribunals known to our constitution, and that an individual has only a common interest with a multitude of others in the purity of an institution—the body that directs such establishments soon ceases to be animated by the breath that charity had inspired to succour the friendless and forlorn.

The poor who would resort to charitable foundations where learning only is afforded, are frequently ignorant how access is to be obtained. Encouragement is rarely given to applications, and timidity is soon repressed by arrogance or neglect. The instructor who receives the emoluments of his office, is well pleased it should be enjoyed without the counterpoising evils of trouble and fatigue, and the gentle ticklings of his conscience are soon allayed by the reflection, that it is the duty of those who want the waters of knowledge to seek the sources that supply them. A strict adherence to the absurd modes of instruction which ancient founders have prescribed, contributes much to the inutility of such establishments, while more important regulations are neglected without scruple, nauseous potions of useless knowledge, composed of the indigestible and innutritious theorems of latin syntax and prosody, administered and retained alone by the astringent powers of the birch, revolt the most powerful stomach. The poor parent who may have experienced both the inutility of the learning and of the tortures, is prevented by humanity from exposing his offspring in these scientific hospitals, either to the barbarity of the jargon, or the instrument at the point of which it is communicated. The continuance of imposing such materials under the name of learning, has found its justification in various interests, with which the poor it is suspected have no connection.

If it were possible to prevent corruption in opulent foundations, and to mitigate the unrelenting pride of the rich, some of these institutions might be made the instruments of elevating the sentiments of the poor, the means of exalting them from degradation, and teach them that the paths to comfort and to wealth are not wholly closed before their steps. If it be seriously intended to promote the happiness of mankind, the great object must be to interweave the materials that compose a nation, to place the labourer and the poor nearer in contact with the employer and the rich, and not to forge society into a lengthened chain, one of whose extremes is suspended in the abyss of misery and want. To assist our endeavours, many charities, entirely useless in their present state, might be vested, without interfering with any great principle of justice or right of property, as a sinking fund for the redemption of the immense debt of wretchedness and woe, contracted in the main by the wastefulness of profligacy and the oppression of tyranny, but sometimes augmented by the guiltless errors of virtue and benevolence. They might be rendered subservient to the purposes of the societies for the Education of the Poor, subsisting by voluntary subscriptions; the wisest and most effective mode of conferring benefits on mankind ever contrived by the united force of policy, beneficence, and religion.

It is not obvious on what principle a portion of the profits of some of these institutions might not be considered as devolved to public use. In many of them the offices are sinecures. The absurdities of their rules and statutes inconsistent with the change of habits and opinions, have rendered the intentions of the founders absolutely effete, and their objects are unattainable in practice. If an alteration is necessary to render them efficient, why cannot they be applied to the most essential wants of education, upon the plans which experience convinces us to be most judicious? In their original destination, the masters and instructors were not the objects of the charity, but the instruments of its

purpose. It may be said they are prepared to perform their duty; but if circumstances prove beyond dispute, that none will be performed without an essential change, why not effect it, or release the conscience of the officer from the burthen of receiving the profits without paying the consideration, and let him purchase its redemption by a sacrifice of a portion of his emoluments.

The grounds of public morality are not always intelligible or consistent. We see at various periods under the pretence of public good, individuals deprived of their liberty, (the most valuable of all property,) harrassed with unfounded accusations, released with scorn, and indemnified by insult.

Our courts, by an admirable contrivance, impound contested property, and when the lingering hope of the claimant is succeeded by the despair of his posterity, and expectation has breathed its last, humanity forbids us to raise it from the grave, and the riches are applied to enlarge the walls that had immured them, and to pay the faithful guardian that prevented their escape. But the perversion of mistaken charity is irremediable and irrevocable. We suspect the intricate and deep laid interests of patronage are linked to the tender delicacy that is professed for the nature of these rights, and that if nothing but the shadowy claims of the poor had intervened to protect them, they would have been swept away by the same torrents that have overwhelmed the happiness and prosperity of a nation.

We shall now take a cursory view of the existing laws relating to the government of Charities, and the mode of obtaining redress in cases of abuse or fraud of the trustees. As far back as the reign of Elizabeth, it was admitted, that the existing laws were insufficient to protect Charities from the frauds and robberies of the trustees, and consequently the statute of charitable uses was passed in the 43d of her reign, the title of which is, *'an act to redress the misemployment of lands, goods, and*

*stocks of money heretofore given to Charitable uses;* by this statute, the Lord Chancellor is authorized to grant Commissions to enquire respecting all abuses, breaches of trust, negligence, misemployments, and frauds, in Charitable donations. The words of the preamble shew what was then the opinion of the mode in which Charity estates were governed, "*Whereas lands, &c. given, some for relief of aged, &c. some for education, &c. which have not been employed according to the Charitable intent of the givers thereof, by reason of the frauds, breaches of trust, and negligence in those that should pay, deliver, and employ the same, and for redress and remedy whereof, be it enacted, &c.*" The Universities, Eton, Westminster, Winchester, and all Charities having special visitors, are excepted from the operation of this act.\*

It is remarkable, that this statute originated in a charge preferred against the Universities, for abusing their possessions, contrary to the will of the founders, but the Lords exempted these very bodies from the operation of the law. This statute may be considered as nearly obsolete, not more than three commissions having been issued in this reign, only six in the last 75 years, and only one since the year 1787; the whole number from 1643 to 1760, was 964.

The cumbersome and expensive machinery necessary to be set in motion, is quite sufficient to account for the disuse of commissions, but although the remedy has proved ineffectual, not a symptom of the inveterate disease has

\* This exemption was adopted by the Lord Chancellor, as a precedent for the like exemption in the bill appointing Commissioners; but it is well to observe, the two cases are perfectly dissimilar, the Commissioners under the statute of Elizabeth were a Court of Judicature, who would of course supersede the jurisdiction of the special visitor, which would have been unjust, but the Commissioners now appointed were only to enquire and report, and their duties therefore would in nowise clash with those of the special visitors.

abated, but on the contrary, seems to have been daily and hourly taking deeper root; the necessity of enquiry has been admitted on all hands, now, and at all times heretofore. Mr. Perceval, many years ago, recommended a Committee to examine into the state of charitable foundations, and other institutions for the Education of the Poor. The Court of Chancery is in effect, the only place in which redress is to be now sought; it would be no easy task to picture all the dreadful and appalling features of this remedy in stronger terms, than those presented to the House in Mr. Brougham's Speech\*.

Those who enter the "eternal gates" of the Court, remain spell bound; the mode of protraction seems to have no end, the expense is ruinous, and yet, are the poor (of whom the law has constituted the crown and the public the guardians), tauntingly told, the Chancery Court is open to them. One commission has been stated to have been issued since 1787—this commission was completely finished in 1803, and the Court of Chancery in 1804, was applied to, for confirmation of it; exceptions were taken, and by 1808, the matter was ripe for decision; and since that time, says Mr. Brougham, (in 1818,) it has stood over for judgment,—and for ten years after the whole cause was completely ripe for decision, did the parties, the poor, await this boon of the judge, standing year after year, first amongst the causes for his final decision. Putting the delays and expences attending on a Chancery suit out of the question, the jurisdiction of the Court of Chancery is not capable of affording relief in all cases, nor will the Court interfere with the governors of a Charity established by charter, unless they have also the management of the revenues, and abuse their trust. If any doubt be yet entertained as to the inefficacy of the Court of Chancery to afford relief in abuses of Charities, the following extract from the speech of Sir

\* 8th of May, 1818.

Samuel Romilly in the House of Commons, on being expressly called on by Lord Castlereagh for his opinion, must when the high character, the peculiar knowledge and experience of the speaker are considered, put this point beyond all question.

“ Having been so directly called on by the noble lord to state his opinion as to the chance there was of obtaining any remedy in cases of abuse of Charitable trusts through the Court of Chancery, he felt he should be acting improperly towards the House if he did not answer that call. He most sincerely thought that, in such a case, the remedy which the Court of Chancery was capable of affording, was not an adequate remedy, and that it was impossible, through that Court, to obtain redress for the abuses of Charitable institutions. There were expedients of delay peculiar to that court, which, if resorted to, as they naturally would be in such a case, would throw such obstacles in the way of obtaining redress, as few would be disposed to encounter. And when he considered, that an information in the Court of Chancery would be filed by some stranger, who had not, like a suitor in Chancery, an interest in the result of the decision, it could not be expected that such a person would be disposed to put himself to the great expense which this would occasion, for the public benefit. The delay might occasion, him to be out of a great expense for a number of years. If a person hearing of any abuse, should think of having an information filed, he must make up his mind to disburse a considerable sum, with the chance of recovering, if he gained the suit after a great number of years, strictly taxed costs. It would be difficult to find a man so public-spirited as to advance a large sum of money to carry on a cause in which he had no personal interest, imputing gross misconduct to a neighbour with a chance of recovering part of his expenses after so great a lapse of time. Two years ago a bill had been introduced by an honourable gentleman to which he proposed an amendment, which afterwards became a separate bill, providing that all stamp duties should be dispensed with in cases of this description, which would consequently have been a great saving of expense; but it had been decided by the Court of Chancery, that this provision did not extend to actions against persons who had got lands of Charities into their possession. With respect to the proceedings in the Court of Chancery, there was no man who practised in that court who must not be convinced, that very great expedients of delay might be resorted to in it, which ought not to exist in any court. His honourable and learned friend had conceived those expedients of delay to belong necessarily

to a court of equity; but it was his opinion, that a great part of the abuses in the Court of Chancery might be remedied, and might be remedied without any legislative interference. He considered himself at present as giving evidence with respect to the Court of Chancery, and he had no hesitation in saying, that if gentlemen went to vote with an idea that a remedy for abuses of Charities might be found in that court, they would be voting under an erroneous impression.”

Can it be for a moment doubted, but that it is necessary some means should be afforded to Charitable institutions for obtaining justice, and that the remedy will not be found in the Court of Chancery as the law is now administered?

The tedious and incalculably expensive process of proceeding in Chancery by way of bill filed by the Attorney General, led to the Act of Parliament (52 Geo. III. c. 101.) alluded to by Sir S. Romilly, by which any two persons directly interested in a Charity, may apply in a summary mode by way of petition to the Court. This law it was anticipated, would much facilitate the means of obtaining redress in case of abuses of Charities, but it will be seen from the opinion of the present Chancellor, nevertheless, that nearly all good intentions in this respect at least, may be considered as having failed. “ The Act,” observed Lord Eldon in the debate on the bill which is the subject of the present observations, “ was well meant, and gave a summary application to Chancery by way of petition. he and Sir W. Grant, had applied themselves in every way to redress the evils which were pointed out to them, as far as was consistent with the rules of distributive justice; but in the end they found so many difficulties in the application of the act, that in their opinion, and that of almost every gentleman at the bar, who had been in any way concerned in it, they could do nothing else but desist: when indeed it is clear who was the Trustee, and who the cestui que trust, there was no great difficulty, but they were all obliged to agree that they were unable to adjust any thing under the limited powers of the act, when the parties concerned could not

" be very clearly ascertained." With this feeling and understanding, it at least is to be lamented that some attempt has not been made by the learned Lord, who is so well aware of the existence of the abuses, and of the good intention of the Act, that he himself has not thought it worth his while to bestow some relief to the poor, at least by the suggestion of a more perfect remedy of the flagrant abuses, fated, it should seem, to continue unredressed, as far as regards the jurisdiction of the Court of Chancery; and it may be remembered, that when this act passed, his lordship presided as he does now in the House of Lords. It may seem absurd to have made use of the term *summary*, applied in any wise to the proceedings of the Court of Chancery. The harrassing delays which take place in the administration of justice in that Court, are justly to be considered as one of the most pressing grievances existing in the country. The Act by rendering it necessary that the parties should be interested, and that two should concur, has prevented the interference of those who would have been more likely to have interfered, and who would have been satisfied with the reputation of well-doers, as a recompence for the labour and anxiety which they must have undergone in the institution of a suit. It has left the reform to men who of necessity must be more or less influenced by fear or affection for the delinquent Trustees, in whose neighbourhood the probability is that they live.

By the 52 Geo. III, c. 102, all proceedings under the preceding act are exempted from stamp duties. And it is in the discretion of the court to award which party shall pay the costs. It is material to observe, Sir Samuel Romilly, in his evidence given before the Education Committee, observed, that he conceived that the costs would in very few cases exceed fifty pounds. Lest therefore, what has been said should induce any two persons excited either by private enmity or public spirit, on the occasion of some gross mismanagement, upon the invitation of the act, (for invita-

tory it is) to commence proceedings, it is fair that the following historiette of the presentation of a petition should be known, observing that the case was as simple as possible. Nor was it at all apparent, at first setting off, how any delay could arise.

Fortified with the assurance that the expenses must be moderate, that this new and summary remedy would be quickly obtained, the petitioners entertained none of the dread of costs, nor the terror usually experienced on embarking in a Chancery suit. The petition they thought would be presented, and a hearing soon obtained, justice done, the delinquent Trustee punished, and the flagging Grammar School revived by virtue of the specific,—the summary remedy. It may be proper now to descend from the delusive and visionary prospects, to the reality; first, a whole year was spent previously to the presentation of the petition in every species of negotiation to induce the Trustee to act with justice, and without the aid of the strong arm of the law. This was necessary to put the petitioners as much in the right as possible: but was ineffectual: the advice of counsel was then taken as to the probability of success, and the course to be pursued, and the petition was presented. On the first hearing, the patriotic petitioners were somewhat astounded by assertions on the part of the delinquent Trustee, so utterly devoid of truth, and so entirely destitute of foundation, that it would have been marvellous had the proper replies been prepared. Instead of the case being then decided on the merits, an adjournment takes place, the court advising the parties to come to some amicable arrangement as to what minutes of facts should be referred to the Master. The whole summer was consumed in meetings of counsel, and ineffectual negotiations of solicitors; piles of affidavits are now prepared, for a fresh hearing: the counsel for petitioners then consent to waive the past, and a short reference to the Master is directed for the future guidance of the Charity; this, however, not being acquiesced in by the defendants, the

Trustees themselves, re-hearings begin with all the accompanying infliction of expence, and acrimonious personal attacks (the solicitors' bill from time to time demanding an advance, to defray the current expences) after *five* more regular appearances in court, and numerous briefs prepared beyond the common calculation, and after this interruption and continual conferences, then succeeds 18 *months* of delay in the Master's office, (one of the most frightful stages in a Chancery suit,) this period chiefly passed in a continued interchange of warrants, filing of affidavits and counter affidavits, ordering and making surveys, making and correcting calculations, schemes for education proposed and opposed, new trustees nominated, their characters discussed—and after a three years war comes the final decree, the Charity is revived, the delinquent Trustee visited with the payment of a portion of the costs, and the petitioners find, when they come to pay their share of the costs, which the rule of the court could not, in any case, compel the defendants to pay, independent of the vexations they had undergone, they were 200 or £300 out of pocket by this "*summary remedy*," all for the satisfaction of having thus stood forth, the "public spirited" reformers of evil—Deceived in their construction of the plain words of an Act of Parliament, which was professedly made to afford relief in their exact case, calumniated by counsel, abused by the solicitors, unceasingly harrassed by the proceedings in the master's office, their motives hourly called in question, and one of the two actually challenged to fight at Chalk Farm in the course of the suit; such is the end of the summary proceeding. Having thus set forth what appears to be the different existing modes of obtaining *justice* in the government of Charities, it may be important to canvass the light in which this point is considered by the correspondent of Sir W. Scott, our readers will bear in mind the praises which have been bestowed upon his legal knowledge.

The statute of Elizabeth, now quite in disuse, is absurdly

enough, discussed, and its powers considered, p. 34, 35. although it is stated, it is true the statute has become "*rather obsolete in use*," though this is only because the Court of Chancery, under its equitable jurisdiction executes its power by an *easier process*. "Rather obsolete in use on account of the easier process of a Chancery suit!"—the writer, it must be remembered, has composed his pamphlet with "a knowledge of the legal bearings, superior to Mr. Brougham." "This mode of proceeding," continues the acute and accurate writer, "is indeed, subject to the approbation of the crown officer, but it is notorious, that this assent is given almost as a matter of course upon any reasonable suggestions. But the 52d Geo. III. is a *still easier remedy*, (still easier remedy!) and of so *little cost and difficulty* that any Charity, however inconsiderable, may have recourse to its powers, p. 35\*. The parties complaining, have *little to do but to petition*, no stamps payable; the remoteness of the place where the Charity is established, adds *nothing* to the expence, the *ordinary delays* of the Court of Chancery do not occur in a proceeding under this act, the costs in few cases can exceed £50, and even *they* are in the discretion of the Court. Thus, neither the law nor the administration of it are so difficult and deficient as the honourable chairman seems to think; again—the proceedings are as speedy and summary as can be consistent with a Court of Justice, and at an expence *almost insignificant*." In answer to this sunshine view of Chancery proceedings under the New Act, we can only refer to the history just given, and in addition to which many others could be furnished. The remedy will be found neither so summary, nor the expense so trifling. As to

\* This remedy, says the quack, although so effectual, is in itself so bland and gentle, that the infant at the breast, and ladies in the most delicate state of health, may take the largest dose without danger. Have not the correspondent of Sir W. Scott and Dr. Brodum drank at the same spring?

proceedings by the old mode, by relators, the evidence in the Yeovil and the Huntingdon cases, which we entreat our reader to refer to, will give the aspiring relator, if any such read this, some hints of what he may expect. We feel some regret at thus repressing (as we must) the commencement of divers suits and the presentation of petitions, which those who have only read the misrepresentation of these processes by the correspondent of Sir W. Scott, might have been inclined to become engaged in.

On the subject of costs, the statements are only made to delude; the Court adjudges no more than *taxed* costs, and the difference between the taxed costs and the real ones is very considerable. Petitioners who may have been ill advised, may be compelled to pay their own and also their adversary's costs, and it must also be remembered that an appeal to the House of Lords would at least add 1 or £200 to the usual expences. The evidence of Sir Samuel Romilly before the Committee on the effect of the proceeding by information, and by the "summary process," and as to the costs, is important in every point, and has been misrepresented by the correspondent of Sir W. Scott. The substance was as follows, "that the relator in a Chancery proceeding, may be made subject to all the expenses, which are in general extremely high, so high that it would be an act of great imprudence in any person to become relator in such a suit, unless he is quite clear of success. Cases when costs were directed to be paid out of the Charity Estates, have made it impossible that the purposes of the Charity could be fulfilled for many years. The costs on petition are considerable, though *when there are many affidavits they may amount to a great deal.* I should consider," continues Sir S. Romilly, "£50 to be a large amount of costs, but *must observe I know little of the amount of costs: it is possible an issue to try facts may be directed in which case the expense would be increased very much.*"—Here we conclude the view of the subsisting remedies,

observing that the Court of Chancery will not interfere with governors or visitors at all, as to the controul of the Charities or abuse of them, unless they meddle with the funds, when the jurisdiction of the Court attaches, and they are like any other person liable to account. It will be impossible that any one should consider the general question, taking into consideration the present state of the Charities, without being convinced of the necessity of some controuling power over special visitors and governors, who are thus left, with no responsibility but to God and their conscience.

We have omitted to remark, that in 1786, the attention of Parliament was called to the general abuse of Charities, and the law called Gilbert's Act was passed, directing the registration of all Charities; and the report of the Committee which sat on the returns under this act, states, that many charitable donations had been lost, and that others were in danger of being lost, from the neglect and inattention of those who ought to superintend them, and recommend the matter to the speedy attention of parliament. But however important the subject, it was superseded by others of more weight and interest: and this act, though it shews the general opinion that the greatest publicity should be given to Charitable foundations, must be considered as having failed in its operation; the returns being in the greatest degree imperfect. There are, according to the returns under this act, in the East Riding of Yorkshire, 73 places said to possess 67 charitable donations for schools, and their united revenue is stated at £880. It is now ascertained (and it can hardly be from excessive increase of rent) that Pocklington alone has a revenue of about £900 a year.

In Middlesex, the whole revenue is returned under £5000 a year, in 151 donations possessed by 64 places; but the revenues of three schools, the Charter-house, Christ's Hospital; and St. Paul's school, are proved now to exceed £70,000 per annum.

Most of our public seminaries, it is observed in the Quarterly Review, April, 1817, were founded in the early, or at least the middle periods of English history, and may therefore be supposed not always exempt from the languor and the decay incident to establishments of long standing; they were also founded in times of comparative ignorance and prejudice, if not of semi-barbarism: hence their systems of education are occasionally faulty, and even when these are corrected, they cannot entirely shake off the clogs of ancient forms, but have to run the race of improvement in shackles.

With respect to the state of these schools, we entirely coincide with these writers; but it is on the means of administering the relief that we differ. The languor and decays are, wrongly we think, attributed to lapse of time; it is, in fact, the languor or the fraud of the trustees, the visitors, or the schoolmasters, to which this decay is attributable; and to correct which no sufficient remedy now exists; the supineness and negligence of visitors, must be admitted, when such a case as that of Pocklington school is brought forward, and yet the cry is, that the judgment of the special visitor and trustee is a domestic forum selected by the founder: it is a court set up to watch over and regulate the administration of his property, and which the law has allowed; and therefore to interfere with property so circumstanced, is in fact to break down the boundaries of private possessions: but in what manner can simple enquiry, (and which there can be no doubt will in almost every case be effectual) be considered as trenching on property? how would the founder's property at Pocklington or at Croydon be affected by the Commissioners reporting to the House, that at the one place they found large revenues enjoyed by a runaway schoolmaster, with one scholar; and at the other, by a master and no scholar at all. How could private property be affected by any such proceeding? Can it be supposed that any founder, if he were now in existence, could complain; would it not in fact just be what he desired, not having it in his power to appoint any public officers like the Commissioners always to be on the watch, and whom it is not probable

can ever be swayed by their prejudices or affections; he has, as far as in him lies, substituted private individuals to perform that office for him; but how can he complain, if it is said to him, your trustees or your visitors at some period through distant ages, may from negligence or worse motives cease to watch over your institution as you expect, we will therefore appoint for you a set of individuals of high character and attainments, who will from time to time examine with an impartial eye into your directions, and the conduct of those to whom you have entrusted the execution of your wishes. And should any deviation therefrom take place, such will be reported to us. Is not this the exact proceeding proposed to be adopted? and is it possible, let what ingenuity there may be exerted, to find one single objection to it? Nothing is to be abrogated, nothing altered. So long as charities under the guidance and controul of special visitors or trustees are protected from enquiry, no real benefit can be hoped to result from any measure which may be brought forward. That the languor and abuses is in fact rightly attributed to the criminality or negligence of the trustees and governors themselves, in most instances will, we think, be conceded by any one who has had occasion to enquire into this subject, and it will be perceived, that the ordinances of most of these schools provide a remedy for original oversights, and certain individuals are sometimes authorized to make discretionary changes. Yet during many years the poorer classes have not attended these schools, and the object of the founders has in a number of instances been so far defeated, as that these schools have ceased in a great measure, to be the means of disseminating useful learning, and the funds have either been consumed without instruction having been given to any one, or the scholars have belonged to classes who could have procured tuition, if these eleemosynary foundations had not afforded it to them. At the time of the foundation of most of the grammar schools, the system of education was materially different from what it is now, and what is termed in the regulations, "*Scientia Grammaticalis*," was in general the chief object of the founders, what is to come within the exact



meaning of these words, it is not now, perhaps, very important to consider. But it appears almost universally the practice with the school masters, as soon as they are appointed, to narrow as far as is in their power, the meaning of the words directory of what they are to teach, and this with one of two ends, either to drive away altogether any one who may be inclined to avail himself of the charity, or to make the teaching other branches of education a matter of separate charge, so in effect doing away the benefit of the charity.

This was the case with several of the schools noticed before the Committee, and there is hardly a person who reads these pages but must himself know of the existence of some similar abuse; and a better illustration cannot be given than the conduct of a master of a free grammar school in Sussex, who wishing to prevent the trouble of having charity scholars, refused to teach the rightful candidates any thing but Latin, though his own boarders received all the attributes of an "elegant education." And this conscientious personage, having discovered a mechanic's son teaching himself arithmetic and writing out of school hours, increased his Latin lessons so as to occupy his time, that in fact, the boy might be driven from the school, where he was nothing but an intruder in the eye of the master, who loved the hire, but hated the labour.

And as to these cases in which it should be found that the strict letter of the original ordinances do not admit of an adaptation of the prescribed course of teaching, to the wants and habits of the present day, it is at least worthy of consideration, whether the adopting a doctrine of construction, guided by the same principles, as what in Courts of Equity is termed *cy pres*, might yet be found highly beneficial.

Thus where funds are given for any particular purpose, and they turn out to be of greater value than is sufficient to effectuate the original intent, still the general intention to give, being expressed, the Court applies the surplus to purposes as nearly similar as they can devise, (*cy pres*.) to those declared by the founder. As where money was given to put out a

certain number of apprentices, or educate a certain number of children, if the funds exceed the requisite sum, the Court applies the surplus in furtherance of the same objects, and where there was property appropriated to apprentice two poor boys, children of the members of a particular Presbyterian congregation, and living in a particular parish. The Court according to this doctrine of construction before mentioned, extended the surplus of the Charity funds to boys in other parishes, then to daughters, and then to sons of Presbyterians generally. And it is laid down that when a Charity cannot be executed as directed, and the general purposes appear distinct, and may in substance be attained by another mode, it shall be executed *cy pres*. 3 Ves. 141.

It is impossible to consider the effect of this doctrine of construction, without seeing the benefit which would result from it, if it was extended to the resuscitation as well of these institutions, now sunk into disuse from the change in society and habits, as well as of those whose funds are become in many instances far more than sufficient to effectuate the objects of the founder. But it must always be borne in mind, that in this respect the power of the Court of Chancery is limited, it is only where there is a mis-application of the funds, not of the rules that the jurisdiction attaches. And therefore when the usher and master of the Berkhamstead school had but one boy between them on the foundation; the Court of Chancery was itself the hand to deal out to them, several thousands of pounds to which they established their legal right, without performing for it any actual service, the court having no power to compel the special visitor to do his duty. Although we do not think it would be either wise or just to do away with or alter the founder's directions, when it is possible that they can be obeyed, and where objects are to be found; still it will be difficult to bring forward any argument to shew that it would not be as just as beneficial to make such additions in the things to be taught, as the wants and habits of mankind now make necessary, and which would render those foundations available, which

were before grown into disuse, and would in truth tend more to the advancement of the general intention of the founders, than a rigid adherence to the letter of it. And as to the school-master at Croydon, when it was found that no children attended his school, by reason that nothing but Latin and Greek was taught, can it be questioned that the general intention of the founder would not have been obeyed more completely by directing him to teach other branches of learning in addition to Latin and Greek, rather than to suffer him to enjoy the salary, and not perform any duty for it in return? that this would be so may be inferred from the following opinion of the present Lord Chancellor.

There being at Leeds a charity school for the purpose of teaching Latin and Greek, it was proposed to have other masters paid out of the funds for the purpose of teaching writing, arithmetic, and the modern languages; such a system of education in fact, being more congenial to the present wants and habits of a commercial town, and in this case it was determined that the nature of a Charity can be changed, by application to objects different from those intended by the founder, when it is clear that by a strict adherence to the plan, his general object will be destroyed. But the Court would not in that case, permit the application of the funds to procure the proposed additions, (11 Ves. 241.) Though supposing it had appeared that the founder's intent would have been destroyed by a strict adherence to his rules, as that there were none in Leeds who were inclined to avail themselves of the Charity, can it be doubted that it would not have been more congenial to the founder's will, that education, such as the inhabitants were willing to receive, should be furnished to them, rather than the funds should be enjoyed by the master as a sinecure, as in the cases of Croydon, Huntingdon, and an hundred other places which could be named: and it is important to remark that in the case above noticed, the Lord Chancellor himself says, that experience justifies the observation, that where there is a school with a large establishment, and the scholars go to it gratis; there is a strong temptation

not to struggle to obtain many scholars; and therefore the amount of the salary sometimes defeats the purpose.\*

According to this doctrine there is not a single grammar school in the kingdom, which might not be made to answer the real end of its benevolent founder, and after such an innovation has once had the sanction of the learned Lord whose observation we have referred to, the most inflexible supporter of existing rights may follow blind-fold without fear, and there cannot, we conceive, be a question if at a free grammar school, writing, arithmetic, and English reading, were under particular regulations permitted to be taught, even admitting the founder's chief object to have been the acquirement of the Latin, still that his intention would be more generally attained, by admitting a wider range of candidates for the attainment of it, and the talents and capacity of a larger number would be examined, and such as displayed any peculiar abilities, would avail themselves of the higher branches of instruction, whilst the remainder would receive the full benefit of the rudiments of education. The Latin, it should be recollected, was, when most of these schools were founded, the principal object of study, and its attainment absolutely necessary by all above the lowest ranks in society.†

It was intended to have exposed more in detail some of the numerous and purposed mis-representations on the subject of the Education Committee and Mr. Brougham, contained in the Quarterly Review and the Letter to Sir William Scott, but it is useless to tire the reader on a subject after all of no real importance.

\* In the case of the Leeds school above noticed, the Lord Chancellor observed, his opinion was, it was a free grammar school "for teaching grammatically the learned languages," according to Dr. Johnson's definition: the adopting in a court of justice the definition of a grammarian himself on the meaning of a grammar school, would be a matter of some surprise.

† A letter on the best method of restoring decayed grammar schools, printed in the Pamphleteer, contains much curious information on the subject of these institutions.

The writers in the Quarterly Review had in view the double object of preventing a radical enquiry into the Abuses of Charities, and of vilifying Mr. Brougham. As no ingenuity could invent arguments which could be brought to bear against the real question of enquiry and reform, it was necessary that it should be first distorted, and that then the monster should be held up as an object of terror to the public. With respect to the jokes and the witticisms with which the Essay in the Quarterly Review is so plentifully interlarded, we must admit ourselves to be somewhat prejudiced, and therefore shall venture no very positive opinion on them, except that we consider if there had been a more strict adherence to truth, and a nicer attention to propriety, it would have been more laudable, although it must be admitted some of the best hits could have been marred.

That, which we should have selected as the best specimen, however, is grounded on a purposed mis-representation. The Bill, it will be recollected as it passed in the Commons, directed an enquiry into the "state of the Education of the poorer classes," and the omission of this part of the duty of the Commissioners was much regretted by Mr. Brougham, but for the joke's sake Mr. Brougham, in his Letter to Sir Samuel Romilly, is made to lament that the House of Lords had deprived the Commissioners of the power of pursuing an enquiry into the state of education IN GENERAL, and then follows an entertaining enumeration of what would have been the probable course of enquiry to be pursued amongst the London and country boarding schools, dancing, singing, and fencing masters; the canvassing of plain work, and embroidery, and the use of the globes, &c. The passage can hardly be forgotten by any one who has seen it, and with the exception of the false assumption on which it is grounded, may be considered as perfect in its kind.

Of the same nature is the joke about Messrs. Parry and Koe, the whole joke is made to turn on the fact of the name of Mr. Koe not having been before mentioned in Mr. Brougham's Letter, when in truth it had been so, as will be seen by looking to the 36th page of it. We could add considerably to this list,

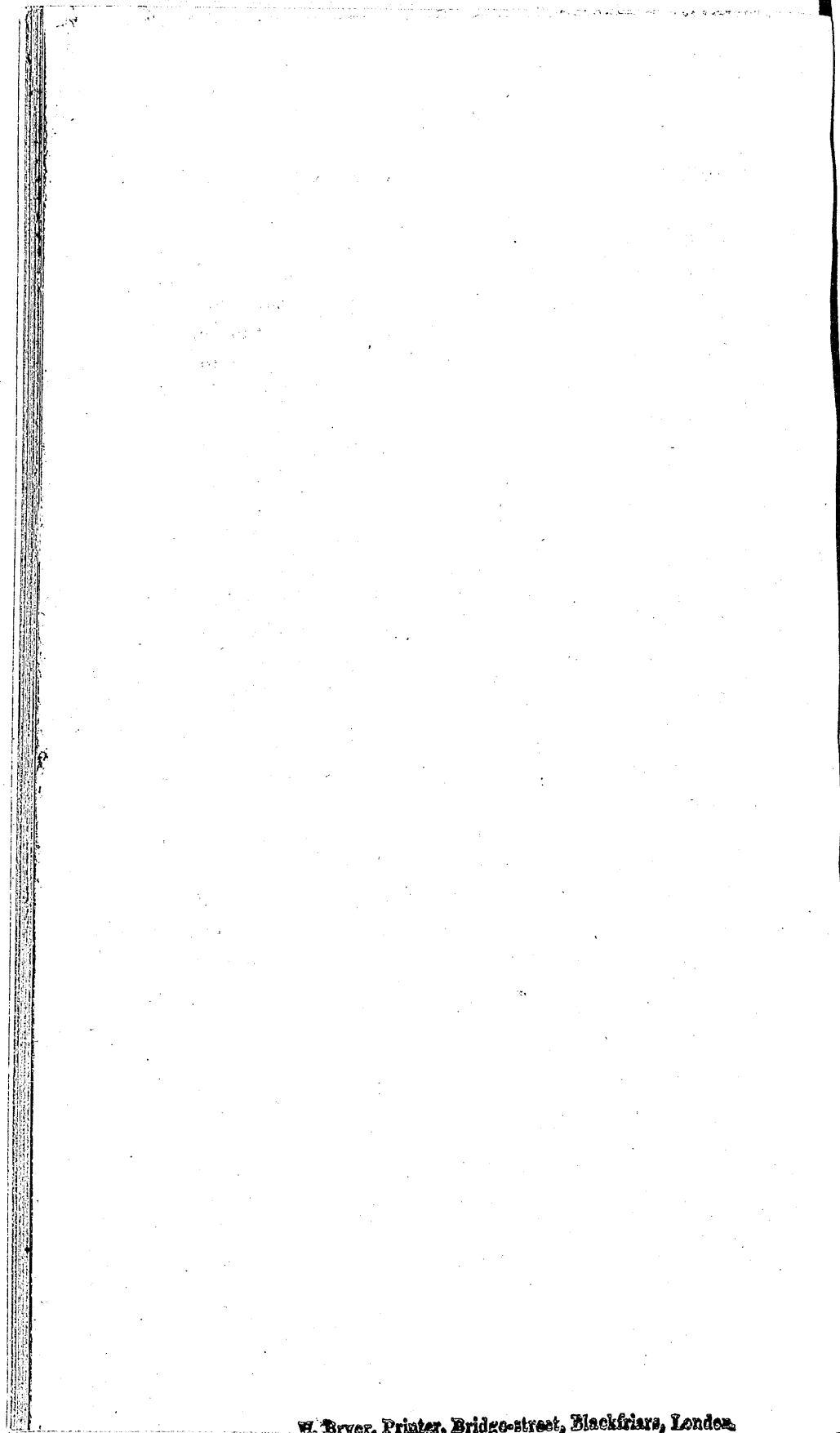
but after all, the exposure of the bad or the praise of the good jokes of the Quarterly Review, is of no very great importance to the real question.

The following, however, may be taken as a good specimen of the legerdemain mode of misrepresentation of this journal. Mr. Brougham, speaking of the appointment of Sir W. Scott to be a Commissioner, observed, that his constituents were known to be the warmest enemies of the enquiry.—If, say the Quarterly Review, by this it is intended to imply, that the University of Oxford are, generally speaking, averse to the enquiry into abuses of Charities: we have no hesitation in pronouncing the charge to be ill-founded; no persons have a greater interest than the CLERGY in promoting the education of the poor, and none in fact do contribute so large a portion of their time to it.—The most careless reader must have observed how ingeniously "clergy" is slid in for "university of Oxford," and meaning that it should be inferred, Mr. Brougham considered the clergy as hostile to the proposed measure, when in fact, both in his speech and letter he had highly praised the labours and assistance afforded by that body, towards the furtherance of the objects of the Committee—but enough—we shall now bring our observations to a close, by remarking that no real benefit will result from the labours and the exertions of the Education Committee, without a full and searching enquiry is made into the foundation, funds, and administration of every charitable institution in the country, whether visited or not, and that, by persons fully authorized to compel the production of all necessary documents and evidence.

THE END.

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