

## THE CHARITY COMMISSION: ORIGIN AND WORK.

BY GEORGE HOWELL, M.P.—FIRST PAPER.



HE annals of legislation with respect to charitable bequests, endowments, and their uses, form a long chapter in the history of English Law. A simple record of the various statutes enacted from time to time is most instructive, as showing, among other things, the growth of public opinion in this country as regards the administration of the estates and funds of the numerous foundations, endowments, and charities bequeathed to the poor, and for various specific purposes, by "pious benefactors" and others, at remote periods of our history, and during successive generations, down to the present time.

As early as 1601, the Statute of Charitable Uses was passed (43 Eliz., c. 4) "to redress the misemployment of landes, goodes, and stockes of money heretofore given to charitable Uses." By this Act "the Lord Chancellor or Keeper of the Great Seal of England," and "the Chancellor of the Duchy of Lancaster," for the time being, were empowered to appoint Commissions under the Great Seal of England, or Seal of the County Palatine, "to enquire as well by the Oaths of Twelve lawful men or more of the County, as by all other lawful ways and means," into "all and singular such gifts, limitations, assignments, and appointments aforesaid, and of the abuses, breaches of trust, negligences, misemployments, not employing, concealing, defrauding, misconverting, or misgovernment of any lands, tenements, rents, annuities, profits, hereditaments, goods, chattels, money, or stocks of money heretofore given, limited, appointed, or assigned, or which hereafter shall be given, limited, appointed, or assigned, to or for any charitable and godly Uses before rehearsed." The said Commissioners were further empowered to make orders and execute judgments and decrees, as to the faithful employment and disposal of the funds and property for charitable uses and intents, according to the tenor and purport of the intent for which given by the donors and founders.

There can be no mistaking the real object of the statute of Elizabeth. It is obviously clear that gross abuses had been discovered, and that a necessity existed for State interference, in order that charitable funds and property should not be misappropriated or misapplied. Unfortunately, no published records exist as to the inquiries instituted by the Commissioners under the Charitable Uses Act of 1601; but many of their decrees are recorded in subsequent Reports. There are, however, "A Report from the Select Committee appointed to inspect and consider the Returns relative to Charitable Donations for the benefit of Poor Persons, made pursuant to Act 26 Geo. III., c. 58" (1788); and "An Abstract of the Returns described in

the above Report," published in 1816. Much valuable matter is to be found in these early Reports.

The next general Act concerning charities was the 58 Geo. III., c. 91 (passed June 10th, 1818), "An Act for appointing Commissioners to inquire concerning Charities in England for the Education of the Poor." No reference is made in this statute to the 43rd of Elizabeth, c. 4, or to any action taken thereunder. The Commission constituted under this Act was appointed directly by the Crown; the Commissioners so appointed being required "to inquire into the amount, nature and management of Charities connected with the Education of the Poor," and to report half-yearly to the King and Parliament. The powers of such Commissioners were subsequently extended to other charities, and were continued by further Acts. Between the date of their appointment and the close of the year 1834, the Commissioners issued twenty-eight elaborate Reports; a General Index to the first fourteen Reports, 1826—27; a Return of Proceedings in Chancery, 1828; a List of Counties reported upon, and not reported upon, 1828; and a Return of the Expense incurred by the Commissioners in 1824. Besides which, two independent returns were published in 1820: (1) "A Return of Rents and Profits of Messuages, Lands, Tenements, and Hereditaments, belonging to any Hospital, School, Almshouse, or vested in Trustees for Charitable Uses"; and (2) "Amount of Stock or Dividends belonging to any Corporation or Society of Persons, or of any Trust established for Charitable Uses." Twenty-five other Reports, dealing with Educational matters specifically, and some with Charitable Donations and Endowments incidentally, were also issued from 1816 to 1835. The total cost of this Charity Commission to May, 1835, was £208,527 13s. At that date the Inquiry had been completed in twenty-eight English and six Welsh counties; in several counties the Inquiry was still incomplete.

The 58 Geo. III., c. 91, and the four continuing Acts, expired on August 15th, 1834, and with such expiry the powers of the Commissioners appointed under these Acts came to an end. But the Inquiry was not completed, and therefore another Commission was constituted, under the 5 and 6 Will. IV., c. 71, in 1835. The preamble to this Act, after reciting the various Acts which had expired, states that "many Charities still remain to be investigated, and further time will be required for that purpose." The powers of the new Commission, and the nature and extent of the Inquiry, were similar to the one that preceded it, but in some respects the Commissioners had extended powers. The new Commission met for the first time on November 11th, 1835; Lord Brougham, the Chief Commissioner, being in the chair. The Inquiry was not finished in 1837, when the Government refused to propose a further grant of public money. Meanwhile

two further Reports were issued—the twenty-ninth Report in 1835, and the thirtieth Report in 1837; also, in 1835, an Analytical Digest was published of the Reports from 1832 to date. Altogether, up to June, 1837, no fewer than thirty-eight volumes of Reports were issued, some consisting of two, others of as many as six parts. There was also issued in 1835 a Report from the Select Committee on the evidence in the several Reports from the Commissioners of Inquiry concerning Charities in England and Wales, and on the means of completing the Inquiry. The fifteen Reports on Educational matters issued in these two years did not specifically deal with Charities, and only incidentally with Endowments—chiefly in Ireland. The additional cost of the Commission of Inquiry to the end of 1836 was £24,456. The total annual income of all Charities, so far as ascertained in 1834, was £428,311 7s. 7d.; of which £111,460 4s. 9d. was applied to Education, the remainder being applied to various purposes, according to the objects for which given. By the end of 1837 the number of grammar schools reported on was 700; of endowed schools (not classical), 2,150; and of Charities not attached to endowed schools, 3,390. The income of grammar schools reported on was £152,047 14s. 1d.; of endowed schools (not classical), £141,385 2s. 6d.; and of other Charities given for, or applied to, Education, £19,112 8s. 8d. The investigations were ultimately completed; the total number of Charities inquired into being 28,000; the number of Reports issued up to 1849 filling thirty-eight folio volumes. The Inquiry

did not extend to the Universities nor to the City of London. A Royal Commission was appointed in 1849 to examine the then completed Reports of the Commissions of 1818 and 1835. The first Report was published in 1850, the second in 1851. These elaborate Reports form the basis of all authentic information as to Charitable Trusts; in some instances additional information has been obtained by subsequent investigation, during the preparation of schemes by the Commissioners.

The Reports made by the several Royal Commissions, and by the Select Committees to which they were referred, recommended that the duty of exercising the then existing system of protection over Charities—hitherto inadequately discharged by Courts of Equity—should be transferred to a permanent and independent administrative authority, which should differ from the Court, not in the scope of its powers, but in the continuity and vigilance of their exercise. Courts of Equity had for over three hundred years exercised some kind of jurisdiction over Charities, but the sole object of their interference was to see that “the charitable intent of the givers and founders of Charities” was adhered to; with that view the property of Charities was protected, and the Court assumed some control over the persons charged with administering the property. Generally speaking, the main object of State control over Charitable bequests still is the promotion of the intentions of the donor or founder; but Parliament has wisely enlarged the scope of State interference in recent years.

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## THE GATHERER:

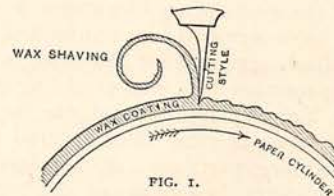
AN ILLUSTRATED RECORD OF INVENTION, DISCOVERY, LITERATURE, AND SCIENCE.

Correspondents are requested, when applying to the Editor for the names and addresses of the persons from whom further particulars respecting the articles in the GATHERER may be obtained, to forward a stamped and addressed envelope for reply, and in the case of inventors submitting specimens for notice, to prepay the carriage. The Editor cannot in any case guarantee absolute certainty of information, nor can he pledge himself to notice every article or work submitted.

### The Graphophone.

The graphophone of Professor Graham Bell and Mr. Summer Tainter is a similar instrument to the phonograph. It also records and reproduces speech, music, or other sounds on wax, by means of a vibrating diaphragm and stylus. But the two contrivances differ in detail from each other. The phonograph has been designed to suppress all vibrations proceeding from the working of the mechanism, thus leaving the voice or other sounds recorded as clear and distinct as possible. In the graphophone a simpler and probably less expensive apparatus has been arrived at, which, as shown in Fig. 2, resembles a sewing machine, and is worked by means of treadles. The wax which receives the record is a black composition, smoothly spread over the outside of a paste-board tube (D, Fig. 2), which slips on a revolving barrel. Over the surface of the wax is mounted a

cutting stylus, actuated by the vibrations of the diaphragm in such a manner as to cut a record of them in the surface of the wax along a spiral line as the tube or cylinder revolves on the barrel. Fig. 1 illus-



trates this cutting action of the stylus, and the hilly trace it leaves behind it as a record of the sound. It will be readily understood that another stylus traveling over this groove again will be obliged to follow its undulations, and will thus be able to set another

Finally, let me plead for good easy clothing for our girls. It should be warm enough, but light and loosely fitting. Tight stays and high heels should be ruthlessly excluded from the schoolroom, and flounces and furbelows discouraged as far as possible. Our girls should be stimulated to feel a pleasure and a pride in the exercise of bodily strength and skill,

instead of being mere bookworms or mere fine ladies.

The gain both to health and to character which such a changed ideal implies is so great, that I am sure neither parents nor teachers will regret the time and attention which they may bestow on the physical training of their girls.

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## THE CHARITY COMMISSION : ITS ORIGIN AND WORK.

BY GEORGE HOWELL, M.P.—SECOND PAPER.



THE Charity Commission, as at present constituted, was created by the Charitable Trusts Act, the 16 and 17 Vict., c. 137 (dated August 20th, 1853). All former Commissions had been Commissions of Inquiry only; by the Act of 1853 the Charity Commission became an Administrative body, as well as a

Commission empowered to Inquire. Previously to the creation of the present Charity Commission, it had been established by the decisions and practice of Courts of Equity that (a) Charities were entitled to special facilities of access to such Courts, through the medium of the Attorney-General, and otherwise; (b) No dealings with the *corpus* of Charity property could safely and advantageously be made without the approval of the Court; (c) No steps could be taken to facilitate the improved administration of Charities, other than those which might have been expressly prescribed by the founder, except by or with the sanction of the Court. It was notorious, in the early part of the present century, that the protection which the system in practice was intended to afford was not secured by it. The expense and delay of litigation, incident to a recourse to the Court, in order to procure the protection sought, was ruinous to the Charities, and often ended in failure. What was everybody's business was nobody's business, and so Charity property was exposed to fraud, to misapplication, or at best to neglect. Since 1855, Trustees are, by statute, forbidden to sell charitable properties, or to grant a lease for more than twenty-one years at a rental, except under the authority of the Commissioners, or of the Court, and with the express authority of Parliament.

To remedy the evils which had grown up, the several Reports, already referred to, specifically indicated those of the powers, up to that time exercised solely by Courts of Equity, which should be conferred upon the authority proposed to be constituted, with the object of securing the improved administration of all charitable property, without distinction, and which, it appears, was so obviously needed. These powers were: (1) To inquire into the administration of Charities; (2) To compel the production of, and

when produced, to audit, the accounts of the expenditure of Charity Funds; (3) To facilitate the administration of Charities, both as to the development of the property, and as to the direct execution of the trusts, by supplementing the powers of Trustees when defective; (4) To secure the safe custody and due investment of the property of Charities; (5) To frame Schemes for adapting the administration of Charities to altered circumstances, whether of Charity property, of the locality, or of society generally; (6) To control, to facilitate, and to diminish the cost of legal proceedings taken on behalf of Charities. The principles thus formulated have formed the basis of the Charitable Trusts Acts, and other Acts administered by the Charity Commission, from 1853 to the present time. Trustees of Charities are bound by statute to render accounts annually to the Charity Commission; and the Commissioners can, and do, when necessary, call for vouchers, statements, &c.; but they do not, except under special circumstances, audit the accounts. The jurisdiction to make Schemes was conferred by the Act of 1860; but varying the objects for which charitable property was left, has only been exercised recently.

The Charitable Trusts Act of 1853 created the permanent authority needed, in the shape of the Charity Commission. To that Commission were transferred most of the powers formerly exercised by Courts of Equity. From time to time these powers have been extended, but generally not beyond the scope of those previously, and in some cases still, exercised by the Courts of Law. The two great objects of the Charity Commission are essentially remedial and protective: remedial, by supplementing the means provided by founders for giving effect to their intentions, where those means are inadequate to give full effect to the purpose of the foundations; and protective, by securing the property of Charities against waste and loss, and so preserving it for the purposes to which it was dedicated by the founders. In the exercise of those powers, whether by the Court or the Commissioners, Trustees of Charities have from time to time resented the interference, and called in question the jurisdiction, as being antagonistic to their interests, and restrictive of the powers entrusted to them by the will of the founders; forgetful of the fact that they are as "public

officers, invested with public powers and public duties," to use the words of Lord Lyndhurst.

The two classes of powers, more particularly, to which Trustees seem to object are: (1) The power of supplementing the action of Trustees as to (a) dealing with the *corpus* of real or the capital of personal estate, (b) the authorisation of acts of Trustees in the administration of income, for which the terms of their trust afford no warrant, and (c) the appointment and removal of Trustees and Officers; (2) The power of securing the safe custody and investment of the property of Charities, by (a) the constitution of Official Trustees with a perpetual succession, (b) powers of vesting real and personal estate without conveyance, and (c) provision for the custody of deeds and muniments of Charities. Yet these are the main preservatives of charitable property. Within the limits prescribed by the trust deeds, and sustained by the law, Trustees are the sole responsible administrators of the income of the Charity; but they have no power to deal with the capital, nor to vary, in the slightest degree, the prescribed mode of applying the income. On the other hand, the Charity Commissioners are in no sense the administrators of income; but they are constituted the judges of all dealings with capital, and of all variations of the prescribed mode of giving effect to the objects of the Charity. Doubtless the Charity Commissioners are hampered in various ways in preparing Schemes for the better administration of Charities: local prejudices step in; Trustees are jealous of their powers and privileges; and legal and technical difficulties often arise, which are not seen by those who complain of the action of the Commissioners, or of the delays which frequently take place before a Scheme is finally approved. Schemes under the Endowed Schools Acts, and the City of London Parochial Charities Act, have to be laid before Parliament, and approved by Her Majesty in Council; but not under the Charitable Trusts Acts.

The Act of 1853 was supplemented in 1855 by the Charitable Trusts Amendment Act, 18 and 19 Vict., c. 124; in 1860 by the Charitable Trusts Amendment Act, 23 and 24 Vict., c. 136; and by another Act, in the same year, dealing with Roman Catholic Charities. The principal Act was further amended in 1862, in 1863, in 1868—69, and by various other Acts dealing with Endowed Schools, Conveyances for Charitable Uses, Investments, Allotments, Enrolment of Deeds, &c. The most important of the later Acts passed was the City of London Parochial Charities Act, 1883—46 and 47 Vict., c. 36. Altogether, there are some forty-seven or forty-eight Acts of Parliament still in force, which the Charity Commission at Gwydyr House have to administer, or which affect directly the powers which the Commissioners exercise in one way and another. It is much to be regretted that the Government cannot see their way clear to consolidate all those statutes, in so far as their provisions apply to Charitable Trusts, Uses, Endowments, and the powers of the Charity Commission.

The Charity Commissioners have issued thirty-five Annual Reports since their original appointment, in

1853. In those Reports the general work of the Commission is set forth, in more or less of detail, but the "Schemes" prepared from year to year, requiring the approval of Parliament, or of the Queen in Council, are presented in another form. The Commissioners point out that the business transacted at the office is only very inadequately described in the Report. The applications for appointment of Trustees, or establishment of Schemes, have been as follows:—To the Chancery Courts, 1854 to 1887 inclusive, 654; to County Courts, 739; total, 1,393. Orders made appointing Trustees, or establishing Schemes, 9,619. The whole of the latter has been since 1860, under the Act of that year. Two applications only to the Courts have been made since 1880. Prior to the Act of 1860 the Commissioners could not appoint Trustees or establish Schemes, their power of intervention being limited to authorising applications to the County Court, or Court of Chancery, for such purposes; but under the Act of 1853 the Courts could not entertain proceedings instituted by Trustees unless authorised by the Commissioners, or, in some cases, by the Attorney-General.

The preceding figures show the judicial work of the Board, and indicate how large a measure of that work has been transferred from the Courts to the Charity Commission. In addition to the operations of the Commission judicially, the Report gives a list of the various orders issued, and their objects, under various Acts; from which it appears that the total number of such orders, in the last four years, was 11,854, or nearly 2,964 annually, on the average. The total number of orders authorising sales of real property, made since 1853, was 7,072 to the end of 1887—the purchase-money realised by such sales being £6,394,251 9s. 3d. The total sum, in Stocks and Investments, held by "the Official Trustees of Charitable Funds" at the close of the year was £13,825,202, divided into 14,729 separate accounts. Of the aggregate sum transferred, amounting to £16,139,017 18s. 6d., £2,853,815 18s. 5d. was re-transferred. The total number of returns of Accounts of income and expenditure rendered by Trustees to the Board during the past year was 31,229. Particulars of 511 previously unrecorded Charities were entered, the total number of distinct Charities on the register being 13,814. Some 1,352 other Charities are known to exist, but full information as to these has not yet been obtained.

The work in connection with the City of London Parochial Charities, under the Act of 1883, is being proceeded with apace. Statements as to the property belonging to the several parishes named in the First Schedule to the Act were published by the 13th of May, 1887, and of those named in the Second Schedule on October 1st, 1887. A large portion of the surplus has been provisionally set apart for the acquisition of open spaces in North London and South London, under Acts relating to Hampstead Heath and Clissold Park; and further sums are proposed to be granted for other open spaces at North Woolwich, Brixton, Vauxhall, &c. About £150,000 is proposed to be given to South London, for institutions similar

to the People's Palace and the Polytechnic, to each of which £2,500 a year have been provisionally appropriated. North London is to be similarly dealt with. But in each case the amount of grant will depend upon the sum subscribed locally for these specific purposes. It appears that the general financial result of the inquiries under the Act is as follows:—1. First Schedule: (a) Ecclesiastical property, £2,400 a year; (b) General Charities, £10,500 a year; total, £12,900

annually. 2. Second Schedule: (a) Ecclesiastical property, £37,000 a year; (b) General Charities, £57,000 a year; total, £94,000 annually. Aggregate totals: Ecclesiastical property, annual revenue, £39,400; General Charities, £67,500 annually; grand total, £106,900 a year. A wise administration, or appropriation, of this large annual revenue will prove a blessing to millions of people in this vast metropolis. Such is the record of the Charity Commission.

## MARIE'S BRIDEGROOM.

A STORY IN TWO CHAPTERS. BY THE AUTHOR OF "WITNESS MY HAND," ETC. ETC.

### CHAPTER THE FIRST.



**B**ARK eyes, and darker hair; a clear skin and ruby lips; small teeth, and dainty hands and feet; a saucy little nose; a quick temper, and a warm heart—and this was Marie Liston. She was the eldest daughter of Colonel Liston, of Liston Grove, in South Carolina, and the young man to whom she was betrothed was Robert D'Arcy, a captain in the Confederate army. It was some time now since she had seen him, for the war was raging still, and no man could be spared from the gallant little army that was holding out so bravely against such

desperate odds. Colonel Liston was away too, fighting under Lee, and only Marie and her sister Nina, and Jack, the youngest boy, were at home with Mrs. Liston.

It was not wonderful that when the Federals attacked Liston Grove they found it an easy prey, but Colonel Ormond, who commanded the assault, protected the ladies and poor little Jack, and treated them with all possible courtesy. There had been some sharp fighting, for the negroes on the estate had stood gallantly by the helpless women, and Colonel Ormond himself had been wounded in the foot. It was not a dangerous wound, but it obliged him to remain at Liston Grove, and Mrs. Liston and her daughters, who knew that they owed their safety to him, did their best to nurse their wounded foe. He was a middle-aged man, with a strong, kind face, and as

he lay on the wicker couch in the piazza, playing interminable games of chess with Marie, it was difficult to realise that the Listons were prisoners in their own house, and that this kindly, pleasant guest of theirs held their fate in the hollow of his hand. But as Marie played the harmless game, she could see soldiers riding to and fro, and knew that the Federal troops were bivouacked in the woods round her home.

Marie was the only member of the little household who could play with Ormond, and very well she played, for a woman. But the most blatant advocate of woman's rights has never ventured to claim for her sex supremacy, or even equality, in the king of games, and to play against Colonel Ormond was reckoned a formidable thing even for a man. Miss Liston had played a good many games in the last ten days, had made her brilliant little feminine dashes that mocked her with illusory visions of victory, to be ruthlessly shattered by the colonel's next move, and then had lost heart and hope, as women do, and so missed the chance of using the opportunities that remained; but out of all the games she had played she had not won one.

She was certainly not going to win this, for only her king remained on the board, while Colonel Ormond had a king and a rook, and was evidently only considering the quickest way of administering the inevitable mate. And meanwhile, what could she do? She could only move her unfortunate king backwards and forwards on the one line left him, as prisoners walk up and down their prison yards, or birds beat their helpless wings against their cage, or—Another simile occurred so forcibly to Marie's mind, that the tears rushed to her eyes, though she was far too proud to let them fall. Were not their own dear troops as hopelessly defeated? What was all their gallant resistance, what were their brilliant manœuvres, but futile struggles against the inevitable doom? They would fight to the bitter end, she knew, as well as she knew that the end could not be far off. She forced back her tears, and looked at Colonel Ormond impatiently.