

It seems conceded that to ground the jurisdiction of the court there must be the position of trustees and *cesti que trust* between the defendants and the plaintiff—that there must be a *trust* in the sense in which that word is understood, in Courts of Equity, to warrant its interference.

The charter does not create the office held by plaintiff; his office is not of the essence of the corporation. The creation of a chair of classical literature was wholly the act of the trustees under their chartered powers; they were not bound to create it, and it was conceded in argument that they have the power to suppress it altogether. The corporation existed prior to its creation, and can exist after its suppression, exercising all its University functions. From the vast mass of cases, bearing more or less on the question, two or three may be selected.

Whiston v. The Dean and Chapter of Rochester (7 Hare 532), decided by Sir James Wigram in 1849, appears not to have been cited in the court below. The charter of Henry VIII. establishing the cathedral church provided that there should be always a "Preceptor puerorum in grammatica." A stated salary was assigned to him from the church funds.

The plaintiff was appointed master of the Grammar School in 1842 at a fixed salary, and in consequence of certain differences with the Dean and Chapter, was dismissed by them. He filed his bill to restrain them from removing him or appointing a successor, and after a very able argument by Sir J. Romilly for plaintiff, and Roundell Palmer for defendants, Sir James Wigram refused with costs a motion for injunction. He says:—"I never entertained a doubt that if it could be established that the Dean and Chapter were trustees for the master of the Grammar School, he would be entitled to the assistance of the court in enforcing the execution of the trust. If the appointment of plaintiff as schoolmaster gave him a right to this stipend prescribed by the statutes as a *cesti que trust* as against his trustees, there is no question whatever that the mere circumstances of defendants being a corporation or an ecclesiastical body would not remove the case from the jurisdiction of the court."

After an adjournment to look into authorities, the learned Judge says:—"The answer that I feel compelled to give, after examining, I believe, every case that was cited in argument bearing upon it, is, that this is not a case of trust in the sense above explained (referring to certain cases). The master, upon the true construction of the statutes, ought to be considered only as an officer of the cathedral church appointed for the

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