

nothing could more disturb the arrangement of a private establishment than that a subordinate officer in it should be considered to have a fee in his office."

Again, "If the charter of incorporation impose any restrictions on them, they would by the acceptance of it be considered to enter into a contract with the crown to exercise their authority, subject to these restrictions. * * It is clearly established that a private society would have the right to dismiss a master, and there is no difference here between these parties and any other private society, except that these parties are incorporated.

Lord Hardwicke said, in *Attorney-General v. Place* (2 Atk. 88), "The charter of the crown cannot make a charity more or less public, but only more permanent than it would otherwise be, but it is the extensiveness which will constitute it a public one." This was a case merely on the construction of words of bequest in a will.

The subject is much discussed in 2 Kent's Commentaries, 276. He says:—"An hospital founded by a private benefactor is, in point of law, a private corporation, though dedicated by its charter to general charity. A college founded and endowed in the same manner is a private charity, though from its general and beneficial objects it may acquire the character of a public institution. * * Every charity which is extensive in its object may, in a certain sense, be called a public charity, nor will a mere act of incorporation change a charity from a private to a public one. * * A charity may be public though administered by a private corporation. * * The charity of almost every hospital and college is public, while the corporations are private. To hold a corporation to be public because the charity was public, would be to confound the popular with the strictly legal sense of terms, and to jar with the whole current of decisions since the time of Lord Coke." At page 298 the same author points out the distinction between "amotion" and "disfranchisement," the former applying to officers, the latter to members.

In the celebrated case of *Bowdoin College* (*Allan v. McKean*, 1 Sum. 277), Mr. Justice Story elaborately reviews the law; noticing at large the equally famous *Dartmouth College* case (4 Wheaton, 534), he says, "that Chancellor Kent has stated the law with his usual accuracy and clearness;" and adds, "that a college, merely because it receives a charter from government, though founded by private benefactors, is not thereby constituted a public corporation, controllable by the