

case some years later, of *Johnston v. Shrewsbury Railway Co.* (3 D. G. M. & G. 927).

A large number of the cases cited have been decided under stat. 52 Geo. III. ch. 101 (called Sir S. Romilly's Act), passed in 1812, the proceedings being avowedly under that statute.

It enacts, that "in every case of a breach of any trust, or supposed breach of any trust, created for charitable purposes, or whenever the direction or order of a court of equity shall be deemed necessary for the administration of any trust for charitable purposes, it shall be lawful for any two or more persons to present a petition to the Lord Chancellor, &c., stating such complaint, and praying such relief as the nature of the case may require," &c. Such petition has to be verified in a particular manner, and shall be first allowed by the Attorney General. An appeal is allowed to the House of Lords.

The Berkhamstead case, the Fremington School case, and Phillip's Charity, &c., were all expressly under this act. The Ludlow case (*Willis v. Childe*) was under a special act, 9 and 10 Vic. ch. 18. Grammar schools are regulated by 3 and 4 Vic. ch. 77.

This act may be regarded as affecting procedure, rather than jurisdiction, as we find cases in which the court decline disposing of large questions on petition under the act, but direct parties to proceed by information (15 Sim. 262, *Tudor's Char. Trusts*, 148, 175.)

It would not be right perhaps for this court to dismiss the plaintiff's bill for want of equity, without expressing an opinion on the nature of his appointment, and the right to dismiss him on the part of the trustees.

The late learned Vice-Chancellor Esten, in his short judgment on granting the interim injunction, considered that the plaintiff held his appointment during good behaviour, while the duties of his office were performed; that his legal remedy was inadequate, and that he was entitled to the protection of the court.

After the evidence was taken before the learned Chancellor at Kingston, he appears to have held that as the legal question had been determined by the Vice-Chancellor, he thinks he should hold the plaintiff entitled to a decree, although he doubted the jurisdiction of the court to interfere.

On the re-hearing, the only reported judgment is that of my brother Spragge, who reviewed the authorities, and decided in favour of the existence of the jurisdiction, and for the full relief of the plaintiff, but without express reference to the question whether the case was such as called for its exercise.

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